

## **BOARD OF SUPERVISORS**

Michael Sanchez, 1<sup>st</sup> District  
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Sharon Thrall, 3<sup>rd</sup> District  
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**AGENDA FOR SPECIAL MEETING OF NOVEMBER 27, 2017 TO BE HELD AT 10:00 A.M.  
IN THE BOARD OF SUPERVISORS ROOM 308, COURTHOUSE, QUINCY, CALIFORNIA**

**[www.countyofplumas.com](http://www.countyofplumas.com)**

### **AGENDA**

The Board of Supervisors welcomes you to its meetings which are regularly held on the first three Tuesdays of each month, and your interest is encouraged and appreciated.

Any item without a specified time on the agenda may be taken up at any time and in any order. Any member of the public may contact the Clerk of the Board before the meeting to request that any item be addressed as early in the day as possible, and the Board will attempt to accommodate such requests.

Any public comments made during a regular Board meeting will be recorded. The Clerk will not interpret any public comments for inclusion in the written public record. Members of the public may submit their comments in writing to be included in the public record.



**REASONABLE ACCOMMODATIONS:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting please contact the Clerk of the Board at (530) 283-6170. Notification 72 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility. Auxiliary aids and services are available for people with disabilities.

## STANDING ORDERS

10:00 A.M. CALL TO ORDER/ROLL CALL

### PLEDGE OF ALLEGIANCE

### PUBLIC COMMENT OPPORTUNITY

Matters under the jurisdiction of the Board, and listed on this notice of special meeting may be addressed by the general public at the beginning of the agenda. Any member of the public wishing to address the Board during the "Public Comment" period will be limited to a maximum of 3 minutes.

## ACTION AGENDA

### **1. BOARD OF SUPERVISORS**

A. Consider and accept report, in accordance with Government Code Section 65858 (d) describing the measures taken to alleviate the condition which led to the adoption of the Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County; discussion and possible action

**B. CONDUCT A PUBLIC HEARING PURSUANT TO GOVERNMENT CODE §65090:** Adopt an **ORDINANCE** Extending the Uncodified Urgency Ordinance Pursuant to Government Code §65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County. **Four/fifths required roll call vote**

The proposed moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

### **ADJOURNMENT**

Adjourn meeting to Tuesday, January 9, 2017, Board of Supervisors Room 308, Courthouse, Quincy, California.



## **PLUMAS COUNTY PLANNING & BUILDING SERVICES**

**555 Main Street, Quincy, CA 95971  
(530) 283-7011**

**[www.countyofplumas.com](http://www.countyofplumas.com)**

**DATE:** November 27, 2017

**TO:** Honorable Chair and Members of the Board of Supervisors

**FROM:** Randy Wilson, Plumas County Planning Director *RW*

**RE:** Report, in accordance with Government Code Section 65858 (d) describing the measures taken to alleviate the condition which led to the adoption of the Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County.

Public Hearing to Consider Adoption of an Extension of an Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County. The proposed moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

### **Background**

On October 24, 2017 the Board of Supervisors held a noticed public hearing to consider an Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County. The Board of Supervisors adopted the Uncodified Urgency Ordinance by a 5-0 vote, after taking several hours of public testimony. The moratorium on the cultivation of cannabis will end on December 6, 2017 unless extended by a 4/5 vote by the Board of Supervisors before that date. The staff memo for the October 23, 2017 noticed public hearing and the approved temporary moratorium is attached to this memo.

The moratorium on the cultivation of cannabis does not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by

normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term “private residence” shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

Government Code Section 65858 (d) requires that 10 days prior to the expiration of the Uncodified Urgency Ordinance or 10 days prior to any extension of the Uncodified Urgency Ordinance a report describing the measures taken to alleviate the condition which led to the adoption of the Uncodified Urgency Ordinance Pursuant to Government Code Section 65858.

### **Report In Accordance With Government Code Section 65858 (d)**

The process of development of a cannabis ordinance addressing cannabis cultivation continues and as such the process is addressing the issues and findings of the existing Uncodified Urgency Ordinance. This process is not yet completed and the issues and findings of the existing Uncodified Urgency Ordinance remain to be addressed as specified in the adopted Uncodified Urgency Ordinance, which is attached to the staff memo.

In October 2016, the Board of Supervisors decided to establish a Cannabis Working Group to work on a Draft Cannabis Ordinance. The Cannabis Working Group’s first meeting was on October 20, 2016. The Cannabis Working Group met 29 times since October 2016. Many meetings were held to develop a Draft Cannabis Ordinance. The Cannabis Working Group, during the summer of 2017, conducted public input meetings on the Draft Cannabis Ordinance in all five Supervisorial Districts with the understanding that the public input from these meetings would then be considered in making changes to the Draft Cannabis Ordinance. The Cannabis Working Group was charged with making a recommendation on a Draft Cannabis Ordinance to the Planning Commission, who will then make a recommendation to the Board of Supervisors.

On November 7, 2017 the Board of Supervisors decided to disband the Cannabis Working Group and established the last meeting of the Cannabis Working Group as November 9, 2017. Also at this meeting, the Board of Supervisors received an alternative ordinance by a group named The Citizens Group For A Responsible Cannabis Ordinance (CGRCO). The Board of Supervisors decided to refer the alternative ordinance, called the Plumas County DRAFT Cannabis Cultivation Ordinance, directly to the Plumas County Planning Commission for review and recommendations. A copy of this alternative draft cannabis ordinance is attached to this staff memo.

The completion of the Cannabis Working Group task of development of a Draft Cannabis Ordinance to be presented to the Plumas County Planning Commission did occur on November 9, 2017. A copy of this draft cannabis ordinance is attached to this staff memo.

At this point in time both the Cannabis Working Group’s Draft Cannabis Ordinance and the alternative ordinance presented to the Board of Supervisors by the citizen’s group CGRCO will go to the Plumas County Planning Commission for the Commission’s review and recommendations. A date has not been set for the Planning Commission to take up these draft cannabis ordinances. The Planning Commission is charged with making recommendations on these draft ordinances to the Board of Supervisors under Plumas County Code Section 2-2.107(c).

### **Need To Extend The Moratoria**

The Plumas County Sheriff's Department has produced a letter outlining increasing adverse issues resulting from cannabis cultivation. This letter does state, "Most of these grows are trouble free although they are without regulation and have increased in plant count with each growing season." This letter is attached to this staff memo in support of the proposed moratoria on cultivation of cannabis and dispensaries. Issues identified in the letter include:

- Increase year to year of medical cannabis gardens
- Increase in the number of green houses and hoop houses for cannabis cultivation
- Increased cultivation of cannabis potentially affecting health, safety, and well-being of county residents
- Increased risk of criminal activity related to cannabis cultivation
- Degradation of the natural environment due to cannabis cultivation
- Excessive use of electricity due to cannabis cultivation
- Damage to buildings due to cannabis cultivation
- Dangerous electrical alterations to buildings due to cannabis cultivation
- Increased risk of fire due to cannabis cultivation
- Increased occurrences of home-invasion robberies due to cannabis cultivation
- Potential noxious odors impacting neighboring properties due to cannabis cultivation
- Strong odors creating attractive nuisances alerting persons to location of cannabis plants creating a risk of burglary, robbery, armed robbery, assault, attempted murder, and murder
- Fertilizers and pesticides, legal and illegal, impacting creeks, streams, and rivers due to cannabis cultivation
- Illegal diversions of water for cannabis cultivation
- Many complaints received regarding cannabis cultivation
- Cannabis growers arming themselves and setting booby traps to protect cannabis grows
- Notable increase in crimes, such as burglary, robbery, impacts from disagreeable odors, increases in traffic and noise, effects on community health, sales of illegal drugs in the immediate area surrounding dispensaries have been reported by other public entities related to cannabis dispensaries

The Plumas County Planning and Building Departments continue to get numerous questions, on a daily basis, regarding the Cannabis Ordinance development and questions regarding how and where to cultivate cannabis in Plumas County.

### **Proposed Urgency Ordinances**

The cultivation of marijuana or cannabis and marijuana in Plumas County (excluding the City of Portola) are currently prohibited by Plumas County ordinance. Plumas County's Zoning Code is a "permissive zoning code." Uses in the various zones are defined in the Zoning Code. Uses not defined or similar are not allowed in the various zones. The growing of medical marijuana or cannabis and marijuana is not listed in any of the various zones contained within the Zoning Code. Therefore, the

growing of medical marijuana or cannabis is not legally allowed on any of the lands covered by the Plumas County Zoning Code.

While the Plumas County Zoning Code does not legally allow the growing of marijuana or cannabis, this legal fact is not well known or understood by the general public whether within Plumas County or outside Plumas County. Someone searching the Plumas County Zoning Code will not find mentioned any place the word “marijuana” or “cannabis” and may assume that because the Zoning Code does not specifically mention medical marijuana or cannabis in any manner that cultivation of medical marijuana or cannabis is legal in Plumas County, when in fact doing so is illegal under local land use ordinances.

Attached for the Board’s consideration is an extension of the adopted urgency ordinance, which provides an “expressed temporary prohibition” and “expressed notice” that cannabis cultivation is not allowed in the unincorporated area of Plumas County. The extension of the moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person’s private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term “private residence” shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

The extension of the urgency ordinance, if passed by the Board of Supervisors, will continue the moratorium on cannabis cultivation as specified for twenty-two (22) months and fifteen (15) days. The Board of Supervisors, in order to adopt and continue the urgency ordinance, must do so by a 4/5 vote. The urgency ordinance is attached to this staff memo.

### **California Environmental Quality Act (CEQA)**

The urgency ordinance is exempt from the California Environmental Quality Act (CEQA) because the ordinance make no changes by preserving the status quo.

### **ACTIONS FOR CONSIDERATION**

Staff respectfully recommends the Board of Supervisors consider taking one of the following actions:

- I. Accept the Report, in accordance with Government Code Section 65858 (d), describing the measures taken to alleviate the condition which led to the adoption of the Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County.
- II. Adopt the attached Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Extending the Temporary Moratorium on the Cultivation of Cannabis in

the Unincorporated Areas of Plumas County. The moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

III. Give other direction to staff.

Attachments:

Urgency Ordinance extending the temporary moratorium on the cultivation of cannabis in the unincorporated areas of Plumas County.

Staff Memo, dated October 24, 2017 regarding the establishment of a temporary moratorium on the cultivation of cannabis in the unincorporated area of Plumas County.

Approved Urgency Ordinance establishing a temporary moratorium (45 days) on the cultivation of cannabis in the unincorporated areas of Plumas County.

Memo from the Plumas County Sheriff, dated August 5, 2016, regarding issues of growing cannabis.

Notice of Public Hearing to Consider Adoption of an Ordinance extending the Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County by the Plumas County Board of Supervisors.

Draft Cannabis Ordinance recommended by the Cannabis Working Group on November 9, 2017.

Plumas County DRAFT Cannabis Cultivation Ordinance submitted to the County of Plumas by the Citizens Group For A Responsible Cannabis Ordinance.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE EXTENDING THE UNCODIFIED URGENCY ORDINANCE OF THE COUNTY OF PLUMAS, ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858, IMPOSING A TEMPORARY MORATORIUM ON THE CULTIVATION OF CANNABIS (MARIJUANA) IN THE UNINCORPORATED AREAS OF THE COUNTY OF PLUMAS**

**WHEREAS**, in 1996, the voters of the State of California approved Proposition 215 which was codified as Health and Safety Code Section 11362.5, and entitled “The Compassionate Use Act of 1996” (the “Compassionate Use Act”); and

**WHEREAS**, the intent of the Compassionate Use Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

**WHEREAS**, on January 1, 2004, Senate Bill 420, codified as Health and Safety Code Sections 11362.7, and following, and entitled “The Medical Marijuana Program,” became effective to clarify the scope of the Compassionate Use Act; and

**WHEREAS**, on October 9, 2015, the Governor of the State of California approved Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 authorizing the promulgation of regulations and standards relating to medical cannabis (also known as marijuana) and its cultivation, including the licensing of cultivation sites by state and local agencies; and

**WHEREAS**, on February 3, 2016, the Governor of the State of California approved Assembly Bill 21, an urgency measure, repealing Health and Safety Code Section 11362.777(c)(4) which previously provided that if county does not have land use regulations or ordinances regulating or prohibiting the cultivation of cannabis (marijuana), either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to former Health and Safety Code section 11362.777, then commencing March 1, 2016, the State of California shall be the sole licensing authority for medical cannabis (marijuana) cultivation applicants in that county; and

**WHEREAS**, in November 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older may legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA makes it legal to sell and distribute cannabis through a regulated business, and

**WHEREAS**, on June 27, 2017, the Governor of the State of California approved Senate Bill 94, which repealed MCRSA and include certain provisions of MCRSA in the licensing provisions of AUMA and renamed these consolidated provisions as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

**WHEREAS**, MAUCRSA does not supersede or limit the authority of a county to adopt and

enforce local ordinances to regulate, or completely prohibit, businesses licensed by the State of California under the provisions of MAUCRSA, including but not limited to, local zoning and land use requirements, business license requirements, and requirements relating to reducing exposure to second hand smoke, and further provides that licensing authorities shall not approve licenses that would violate the provisions of any such local ordinance or regulation, and

**WHEREAS**, the term “cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis (marijuana) plants or any part thereof as provided in Business and Professions Code section 26001(l); and

**WHEREAS**, the term “cannabis” shall have the same meaning as that set forth in Business and Professions Code section 26001(f); and

**WHEREAS**, the County’s unique geographic and climate conditions, which include dense forested areas receiving substantial precipitation, along with sparse population in many areas of the County, provide conditions that are favorable to cannabis (marijuana) cultivation and cannabis (marijuana) growers can achieve a high per-plant yield with high economic value because of the County’s favorable growing conditions; and

**WHEREAS**, various parcels throughout the unincorporated area of the County of Plumas are being used for cannabis (marijuana) cultivation; and

**WHEREAS**, other public entities have reported adverse impacts from cannabis (marijuana) cultivation, including, but not limited to, disagreeable odors, increased risk of burglary and other property crimes, and acts of violence in connection with the commission of such crimes or the occupants’ attempts to prevent such crimes; and

**WHEREAS**, the creation of persistent strong odors as cannabis (marijuana) plants mature and flower is offensive to many people and creates an attractive nuisance, alerting persons to the location of valuable cannabis (marijuana) plants and creating an increased risk of crime; and

**WHEREAS**, the indoor cultivation of substantial amounts of cannabis (marijuana) also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation; and

**WHEREAS**, the County of Plumas has adopted a Zoning Plan identified as Title 9 (Planning and Zoning) of the Plumas County Code; and

**WHEREAS**, the Plumas County Zoning Code is a “permissive zoning” ordinance that does not permit the cultivation of cannabis (marijuana) on any lands or zones covered by the Plumas County Zoning Code, but this fact is not well known or understood by the general public whether within Plumas County or outside Plumas County since a search of the Zoning Code will not find the terms “cannabis” or “marijuana” thereby resulting in some persons assuming that such uses are allowed; and

**WHEREAS**, the enactment of AB 21 described above repealed former Health and Safety Code section 11362.777 subdivision (c)(4) and the reference to “permissive zoning” as a means to

prohibit the cultivation of cannabis (marijuana), thereby adding to the likelihood of some persons assuming that the use of land for the cultivation of cannabis (marijuana) is allowed in Plumas County; and

**WHEREAS**, concerns have been raised that there are no specific regulations to address the impact cannabis (marijuana) cultivation within the unincorporated areas of the County of Plumas may have on the community as a whole; and

**WHEREAS**, the County of Plumas has not adopted rules and regulations specifically applicable to cannabis (marijuana) cultivation and the lack of such controls may lead to increased cannabis (marijuana) cultivation and the inability to regulate cannabis (marijuana) cultivation in a manner that will protect the general public, homes and businesses adjacent and near such cultivation, and the persons who are present at such cultivations; and

**WHEREAS**, an ordinance expressly prohibiting the cultivation of cannabis (marijuana) in Plumas County will preclude any interpretation that Plumas does not prohibit the cultivation of cannabis (marijuana), and will further clarify for the public, and serve to notify state cannabis licensing authorities, that the cultivation of cannabis (marijuana) is not a permitted use of land in Plumas County; and

**WHEREAS**, in order to allow time for the County of Plumas, through its Planning and Building Services Department, to consider, study, and assess various approaches to regulating cannabis (marijuana) cultivation, it is necessary to suspend the establishment of cannabis (marijuana) cultivation that may be in conflict with the development standards and regulations the County of Plumas, through its Planning and Building Services Department, intends to consider or study; and

**WHEREAS**, on October 24, 2017, after taking public testimony at a noticed public hearing, the Board of Supervisors passed by a unanimous vote (5-0) an uncodified Urgency Ordinance (Ordinance No. 17-1107) adopted pursuant to Government Code Section 65858, imposing a Temporary Moratorium on cultivation of cannabis (marijuana) in the unincorporated areas of the County of Plumas (the “interim ordinance”); and

**WHEREAS**, Ordinance No. 17-1107, by its terms is only effective for a period of forty-five (45) days, and is scheduled to expire on December 7, 2017; and

**WHEREAS**, Government Code section 65858 authorizes local governments to adopt, after a noticed public hearing, an ordinance to extend an interim urgency ordinance if the extension ordinance contains legislative findings that there is a current and immediate threat to public health, safety, and welfare; and

**WHEREAS**, the purpose of this Ordinance is to extend the moratorium to continue to protect against the current and immediate threats that cannabis (marijuana) cultivation poses to public health, safety, and welfare and to prevent adverse impacts from cultivation of cannabis (marijuana) on nearby properties and residents; and

**WHEREAS**, at least ten (10) days prior to the expiration of Ordinance No. 17-1107 a written report has been prepared and issued describing the measures taken to alleviate the

conditions which led to the adoption of the interim ordinance; and

**WHEREAS**, the notice of public hearing required by Government Code section 65858 for the extension of Ordinance 17-1107 has been provided in accordance with applicable law.

**NOW, THEREFORE**, the Board of Supervisors of the County of Plumas, State of California, ordains as follows:

**SECTION 1.** The Board of Supervisors of the County of Plumas determines as follows:

- A. The above recitals are true and correct and are incorporated herein as if set forth in full and are relied upon independently by the Board of Supervisors for its adoption of this urgency ordinance.
- B. There is a current and immediate threat to public health, safety, and welfare in that the establishment of, or the issuance or approval of any permit, certificate of occupancy, or other entitlement for the establishment of, cannabis (marijuana) cultivation in the unincorporated areas of the County of Plumas will result in land uses and land developments that may conflict with amendments to the Plumas County Code that may be adopted as a result of the study that is to be undertaken.
- C. There is no feasible alternative to enactment of this moratorium ordinance that will satisfactorily mitigate or avoid the previously identified impacts to the public health, safety and welfare with a less burdensome or restrictive effect.
- D. In order to ensure the effective implementation of the County of Plumas' land use objectives and policies, a temporary moratorium on the establishment and/or approval of cannabis (marijuana) cultivation is necessary.
- E. This ordinance is exempt from environmental review pursuant to State CEQA Guidelines Section 15061(b)(3) in that there is nothing in this ordinance or its implementation that could have a foreseeable significant effect on the environment.

**SECTION 2.** Imposition of Moratorium.

In accordance with Government Code Section 65858, for the period of this ordinance, or any extension thereof, cannabis (marijuana) cultivation shall be considered a prohibited use in any zoning district of the unincorporated areas of the County of Plumas. No permits or authorizations shall be approved or issued for the establishment of cannabis (marijuana) cultivation while this ordinance is in effect. For the purposes of this ordinance, the term "cannabis (marijuana) cultivation" shall not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

**SECTION 3. Severability.**

If any provision of this ordinance or the applications thereof to any person or circumstances is held invalid, the remainder of the ordinance and the applications of such provision will remain in effect to the extent permitted by law.

**SECTION 4. Conflicting Laws.**

For the term of this ordinance, as set forth in Section 6 below, the provisions of this ordinance shall govern. To the extent that there is any conflict between the provisions of this ordinance and the provisions of any other County code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

**SECTION 5. Effective Date and Term.**

This ordinance is declared an urgency measure for the immediate protection and preservation of the public peace, health, safety and welfare for the reasons stated in Section 1, and it shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the Board of Supervisors pursuant to Government Code Section 65858 and Government Code Section 25123 (d). This ordinance shall continue in effect for twenty-two (22) months and fifteen (15) days from the date of its adoption and shall thereafter be of no further force. The clerk shall cause this ordinance to be published as required by law.

The foregoing ordinance was adopted at a regular meeting of the Plumas County Board of Supervisors of the County of Plumas, State of California, held on the 27<sup>th</sup> day of November 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

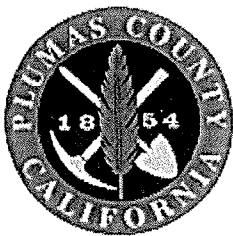
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Lori Simpson, Chair  
Board of Supervisors

ATTEST:

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Nancy DaForno  
Clerk of the Board



## **PLUMAS COUNTY PLANNING & BUILDING SERVICES**

555 Main Street, Quincy, CA 95971  
(530) 283-7011

[www.countyofplumas.com](http://www.countyofplumas.com)

**DATE:** October 24, 2017

**TO:** Honorable Chair and Members of the Board of Supervisors

**FROM:** Randy Wilson, Plumas County Planning Director *pw*

**RE:** Public Hearing to Consider Adoption of an Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County. The proposed moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

### **Background**

In January 2016, the Board of Supervisors held a noticed public hearing to consider Urgency Ordinance(s) imposing a temporary moratorium on 1) the cultivation of medical cannabis, 2) establishment of medical cannabis dispensaries, and/or 3) delivery of medical cannabis in the unincorporated areas of Plumas County. The Board of Supervisors, after taking public testimony regarding the proposed Urgency Ordinance, decided to not adopt the Urgency Ordinances and referred the matter to the Planning Commission.

In August 2016, the Board of Supervisors, again, held a noticed public hearing to consider Urgency Ordinance(s) imposing a temporary moratorium on the cultivation of medical cannabis and the establishment of medical cannabis dispensaries, in the unincorporated Areas of Plumas County. The Board of Supervisors, after taking public testimony regarding the proposed Urgency Ordinance, decided to not adopt the Urgency Ordinances. The Board of Supervisors decided to establish a Cannabis Working Group to work on a Draft Cannabis Ordinance. The Cannabis Working Group's first meeting was on October 20, 2016.

In November of 2016, Proposition 64 passed making recreational cannabis legal for adults 21 years old or older and providing for State regulation of the recreational cannabis. Proposition 64 also allows local regulation of cannabis activities.

On June 27, 2017 the Governor signed into law SB 94, which brought together the existing medical cannabis law and Proposition 64 into one unified law. SB 94 does not supersede or limit the authority of the county to adopt and enforce local ordinances to regulate, or completely prohibit cannabis cultivation.

The State of California will begin issuing state licenses for cannabis cultivation, dispensing, and manufacturing on January 1, 2018. The state agencies, the Bureau of Cannabis Control, the Department of Food and Agriculture, and the State Department of Health are charged with issuing state licenses. These state agencies will be doing so by issuing emergency regulations without California Environmental Quality Act (CEQA) compliance. State licensing agencies may not issue a State license that violates local cannabis regulations.

The Cannabis Working Group has met twenty eight (28) times since October 2016. Many meetings held were to establish a Draft Cannabis Ordinance. The Cannabis Working Group during the summer of 2017 conducted public input meetings on the Draft Cannabis Ordinance in all five Supervisorial Districts with the understanding that the public input from these meetings would then be considered in making changes to the Draft Cannabis Ordinance. At the present the Cannabis Working Group has met nearly every week since the public input meetings to make changes to the Draft Cannabis Ordinance. The effort is ongoing and another meeting is scheduled for October 26, 2017. The Cannabis Working Group is charged with making a recommendation on a Draft Cannabis Ordinance to the Planning Commission, who will then make a recommendation to the Board of Supervisors.

The completion of the Cannabis Working Group task of development of a Draft Cannabis Ordinance to be presented to the Plumas County Planning Commission may occur before the end of the 2017. It appears unlikely that Plumas County will have a completed and adopted Cannabis Ordinance by January 1, 2018. Further, a vote on taxing cannabis activities is being recommended to the Board of Supervisors.

In order to place a cannabis tax for the June 2018 Election the work on the cannabis tax ballot measure must be completed by the end of December 2017. There has been no work yet done on a cannabis tax ballot measure and it is unlikely the work can be completed by the end of December 2017. Most likely such a tax measure can be done for the November 2018 ballot.

#### Need for Proposed Moratoria

The Plumas County Sheriff's Department has produced a letter outlining increasing adverse issues with cannabis cultivation and adverse issues with dispensaries. This letter does state, "Most of these grows are trouble free although they are without regulation and have increased in plant count with each growing season." This letter is attached to this staff memo in support of the proposed moratoria on cultivation of cannabis and dispensaries. Issues identified in the letter include:

- Increase year to year of medical cannabis gardens
- Increase in the number of green houses and hoop houses for cannabis cultivation
- Increased cultivation of cannabis potentially affecting health, safety, and well-being of county residents
- Increased risk of criminal activity related to cannabis cultivation
- Degradation of the natural environment due to cannabis cultivation
- Excessive use of electricity due to cannabis cultivation
- Damage to buildings due to cannabis cultivation
- Dangerous electrical alterations to buildings due to cannabis cultivation
- Increased risk of fire due to cannabis cultivation
- Increased occurrences of home-invasion robberies due to cannabis cultivation
- Potential noxious odors impacting neighboring properties due to cannabis cultivation
- Strong odors creating attractive nuisances alerting persons to location of cannabis plants creating a risk of burglary, robbery, armed robbery, assault, attempted murder, and murder
- Fertilizers and pesticides, legal and illegal, impacting creeks, streams, and rivers due to cannabis cultivation
- Illegal diversions of water for cannabis cultivation
- Many complaints received regarding cannabis cultivation
- Cannabis growers arming themselves and setting booby traps to protect cannabis grows
- Notable increase in crimes, such as burglary, robbery, impacts from disagreeable odors, increases in traffic and noise, effects on community health, sales of illegal drugs in the immediate area surrounding dispensaries have been reported by other public entities related to cannabis dispensaries

The Plumas County Planning and Building Departments continue to get numerous questions, on a daily basis, regarding the Cannabis Ordinance development and questions regarding how and where to cultivate cannabis in Plumas County.

### **Proposed Urgency Ordinances**

Plumas County's Zoning Code is a "permissive zoning code." Uses in the various zones are defined in the Zoning Code. Uses not defined or similar are not allowed in the various zones. The growing of cannabis (marijuana) is not listed in any of the various zones contained within the Zoning Code. Therefore, the growing of cannabis is not legally allowed on any of the lands covered by the Plumas County Zoning Code.

While the Plumas County Zoning Code does not legally allow the growing of marijuana or cannabis, this legal fact is not well known or understood by the general public whether within Plumas County or outside Plumas County. Someone searching the Plumas County Zoning Code will not find mentioned any place the word "marijuana" or "cannabis" and may assume that because the Zoning Code does not specifically mention medical marijuana or cannabis in any manner that cultivation of medical marijuana or cannabis is legal in Plumas County, when in fact doing so is illegal under local land use ordinances.

Also, while SB 94 provides a mechanism for communication between State agencies and local jurisdictions (see Business and Professions Code section 26055, subdivisions (f) through (g)), it is unclear how the local jurisdiction is to “provide the [State] bureau a copy of the ordinance or regulation relating to commercial cannabis activity” when that ordinance is in the form of a “permissive zoning” regulation, nor can Plumas County be certain that the State Bureau will accept such a notification from Plumas County. Business and Professions Code section 26055 further provides that if the County does not notify the State that an applicant or licensee is not in compliance with a local regulation, there is a rebuttable presumption that the applicant or licensee is in compliance. Adopting a moratorium ordinance prohibiting cannabis cultivation (subject to certain allowed personal cultivation at a private residence) will reduce confusion and will provide certainty to both the public, persons considering cannabis cultivation, and the State regulatory authorities, and thereby reduce the likelihood of disputes and potential litigation.

Attached for the Board’s consideration is a proposed urgency ordinance, which provides an “expressed temporary prohibition” and “expressed notice” that cannabis cultivation is not allowed in the unincorporated area of Plumas County. The proposed moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person’s private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term “private residence” shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

The urgency ordinance, if passed by the Board of Supervisors, will place a 45-day moratorium on the cultivation of marijuana or cannabis. The Board of Supervisors, in order to adopt one or all of these urgency ordinances, must do so by a 4/5 vote. The urgency ordinance may be extended for 22 months and 15 days after a public notice and a public hearing by a 4/5 vote of the Board of Supervisors. The urgency ordinance is attached to this staff memo.

### California Environmental Quality Act (CEQA)

The urgency ordinance is exempt from the California Environmental Quality Act (CEQA) because the ordinance make no changes by preserving the status quo.

### **ACTIONS FOR CONSIDERATION**

Staff respectfully recommends the Board of Supervisors consider taking one of the following actions:

- I. Adopt the attached Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County. The proposed moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person’s private residence,

or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

II. Give other direction to staff.

Attachments:

Urgency Ordinance imposing a temporary moratorium on the cultivation of cannabis in the unincorporated areas of Plumas County.

Memo from the Plumas County Sheriff, dated August 5, 2016, regarding issues of growing cannabis.

Notice of Public Hearing to Consider Adoption of Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County by the Plumas County Board of Supervisors.

**ORDINANCE NO. 17-1107**

**AN UNCODIFIED URGENCY ORDINANCE OF THE COUNTY OF PLUMAS,  
ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858, IMPOSING A  
TEMPORARY MORATORIUM ON THE CULTIVATION OF CANNABIS  
(MARIJUANA) IN THE UNINCORPORATED AREAS OF THE COUNTY OF PLUMAS**

**WHEREAS**, in 1996, the voters of the State of California approved Proposition 215 which was codified as Health and Safety Code Section 11362.5, and entitled “The Compassionate Use Act of 1996” (the “Compassionate Use Act”); and

**WHEREAS**, the intent of the Compassionate Use Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances; and

**WHEREAS**, on January 1, 2004, Senate Bill 420, codified as Health and Safety Code Sections 11362.7, and following, and entitled “The Medical Marijuana Program,” became effective to clarify the scope of the Compassionate Use Act; and

**WHEREAS**, on October 9, 2015, the Governor of the State of California approved Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 authorizing the promulgation of regulations and standards relating to medical cannabis (also known as marijuana) and its cultivation, including the licensing of cultivation sites by state and local agencies; and

**WHEREAS**, on February 3, 2016, the Governor of the State of California approved Assembly Bill 21, an urgency measure, repealing Health and Safety Code Section 11362.777(c)(4) which previously provided that if county does not have land use regulations or ordinances regulating or prohibiting the cultivation of cannabis (marijuana), either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to former Health and Safety Code section 11362.777, then commencing March 1, 2016, the State of California shall be the sole licensing authority for medical cannabis (marijuana) cultivation applicants in that county; and

**WHEREAS**, in November 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older may legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA makes it legal to sell and distribute cannabis through a regulated business, and

**WHEREAS**, on June 27, 2017, the Governor of the State of California approved Senate Bill 94, which repealed MCRSA and include certain provisions of MCRSA in the licensing provisions of AUMA and renamed these consolidated provisions as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

**WHEREAS**, MAUCRSA does not supersede or limit the authority of a county to adopt and enforce local ordinances to regulate, or completely prohibit, businesses licensed by the State of California under the provisions of MAUCRSA, including but not limited to, local zoning and land use requirements, business license requirements, and requirements relating to reducing exposure to second hand smoke, and further provides that licensing authorities shall not approve licenses that would violate the provisions of any such local ordinance or regulation, and

**WHEREAS**, the term “cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis (marijuana) plants or any part thereof as provided in Business and Professions Code section 26001(l); and

**WHEREAS**, the term “cannabis” shall have the same meaning as that set forth in Business and Professions Code section 26001(f); and

**WHEREAS**, the County’s unique geographic and climate conditions, which include dense forested areas receiving substantial precipitation, along with sparse population in many areas of the County, provide conditions that are favorable to cannabis (marijuana) cultivation and cannabis (marijuana) growers can achieve a high per-plant yield with high economic value because of the County’s favorable growing conditions; and

**WHEREAS**, various parcels throughout the unincorporated area of the County of Plumas are being used for cannabis (marijuana) cultivation; and

**WHEREAS**, other public entities have reported adverse impacts from cannabis (marijuana) cultivation, including, but not limited to, disagreeable odors, increased risk of burglary and other property crimes, and acts of violence in connection with the commission of such crimes or the occupants’ attempts to prevent such crimes; and

**WHEREAS**, the creation of persistent strong odors as cannabis (marijuana) plants mature and flower is offensive to many people and creates an attractive nuisance, alerting persons to the location of valuable cannabis (marijuana) plants and creating an increased risk of crime; and

**WHEREAS**, the indoor cultivation of substantial amounts of cannabis (marijuana) also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation; and

**WHEREAS**, the County of Plumas has adopted a Zoning Plan identified as Title 9 (Planning and Zoning) of the Plumas County Code; and

**WHEREAS**, the Plumas County Zoning Code is a “permissive zoning” ordinance that does not permit the cultivation of cannabis (marijuana) on any lands or zones covered by the Plumas County Zoning Code, but this fact is not well known or understood by the general public whether within Plumas County or outside Plumas County since a search of the Zoning Code will not find the terms “cannabis” or “marijuana” thereby resulting in some persons assuming that such uses are allowed; and

**WHEREAS**, the enactment of AB 21 described above repealed former Health and Safety Code section 11362.777 subdivision (c)(4) and the reference to “permissive zoning” as a means to prohibit the cultivation of cannabis (marijuana), thereby adding to the likelihood of some persons assuming that the use of land for the cultivation of cannabis (marijuana) is allowed in Plumas County; and

**WHEREAS**, concerns have been raised that there are no specific regulations to address the impact cannabis (marijuana) cultivation within the unincorporated areas of the County of Plumas may have on the community as a whole; and

**WHEREAS**, the County of Plumas has not adopted rules and regulations specifically applicable to cannabis (marijuana) cultivation and the lack of such controls may lead to increased cannabis (marijuana) cultivation and the inability to regulate cannabis (marijuana) cultivation in a manner that will protect the general public, homes and businesses adjacent and near such cultivation, and the persons who are present at such cultivations; and

**WHEREAS**, an ordinance expressly prohibiting the cultivation of cannabis (marijuana) in Plumas County will preclude any interpretation that Plumas does not prohibit the cultivation of cannabis (marijuana), and will further clarify for the public, and serve to notify state cannabis licensing authorities, that the cultivation of cannabis (marijuana) is not a permitted use of land in Plumas County; and

**WHEREAS**, in order to allow time for the County of Plumas, through its Planning and Building Services Department, to consider, study, and assess various approaches to regulating cannabis (marijuana) cultivation, it is necessary to suspend the establishment of cannabis (marijuana) cultivation that may be in conflict with the development standards and regulations the County of Plumas, through its Planning and Building Services Department, intends to consider or study.

**NOW, THEREFORE**, the Board of Supervisors of the County of Plumas, State of California, ordains as follows:

**SECTION 1.** The Board of Supervisors of the County of Plumas determines as follows:

- A. The above recitals are true and correct and are incorporated herein as if set forth in full and are relied upon independently by the Board of Supervisors for its adoption of this urgency ordinance.
- B. There is a current and immediate threat to public health, safety, and welfare in that the establishment of, or the issuance or approval of any permit, certificate of occupancy, or other entitlement for the establishment of, cannabis (marijuana) cultivation in the unincorporated areas of the County of Plumas will result in land uses and land developments that may conflict with amendments to the Plumas County Code that may be adopted as a result of the study that is to be undertaken.

- C. There is no feasible alternative to enactment of this moratorium ordinance that will satisfactorily mitigate or avoid the previously identified impacts to the public health, safety and welfare with a less burdensome or restrictive effect.
- D. In order to ensure the effective implementation of the County of Plumas' land use objectives and policies, a temporary moratorium on the establishment and/or approval of cannabis (marijuana) cultivation is necessary.
- E. This ordinance is exempt from environmental review pursuant to State CEQA Guidelines Section 15061(b)(3) in that there is nothing in this ordinance or its implementation that could have a foreseeable significant effect on the environment.

## **SECTION 2. Imposition of Moratorium.**

In accordance with Government Code Section 65858, for the period of this ordinance, or any extension thereof, cannabis (marijuana) cultivation shall be considered a prohibited use in any zoning district of the unincorporated areas of the County of Plumas. No permits or authorizations shall be approved or issued for the establishment of cannabis (marijuana) cultivation while this ordinance is in effect. For the purposes of this ordinance, the term "cannabis (marijuana) cultivation" shall not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

## **SECTION 3. Written Report.**

Ten days prior to the expiration of this ordinance or any extension thereof, the Board of Supervisors shall issue a written report describing the measures taken to alleviate the threat to public health, safety and welfare that led to the enactment of the ordinance.

## **SECTION 4. Severability.**

If any provision of this ordinance or the applications thereof to any person or circumstances is held invalid, the remainder of the ordinance and the applications of such provision will remain in effect to the extent permitted by law.

## **SECTION 5. Conflicting Laws.**

For the term of this ordinance, as set forth in Section 6 below, the provisions of this ordinance shall govern. To the extent that there is any conflict between the provisions of this ordinance and the provisions of any other County code, ordinance, resolution or policy, all such conflicting provisions shall be suspended.

**SECTION 6. Effective Date and Term.**

This ordinance is declared an urgency measure for the immediate protection and preservation of the public peace, health, safety and welfare for the reasons stated in Section 1, and it shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the Board of Supervisors pursuant to Government Code Section 65858 and Government Code Section 25123 (d). This ordinance shall continue in effect for forty-five (45) days from the date of its adoption and shall thereafter be of no further force and effect unless, after notice pursuant to Government Code Section 65090 and a public hearing, the Board of Supervisors extends this ordinance for an additional period of time pursuant to Government Code Section 65858. The clerk shall cause this ordinance to be published as required by law.

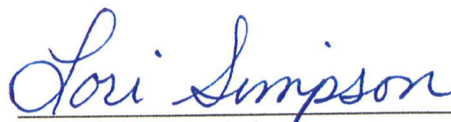
The foregoing ordinance was adopted at a regular meeting of the Plumas County Board of Supervisors of the County of Plumas, State of California, held on the 24<sup>th</sup> day of October 2017, by the following vote: \_

AYES: SUPERVISOR GOSS, ENGEL, SANCHEZ, THRALL, SIMPSON

NOES: NONE

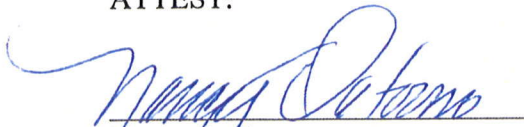
ABSTAIN: NONE

ABSENT: NONE



Lori Simpson, Chair  
Board of Supervisors

ATTEST:

  
Nancy DaForno  
Clerk of the Board



## OFFICE OF THE SHERIFF

1400 E Main St. Quincy, California – (530) 283-6375 – Fax 283-6344

GREG HAGWOOD  
SHERIFF/CORONER

Date: 8/5/2016

To: Plumas County Board of Supervisors

The Plumas County Sheriff's Department is responsible for the eradication and suppression of illegal marijuana operations throughout Plumas County.

Plumas County is 2,618 square miles, has 4 major communities with a population of 22,000 full time residents. It is the purpose and intent of The Plumas County Sheriff's Office to work towards regulating the cultivation of medical marijuana in a manner that is consistent with State and Federal law and which promotes the health, safety, and general welfare of the residents and businesses within County and prevents adverse impacts which such activities may have on nearby properties and residents, without interfering with any rights qualified patients and their primary caregivers may have pursuant to the State Compassionate Use Act and Medical Marijuana Program to use medicinal marijuana.

Over the past few years the Plumas County Sheriff's Department has seen an increase year by year of medical marijuana grows in our community. I base this on personal observation, complaints, grower contacts for information and aerial observation. I believe based on my years in the Sheriff's Office Investigations Unit that within the last 3 to 4 years outside marijuana cultivation has gone from approx. 100 grows to currently approx. 500 grows. We have seen several new grow operations going up throughout the county and numerous largescale and commercial in nature. Most large grow sites over the past few years were maxing out at one hundred plants. Now there are grows with two to four hundred plants. Green houses and hoop houses are popping up everywhere as well. There are numerous grow sites that are on private land that does not have a structure on it. The growers move a trailer onto the property and live there during the growing season. We have seen private property owners completely clear all the trees from a parcel of land just to create more space to cultivate a large amount of plants. Most of these grows are trouble free although they are without regulation and have increased in plant count with each growing season. This can adversely affect the health, safety and well-being of the County and its residents. Medical marijuana cultivation increases the risk of criminal activity, degradation of the natural environment, excessive use of electricity which may overload standard electrical systems, and damage to buildings in which cultivation occurs, including improper and dangerous electrical alterations and use, increased risk of fire and fire-related hazards, inadequate ventilation, increased occurrences of home-invasion robberies and similar crimes.

Medical marijuana cultivation also creates increased nuisance impacts to neighboring properties because of the strong, malodorous, and potentially noxious odors which come from the plants. Further, the indoor and outdoor cultivation of medical marijuana in or near residential zones increases the risk of such activity and intrudes upon residential uses. Marijuana plants grown outdoors, as they begin to flower and for a period of two months or more during the growing season, produce an extremely strong odor that is offensive to many people and detectable far beyond property boundaries. This strong smell may create an attractive nuisance, alerting persons to the location of the marijuana plants, thereby creating a risk of burglary, robbery, armed robbery, assault, attempted murder, and murder. Fertilizers and pesticides, both legal and illegal, used when marijuana is grown outdoors may unreasonably increase the concentration of such chemicals in storm water runoff thereby impacting local creeks, streams and rivers. Such pollution may negatively affect water quality for downstream users, harm ecosystems, and impact threatened or endangered species. Water for marijuana grown outdoors may be illegally diverted from local creeks, streams, and rivers, thereby unreasonably depriving downstream users of beneficial water sources. Such diversions may also impact water supply, harm ecosystems, and negatively affect threatened or endangered species. The above describe problems will worsen as time going on if not regulated.

I have spoken to several neighboring county's law enforcement officers, to include Butte County, Nevada County, Tehama County, Shasta County and Lassen County, with regards to violence at marijuana dispensaries and marijuana cultivations. These agencies reported theft, armed robberies, home invasion robberies, kidnappings and homicides. Most of the above listed crimes are committed by multiple suspects participating in the criminal act and are commonly armed. Each agency reported an increase each year of marijuana related crimes. I believe that based on the information received from other counties relating to marijuana crimes that it is just a matter of time before Plumas County will see these types of crimes occurring in our community.

I recently spoke to a neighboring county's Detective with regards to a homicide in their jurisdiction over marijuana. The suspect relayed to the Detective that he and his "crew" have participated in several marijuana garden "rip offs". The suspect explained that it is very easy to identify marijuana garden as his "crew" uses satellite imagery to identify grow site or just simply drive around and find it, they conduct surveillance of the grow over several days and then complete the "rip off". If the owner of the grow attempts to defend his grow by use of a firearm the suspects will defend themselves which has resulted in this "crew" possibly being responsible for three homicides. The suspect told the Detective that he and his "crew" were involved in a shooting/rip off in the Portola area within the last two years. The Sheriff's Office does not have a report of a shooting/rip off at a marijuana garden but a lot of drug related crimes as such go unreported.

Marijuana dispensaries and cultivation of marijuana at location or premises in close proximity to school, 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 consumption by juveniles and creates an attractive nuisance. Further, the potential for criminal

activities associated with marijuana dispensaries and cultivation of marijuana in and around the above mentioned locations poses heightened risks that juveniles will be involved or endangered; therefore, the cultivation and sale from a dispensary of any amount of marijuana in these locations or premises is especially hazardous to public safety and welfare, and to the protection of children.

Sheriff's Office has received many complaints this year as well as in past years from residents complaining of outdoor marijuana gardens some small and some appear commercial in nature. The citizen complaints consist of; strong odor or noxious odor, heavy foot and vehicle traffic at grow sites, unattractive green/hoop houses and the public's fear of crime in their neighborhoods. The County currently does not have a county ordinance in regards to cultivation; small scale, commercial cultivation and dispensaries. With that being said we have seen an influx of subjects moving into Plumas County or buying land in Plumas County for the sole purpose of growing marijuana. These subjects have transferred from other counties due to the other county's strict ordinances/rules for cultivation which has prevented them from growing in their home town community.

The Sheriff's Office has received several reports over the past few years of marijuana thefts and some of the victims of these thefts have relayed to law enforcement the lengths they will go to protect their grows. This would include arming themselves during harvest season, setting booby traps and sleeping in marijuana grows while armed. During harvest time there is an increased threat to the public safety as this is when rip offs occur and can bring threat of violent crime due to the monetary value of mature marijuana.

With regards to Medical Marijuana Dispensaries, other public entities have reported adverse impacts from Medical Marijuana Dispensaries, including, but not limited to, an increase in crime such as burglary and robbery, disagreeable odor, negative effects on physical, mental, and community health, loitering, increases in traffic, noise and the sale of illegal drugs (including the illegal resale of marijuana from dispensaries) in the area immediately surrounding the medical marijuana dispensaries. Most of the sales that occur at a marijuana dispensary are in cash, due to the purchaser not wanting to leave any personal information at the dispensary. This means that there will be large amounts of cash kept on the premises, would could lead to theft, robbery or other violent crimes. Medical Marijuana dispensaries have been banned in the majority of counties throughout the state in an attempt to protect the public's health, safety, and welfare of the residents, children and businesses from harmful secondary effects of sales and distribution of marijuana and possibility of other illegal drugs sold in the area of the dispensary.

The Plumas County Sheriff's Department supports the Board of Supervisors cannabis moratorium.

Greg Hagwood, Sheriff/Coroner

By Investigations Sgt Steve Peay

**Notice of Public Hearing to Consider Adoption of an Extension of Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County by the Plumas County Board Of Supervisors**

The Plumas County Board of Supervisors will hold a public hearing on the following matter on Monday, November 27, 2017, at 10:00 AM, at 520 Main Street, Room 308, Courthouse, Quincy, California:

Public Hearing to Consider Adoption of an Extension of an Uncodified Urgency Ordinance Pursuant to Government Code Section 65858 Imposing a Temporary Moratorium on the Cultivation of Cannabis in the Unincorporated Areas of Plumas County. The proposed moratorium on the cultivation of cannabis would not apply to the personal cultivation of not more than six living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a mobile home, or other similar dwelling.

This public hearing is being held pursuant to Government Code Sections 65090.

Written comments should be mailed or delivered to the Plumas County Board of Supervisors, 520 Main Street, Room 309, Quincy, CA 95971.

For further information, contact the Plumas County Planning Department at (530) 283-6214; email [randywilson@countyofplumas.com](mailto:randywilson@countyofplumas.com).

Publish, November 15, 2017:

Chester Progressive

Indian Valley Record

Feather River Bulletin

Portola Reporter



# Plumas County Cannabis Ordinance - DRAFT

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# Plumas County Cannabis Ordinance - DRAFT

## SECTION 1. Background and Findings

- A. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and titled 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 be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.
- C. On January 1, 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code section 11362.7 *et seq.* and entitled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allowed counties to adopt and enforce rules and regulations consistent with its provisions.
- D. In 2011, Assembly bill 2650 was enacted (codified as California Health and Safety Code section 11362.768). This law affirmed that counties can adopt ordinances that restrict the location and establishment of medical marijuana collectives and cooperatives.
- E. On October 9, 2015 Governor Brown signed into law the Medical Cannabis Regulation and Safety Act (MCRSA). The MCRSA is a package of three separate bills (Assembly Bill 243, Assembly Bill 266, and Senate Bill 643), enacted by the legislature on September 11, 2015 that established a comprehensive regulatory framework for the cultivation, production, transportation, testing, sale and taxation of medical marijuana in California, including the licensing of cultivation sites by state and local agencies.
- F. On February 3, 2016, Governor Brown approved Assembly Bill 21, an urgency measure, repealing Health and Safety Code Section 11362.777(c)(4) which previously provided that if a county does not have land use regulations or ordinances regulating or prohibiting the cultivation of cannabis (marijuana), either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional use permit program pursuant to former California Health and Safety Code section 11362.777, then commencing March 1, 2016, the State of California shall be the sole licensing authority for medical cannabis (marijuana) cultivation applicants in that county.
- G. On June 1, 2016, the California State Assembly passed Assembly Bill 2516 to refine the licensing structure established under the Medical Cannabis Regulation and Safety Act (MCRSA). Recognizing that many cannabis farmers across California grow only a handful of plants on relatively small plots of land, this bill created a new license category, Type 1C, "specialty cottage". This license type allows for 2500 square feet or less of total canopy size for outdoor or mixed light cultivation, and 500 square feet or less of total canopy size for indoor cultivation.



# Plumas County Cannabis Ordinance - DRAFT

- H. On November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). Under Proposition 64, adults 21 years of age or older may legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions. In addition, beginning on January 1, 2018, AUMA makes it legal to sell and distribute cannabis through a regulated business.
- I. On June 27, 2017, Governor Brown approved Senate Bill 94, which repealed the MCRSA and included certain provisions of MCRSA in the licensing provisions of AUMA and renamed these consolidated provisions as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).
- J. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) does not supercede or limit the authority of a county to adopt and enforce local ordinances to regulate, or completely prohibit, businesses licensed by the State of California under the provisions of MAUCRSA, including but not limited to, local zoning and land use requirements, business license requirements, and requirements relating to reducing exposure to second hand smoke, and further provides that licensing authorities shall not approve licenses that would violate the provisions of any such local ordinance or regulation.
- K. This Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and the Adult Use of Marijuana Act (AUMA) to protect the public health, safety, and welfare of Plumas County residents in relation to cultivation and sales of marijuana.
- L. Unregulated Cannabis Cultivation has been shown to sometimes involve avoidance of environmental laws and regulations and resulted in the pollution of water and navigable waterways in the State of California. Unregulated cannabis cultivation can be harmful to the welfare of the surrounding community and its residents and constitute a public nuisance.
- M. The rights of qualified patients and adult users under State law to cultivate cannabis 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 reduction in the harms caused or threatened by unregulated cultivation of cannabis in the unincorporated area of Plumas County.
- N. It is the purpose and intent of the Ordinance to implement State law by providing a means for regulating the cultivation of cannabis that is consistent with state law and which balances the needs of medical patients and responsible adult users, and promote the health, safety, and welfare of the residents and businesses within the unincorporated area of Plumas County.
- O. The County of Plumas realizes that allowing a closely regulated cannabis industry in the County has the potential to benefit its economy.



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- P. Plumas County has the highest opioid overdose rates of any county in California. Research has shown that cannabis can reduce opioid addiction.
- Q. 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 or to license any activity that is prohibited under said Act except as mandated by State law.
- R. Nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance, or (2) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is illegal under state or federal law.

## SECTION 2. Authority

The Plumas County Board of Supervisors enacts this chapter pursuant to authority granted by Article XI Section 7 of the California Constitution, Sections 25845 and 53069.4 of the California Government Code and Section 11362.83(c) of the California Health and Safety Code.

## SECTION 3. Purpose and Intent

- A. The purpose and intent of this chapter is to establish land use regulations concerning the cultivation, manufacture, testing, distribution, transportation, and storage of cannabis within the County of Plumas in order to limit and regulate such activities in coordination with the State of California in the implementation of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and the Adult Use of Marijuana Act (AUMA).
- B. The purpose and intent of this chapter is also to address the County of Plumas' prerogative to license, permit, and regulate cultivation and commercial activities involving cannabis as set forth in the MCRSA and the AUMA in conjunction with state licensing requirements and local laws, in order to protect the public health, safety, and welfare of the residents of Plumas County, and to reduce or eliminate any adverse environmental effects of existing cannabis cultivation or commercial activities involving cannabis in the County of Plumas, and to prevent adverse environmental effects of any new cannabis cultivation or commercial activities involving cannabis which may be permitted in the future in accordance with this chapter and State law.
- C. The purpose and intent of this chapter is also to reduce conditions that create public nuisances by enacting regulations including restrictions as to location, type, and size of cannabis cultivation sites, the location, type, and size of commercial activities involving cannabis and the use of adequate screening, security, and other protective measures to effectively control the adverse impacts associated with cannabis cultivation and commercial activities related to cannabis.



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- D. The purpose and intent of this chapter is also to consider and respect the needs of qualified medical cannabis patients and responsible adult users in furtherance of the public necessity, health, safety, convenience, and general welfare within the Board's jurisdictional limits. Nothing in this chapter shall be construed to authorize any use, possession, cultivation, manufacture, transportation, or distribution of cannabis or cannabis products that is in violation of law.

## SECTION 4. Scope

The provisions of this chapter shall apply generally to all property throughout the unincorporated area of the County of Plumas.

## SECTION 5. Definitions

**Except where the context otherwise requires, the following definitions shall govern the construction of this chapter:**

- A. **"Accessory Structure"** means a structure that is incidental and subordinate to the principal building on the property and is physically detached from the principal building. Accessory structures must be on the same property as the building or use to which they are accessory.
- "Accessory building" shall mean any building used as an accessory to residential, commercial, recreational, industrial or educational purposes as defined in the California Building Code, 1989 Amendments, Chapter 11, Group M, Division 1, Occupancy that requires a building permit."
- B. **"Agricultural Commissioner"** or "Agricultural Commissioner's Office" means the Plumas County Agricultural Commissioner's Office or the authorized representatives thereof.
- C. **"Attorney General's Guidelines"** means guidelines for the security and non-diversion of cannabis grown for medical use issued by the Attorney General in August 2008
- D. **"Cannabis"** or "Marijuana" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" or "Marijuana" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purposes of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- E. **"Canopy"** shall mean the square footage physically consumed with live cannabis plants.
- F. **"Caregiver"** or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 Health and Safety Code.
- G. **"Code"** means the Plumas County Code.



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- H. **"Code Enforcement Officer"** means any person employed by the County of Plumas and appointed to the position of code enforcement officer.
- I. **"Commercial marijuana activity"** or "Commercial activities involving medical marijuana" means either:
  - a. 1) Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical or recreational use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with MAUCRSA and/or AUMA.
  - b. 2) Any cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of commercial cannabis or a commercial cannabis product in accordance with MAUCRSA and/or AUMA.
- J. **"Commercial cannabis cultivation"** shall have the same meaning as Section 5 (G)(1) of this chapter.
- K. **"Costs of Enforcement"** or "Enforcement Costs" means all costs, direct or indirect, actual or incurred related to the performance of various administrative acts required pursuant to the enforcement of this chapter, which include but are not limited to: administrative overhead, salaries and expenses incurred by County Officers, site inspections, investigations, notices, telephone contacts and correspondence, conducting hearings, as well as time expended by County staff in calculating the above expenses. The costs also include the cost of time and expenses associated with bringing the matter to hearing, the costs associated with any appeals from any decision rendered by any hearing body, the costs of judicially abating a violation, and all costs associated with removing, correcting or otherwise abating any violation, including administrative penalties of this chapter.
- L. **"County"** means the County of Plumas.
- M. **"Cultivation site"** means the location or a facility where medical/commercial cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities in conformance with MAUCRSA and/or AUMA or, to the extent that the activity is exempt from MAUCRSA and/or AUMA, in conformance with local laws and regulations.
- N. **"Delivery"** has the same meaning as in Business and Professions Code §19300.5(m).
- O. **"Dispensary"**, "Medical Marijuana Dispensary", "Medical Cannabis Dispensary" or "Commercial Cannabis Dispensary", for purposes of this chapter, has the same meaning as in Business and Professions Code §19300.5(n).
- P. **"Distribution"** has the same meaning as in Business and Professions Code §19300.5(p).
- Q. **"Distributor"** has the same meaning as in Business and Professions Code §19300.5(q).
- R. **"Dwelling"**, for purposes of this chapter, means a building intended for human habitation that has been legally established, permitted and certified as a single-family or multi-family dwelling.



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- S. **"Enforcement Official"** means a County Code Enforcement Officer, the County Agricultural Commissioner, or the County Sheriff, or the authorized deputies or designees of any of these officials, each of whom is independently authorized to enforce this chapter.
- T. **"Entity"** has the same definition as "Person" except that it does not mean an individual.
- U. **"Greenhouse"** means a completely enclosed structure whose structural members are made of pre-formed, rigid construction materials. The walls, roof, and ends are typically covered using a transparent material that is fixed in place, which allows solar radiation to penetrate the surface and affect the growing environment of the plants inside.
- V. **"Identification card"** shall have the same meaning as "Identification card" as defined in the California Health and Safety Code, commencing with Section 11362.7(g).
- W. **"Indoors"** means within a fully enclosed and secure structure that complies with the California Building Code (CBC), as adopted by the County of Plumas, 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.
- X. **"License"**, "License Classification", or "License Type" means a state-issued license as described in Business and Professions Code §19300.7.
- Y. **"Licensee"** has the same meaning as in Business and Professions Code §19300.5(x).
- Z. **"Manufactured cannabis"** or "Manufactured cannabis products" has the same meaning as "Manufactured cannabis" in Business and Professions Code §19300.5(ac).
- AA. **"Manufacturer"** has the same meaning as in Business and Professions Code §19300.5(ad)
- BB. **"Marijuana plant"** means any mature or immature marijuana plant including the stalks of the plant, or any marijuana seedling, that is capable of producing marijuana. A "mature" marijuana plant is one whose sex can be determined by visual inspection.
- CC. **"Medical cannabis"**, "medical cannabis product", or "cannabis product" has the same meaning as in Business and Professions Code §19300.5(af).
- DD. **"Medical Marijuana 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 cannabis 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.
- EE. **"Mixed Light"** means the use of both natural and artificial or supplemental lighting sources during the growing cycle to cultivate cannabis for medical or recreational use.
- FF. **"Mobile delivery"** has the same meaning as the first sentence of Business and Professions Code §19300.5(m).
- GG. **"Nursery"** has the same meaning as in Business and Professions Code §19300.5(ag).
- HH. **"Outdoor"** means any cultivation site that uses no artificial or supplemental lighting to cultivate cannabis for medical or recreational use. Use of supplemental lighting to maintain vegetative



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starts or immature plants prior to transplanting outdoors shall be considered consistent with this definition.

- II. **"Parcel"** means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (commencing with Section 66410 of the Government Code) and also means any parcel that is described, recorded and kept in official County records specifically including documents and maps used by the County Assessor's Office, the County Tax Collector's Office and the County Recorder's Office.
- JJ. **"Permittee"** means a person (or persons) issued a permit to cultivate cannabis in Plumas County pursuant to the entirety of this chapter.
- KK. **"Person"** has the same meaning as "Person" in Business and Professions Code §19300.5(ah).
- LL. **"Person with an identification card"** shall have the same meaning as "Person with an identification card" as defined in the California Health and Safety Code, commencing with Section 11362.7(c)
- MM. **"Personal cultivator"** a person who cultivates and possesses cannabis exclusively for his or her personal medical or recreational use of six (6) cannabis plants, but who does not provide, donate, sell, or distribute cannabis to any other person or entity.
- NN. **"Primary Caregiver"** means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient as per Health and Safety Code Section 11362.7(d)
- OO. **"Primary caregiver cultivation"** means cannabis cultivation of up to six (6) plants per qualified patient or person with an identification card by a person who cultivates, possesses, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five (5) individuals for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code. "Transport" for purposes of this subsection does not have the same meaning as (XX).
- PP. **"Public View"** shall mean as viewed at ground level, without the use of a ladder or similar device, from any place the general public has a lawful right to be including the public right of way, a public way or neighboring premises.
- QQ. **"Qualified Patient"** shall have the same meaning as "qualified patient" as defined in the California Health and Safety Code, commencing with Section 11362.7(f).
- RR. **"Residence"** shall have the same meaning as "Dwelling" for purposes of this chapter.
- SS. **"School"** shall mean any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes (Health and Safety Code 11362).
- TT. **"Sheriff"** or "Sheriff's Office" means the Plumas County Sheriff's Office or the authorized representatives thereof.



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- UU. **"Special Use Permit"** (also known in some jurisdictions as a "conditional use permit"). A special use permit is required under various zones for certain uses that may have the potential to create issues with neighborhood compatibility. Conditions can be applied to the permit to prevent material damages to adjacent properties and to ensure social, economic, and environmental compatibility with the surrounding area. Special Use Permits are considered discretionary and require environmental review.
- VV. **"Testing laboratory"** has the same meaning as in Business and Professions Code §19300.5(ak).
- WW. **"Total canopy size"** means the total gross area in square feet consumed by live cannabis plants.
- XX. **"Transport"** or "transportation", for purposes of this chapter, has the same meaning as in Business and Professions Code §19300.5(am)
- YY. **"Transporter"** has the same meaning as in Business and Professions Code §19300.5(an).
- ZZ. **"Volatile solvent"**: Volatile solvent means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

## SECTION 6. Primary Caregiver Cultivation - Specific Requirements

### For the purposes of this section:

**"Primary Caregiver"** means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient as per Health and Safety Code Section 11362.7(d).

**"Primary caregiver cultivation"** means cannabis cultivation of up to six (6) plants per qualified patient or person with an identification card by a person who cultivates, possesses, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five (5) individuals for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code.

"Transport" for purposes of this subsection does not have the same meaning as (XX).

### Primary Caregiver Cultivation-Indoor

All building code requirements for any new construction or modifications of existing structures must be met.



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## Primary Caregiver Cultivation-Outdoor

- A. Outdoor cultivation sites must be set back at least ten feet (10') from any property line.
- B. Secured accessory structure or greenhouses must follow all building code requirements and be located at least five feet (5') from property line.
- C. The proposed cultivation site shall be at least thirty-five (35') feet from the edge of any private or public road easement or right of way.
- D. Access to the cultivation site shall be controlled to reasonably prevent access by trespassers.
- E. If cultivating in any residential zones, the proposed cultivation site shall be fully enclosed by a 7' fence with a lockable gate. It must be constructed of a material and strength that reasonably prevents access by trespassers and adequate screening to prevent the cannabis plants from being viewed. In all other zones, if the proposed cultivation is in public view, it must be obscured by a 7' fence with a lockable gate. In no instance shall any plants exceed the 7' allowable fence height.

## SECTION 7. Personal Cultivation - Specific Requirements

The growing of 6 or fewer living cannabis plants by a person within that person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), except as modified below, if those plants are in a locked space, and are not visible by normal unaided vision from a public place. Not more than six living cannabis plants may be planted, cultivated, harvested, dried or processed within a single private residence or upon the grounds of that private residence, at one time. The term "private residence" shall mean a house, an apartment unit, a manufactured home, or other similar dwelling.

The maximum plants allowed for cultivation on the parcel shall be:

- a. For a personal cultivation, 6 plants. If the parcel is less than one-third acre in size, no more than 3 plants outdoors or 6 plants indoors may be grown, providing all other requirements can be met. If the parcel is more than one-third acre in size, 6 plants may be grown outdoors, providing all other requirements can be met.



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A Personal Cultivator may grow his/her personal cannabis in **ANY** zone. All building code requirements must be met for any new construction or modification of existing structures and no permit or fees shall be required for personal cultivation.

## Personal Cultivation-Indoor

All building code requirements for any new construction or modifications of existing structures must be met.

## Personal Cultivation-Outdoor

- F. Outdoor cultivation sites must be set back at least ten feet (10') from any property line.
- G. Secured accessory structure or greenhouses must follow all building code requirements and be located at least five feet (5') from property line.
- H. The proposed cultivation site shall be at least thirty-five (35') feet from the edge of any private or public road easement or right of way.
- I. Access to the cultivation site shall be controlled to reasonably prevent against access by trespassers.
- J. If cultivating in any residential zones, the proposed cultivation site shall be fully enclosed by a 7' fence with a lockable gate. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. In all other zones, if the proposed cultivation is in public view, it must be obscured by a 7' fence with a lockable gate. In no instance shall any plants exceed the 7' allowable fence height.

## SECTION 8. Commercial Cannabis Permits

Following is a list of commercial cannabis permits that shall be available through the Plumas County Planning Department all subject to the issuance of a special use permit as per Plumas County Code commencing with section 9-2.601.

**"Type 1C Cottage Mixed Light"** for outdoor/mixed light cultivation of a maximum of 2,500 square feet of total canopy size on one legal parcel of one acre or larger in size.



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**“Type 1C Cottage Indoor”** for indoor cultivation using exclusively artificial lighting not to exceed 500 square feet of total canopy size within a structure or structures on one legal parcel.

**“Type 1C Cottage Outdoor”** for outdoor cultivation up to twenty-five (25) plants on a parcel of one acre or larger in size.

**“Type 1 Specialty Outdoor”** for outdoor cultivation using no artificial lighting of a maximum of fifty (50) plants or 5,000 square feet of total canopy size on one legal parcel of three (3) acres or larger in size.

**“Type 1A” Specialty Indoor (small)** for indoor cultivation using exclusively artificial lighting not to exceed 5,000 square feet of total canopy size within a structure or structures on one legal parcel.

**“Type 1B Specialty Mixed Light”** for cultivation using a combination of natural and supplemental artificial lighting (mixed light) not to exceed 5,000 square feet of total canopy size within a structure or structures on one legal parcel of three (3) acres or larger in size.

**“Type 2 Outdoor (small)”** for outdoor cultivation using no artificial lighting not to exceed 10,000 square feet of total canopy size on one legal parcel of five (5) acres or larger in size.

**“Type 2A Indoor (small) ”** for indoor cultivation using exclusively artificial lighting having a cumulative total canopy size within a structure or structures not to exceed 10,000 square feet on one legal parcel.

**“Type 2B Mixed Light (small)”** for cultivation using a combination of natural and supplemental artificial lighting (mixed light) not to exceed 10,000 square feet of total canopy size within a structure or structures on one legal parcel of five (5) acres or larger in size.

**“Type 3 Outdoor (medium)”** for outdoor cultivation using no artificial lighting not to exceed 44,000 square feet of total canopy size on one legal parcel of ten (10) acres or larger in size.

**“Type 3A Indoor (medium)”** for indoor cultivation using exclusively artificial lighting having a cumulative canopy size within a structure or structures not to exceed 22,000 square feet on one legal parcel.



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**“Type 3B Mixed Light (medium)”** for cultivation using a combination of natural and supplemental artificial lighting (mixed light) not to exceed 22,000 square feet of total canopy size within a structure or structures on one legal parcel of ten (10) acres or larger in size.

**“Type 4 Nursery Indoor”** for cultivation of cannabis solely as a nursery product to be sold to a permittee, a qualified patient, or primary caregiver, or adult user. The cumulative canopy size shall not exceed 22,000 square feet on one legal parcel.

**“Type 4 Nursery Mixed Light”** for cultivation of cannabis solely as a nursery product to be sold to a permittee, a qualified patient, or primary caregiver, or adult user. The cumulative canopy size shall not exceed 22,000 square feet on one legal parcel.

**“Type 4 Nursery Outdoor”** for cultivation of cannabis solely as a nursery product to be sold to a permittee, a qualified patient, or primary caregiver, or adult user. The cumulative canopy size shall not exceed 22,000 square feet on one legal parcel.

**“Type 6 Manufacture Level 1”** sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

**“Type 8 Testing Laboratory”** for testing cannabis and cannabis products.

**“Type 10 Retailer/Dispensary”** (Retailer/Dispensary) for the retail sale of cannabis or cannabis products. This license shall allow for delivery from a permitted dispensary.

**“Type 11 Distributer”** for the distribution of cannabis and cannabis product. Licensee shall be bonded and insured at a level not less than the minimum established by the licensing authorities.

**“Type 12 Microbusiness”** the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

## SECTION 9. Commercial Cultivation Permits – Specific Requirements

This section contains specific requirements that apply to each of the cultivation permit types listed in Section 8. Section 17 contains requirements for non-cultivation permits. Additional zoning permit requirements may apply for each of the below cultivation permit types, which vary

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based on how the legal parcel is zoned. Cultivation permit applications shall be submitted to the Planning Department.

These cultivation permits are for the production of flowering commercial cannabis plants and for nurseries, as specifically defined in Section 5. A permittee producing flowering commercial cannabis plants may maintain a clone room or area where they may propagate their own starts from existing stock on hand. Clones produced in this manner shall be for the exclusive and personal use of the permittee only and the sale of such clones is expressly prohibited. The square footage of cultivation area dedicated to such a vegetative start (clone) production area will be included in measuring the cumulative total canopy size allowed under a given permit.

## Setbacks

A. The cultivation site must be set back at least thirty-five (35') feet from the property line for suburban, secondary suburban, rural, recreational, general forest and agricultural zoned grows. In industrial and commercial zones, the cultivation site must be set back at least ten (10) feet from the property line.

B. The proposed cultivation site shall be at least thirty-five (35') feet from the edge of any private or public road easement or right-of-way

C. The cultivation site shall be setback 1,200 feet from any parcel occupied by a school. "School" shall be as defined in Section 5 (SS).

In addition to any other requirements listed in this chapter, the following limitations and requirements shall apply to cultivation permits issued pursuant to this chapter:

### 1) **"Type 1C Cottage Mixed Light"** permits:

- a. Subject to the issuance of a special use permit, this permit consists of commercial or medical cannabis cultivation of a maximum of 2,500 square feet of total canopy size on parcels one (1) acre or larger in size.
- b. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-1, S-2, R-10, R-20, C-1, C-2, C-3, R-C, Rec-P, Rec-1, Rec-3, Rec-10, Rec-20, GA, AP, and M.
- c. One (1) acre minimum required parcel size.
- d. A seven (7) foot tall fence is required if any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably



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prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.

- e. All lights used for the "mixed light" cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed between 30 minutes after sunset and 30 minutes before sunrise.
- f. The permittee shall facilitate at least one on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or Planning Department.

## 2) "Type 1C Cottage Indoor" permits:

- a. Subject to the issuance of a special use permit, this permit consists of commercial or medical cannabis cultivation of a maximum of 500 square feet of total canopy size.
- b. All structures used shall be constructed in a manner so as to fully contain any light or light glare involved in the cultivation process.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-1, S-3, R-10, R-20, C-1, C-2, C-3, R-C, R-P, Rec-1, Rec-3, Rec-10, Rec-20, I-1, I-2, GA, AP, and M.
- d. The permittee shall facilitate at least one on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.

## 3) "Type 1C Cottage Outdoor" permits:

- a. Shall not be permitted within the "Town" boundaries of Chester, Lake Almanor Peninsula/Hamilton Branch, Greenville, Quincy/East Quincy, Graeagle and Delleker as shown on the maps in the Plumas County General Plan.
- b. Subject to the issuance of a special use permit, this permit consists of commercial or medical cannabis cultivation of a maximum of twenty-five (25) plants on parcels one (1) acre or larger in size.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:



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- i) Zones that require Special Use Permit (SUP): S-1, S-3, R-10, R-20, GA, AP, and M.
  - d. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.
  - e. A seven (7) foot tall fence is required if in any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.
- 4) **"Type 1 Specialty Outdoor"** permits:
- a. Shall not be permitted within the "Town" boundaries of Chester, Lake Almanor Peninsula/Hamilton Branch, Greenville, Quincy/East Quincy, Graeagle and Delleker as shown on the maps in the Plumas County General Plan.
  - b. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a maximum of fifty (50) plants or 5,000 square feet of total canopy size on parcels at least three (3) acres in size.
  - d. The legal parcel where cultivation may occur must have one of the following zoning designations:
    - i) Zones that require Special Use Permit (SUP): S-1, S-3, R-10, R-20, GA, AP, GF, and M.
  - e. The permittee shall facilitate at least one on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.
  - f. A seven (7) foot tall fence is required if in any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.

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## 5) "Type 1A" permits: (Small, indoor (artificial light only))

- a) Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a cumulative maximum of 5,000 square feet of total canopy size within a structure or structures.
- b) All structures used shall be constructed in a manner so as to fully contain any light or light glare involved in the cultivation process.
- c) The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-1, S-3, R-10, R-20, AP, GA, GF and M.
- d) The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Agricultural Commissioner and/or Planning Department during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The permittee shall notify the appropriate county official, at least 30 days prior to harvest, to schedule an annual on-site compliance inspection.

## 6) "Type 1B Specialty Mixed Light" permits: (Small, mixed light sources)

- a. Shall not be permitted within the "Town" boundaries of Chester, Lake Almanor Peninsula/Hamilton Branch, Greenville, Quincy/East Quincy, Graeagle and Delleker as shown on the maps in the Plumas County General Plan.
- b. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a cumulative maximum of 5,000 square feet of total canopy size within a structure or structures on parcels three (3) acres or larger in size.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-1, S-3, R-10, R-20, GA, AP, I-1, I-2, and M.
- 4. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or Planning Department.



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- d. A seven (7) foot tall fence is required if in any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.
- e. All lights used for the "mixed light" cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed between 30 minutes after sunset and 30 minutes before sunrise.

## 7) "Type 2 Outdoor Small" permits:

- a. Shall not be permitted within the "Town" boundaries of Chester, Lake Almanor Peninsula/Hamilton Branch, Greenville, Quincy/East Quincy, Graeagle and Delleker as shown on the maps in the Plumas County General Plan.
- b. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a maximum of 10,000 square feet of total canopy size on parcels five (5) acres or larger in size.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, GA, AP, GA, and M.
- e. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.
- f. A seven (7) foot tall fence is required if in any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.

## 8) "Type 2A Indoor (Small)" permits:

- a. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a cumulative maximum of 10,000 square feet of total canopy size within a structure or structures.



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- b. All structures used shall be constructed in a manner so as to fully contain any light or light glare involved in the cultivation process.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, GA, AP, GF, and M.
- d. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.

## 9) "Type 2B Mixed Light (Small)" permits:

- a. Shall not be permitted within the "Town" boundaries of Chester, Lake Almanor Peninsula/Hamilton Branch, Greenville, Quincy/East Quincy, Graeagle and Delleker as shown on the maps in the Plumas County General Plan.
- b. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a cumulative maximum of 10,000 square feet of total canopy size within a structure or structures on parcels five (5) acres or larger in size.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, I-1, I-2, GA, AP, and M.
- d. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.
- e. A seven (7) foot tall fence is required if in any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.
- f. All lights used for the "mixed light" cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed



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the boundaries of the legal parcel upon which they are placed between 30 minutes after sunset and 30 minutes before sunrise.

## 10) "Type 3 Outdoor (Medium)" permits:

- a. Shall not be permitted within the "Town" boundaries of Chester, Lake Almanor Peninsula/Hamilton Branch, Greenville, Quincy/East Quincy, Graeagle and Delleker as shown on the maps in the Plumas County General Plan.
- b. Subject to the issuance or a special use permit, this permit consists of medical or commercial cannabis cultivation of a maximum of 22,000 square feet total canopy size on parcels ten (10) acres or larger in size.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, GA, AP, and M.
- d. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.
- e. A seven (7) foot tall fence is required if in any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.

## 11) "Type 3A Indoor (Medium)" permits:

- a. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a cumulative maximum of 22,000 square feet of total canopy size.
- b. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): I-1, and I-2.
- c. All structures used shall be constructed in a manner so as to fully contain any light or light glare involved in the cultivation process.



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- d. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.

## 12) "Type 3B Mixed Light (Medium)" permits:

- a. Shall not be permitted within the "Town" boundaries of Chester, Lake Almanor Peninsula/Hamilton Branch, Greenville, Quincy/East Quincy, Graeagle and Delleker as shown on the maps in the Plumas County General Plan.
- b. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a cumulative maximum of 22,000 square feet of total canopy size within a structure or structures on parcels ten (10) acres or larger in size.
- c. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, I-1, I-2, GA, AP, and M.
- d. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.
- e. A seven (7) foot tall fence is required if in any public or neighboring parcel can view cultivation site. It must be constructed of a material and strength that reasonably prevents against access by trespassers and adequate screening to prevent the cannabis plants from being viewed. The fence must be located on the cultivation site property or parcel.
- f. All lights used for the "mixed light" cultivation of cannabis shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed between 30 minutes after sunset and 30 minutes before sunrise.

## 13) "Type 4 Nursery Indoor" permits:

- a. Subject to the issuance of a special use permit, this permit consists of medical or commercial cannabis cultivation of a cumulative maximum of 22,000 square feet of total canopy size.
- b. If the permittee is approved as a nursery, the permittee shall produce only tissue culture starts, vegetative starts (clones), seeds, or immature plants for the planting, propagation,



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and cultivation of cannabis by other permittees or state license holders or exempt individuals. If the permittee is approved as a nursery (the production of tissue cultures, clones, seeds, and immature plants), no consumable cannabis product of any kind shall be derived from the plants being cultivated under this permit.

- c. If the permittee is producing seeds, the cannabis plants intended to be grown to maturity for seed production shall be entered into the same track and trace program as all other commercial cultivation licenses to document the end use (processing or dispensing) or destruction of the cannabis plant material (flowers, leaf, stalk, etc.) derived from the plants once the seeds have been extracted.
- d. A maximum of 10,000 square feet of total canopy size may be dedicated to cannabis seed production under this permit. This total canopy size shall be considered equivalent to cultivation area and counted towards the maximum allowable square footage allowed under this permit.
- e. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, GA, and AP. I-1, I-2, GA, and AP.
- f. Those using "mixed light" for the cultivation of cannabis shall use lights shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed between 30 minutes after sunset and 30 minutes before sunrise.
- g. The permittee shall facilitate one (1) on-site compliance inspection annually, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.

## 14) "Type 4 Nursery Mixed Light" permits:

- a. Subject to the issuance of a special use permit, this permit consists of the medical and commercial cannabis cultivation of a cumulative maximum of 22,000 square feet of total canopy size.
- b. If the permittee is approved as a nursery, the permittee shall produce only tissue culture starts, vegetative starts (clones), seeds, or immature plants for the planting, propagation, and cultivation of cannabis by other permittees or state license holders or exempt individuals. If the permittee is approved as a nursery (the production of tissue cultures, clones, seeds, and immature plants), no consumable cannabis product of any kind shall be derived from the plants being cultivated under this permit.



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- c. If the permittee is producing seeds, the cannabis plants intended to be grown to maturity for seed production shall be entered into the same track and trace program as all other commercial cultivation licenses to document the end use (processing or dispensing) or destruction of the cannabis plant material (flowers, leaf, stalk, etc.) derived from the plants once the seeds have been extracted.
- d. A maximum of 10,000 square feet of total canopy size may be dedicated to cannabis seed production under this permit. This total canopy size shall be considered equivalent to cultivation area and counted towards the maximum allowable square footage allowed under this permit.
- e. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, GA, and AP.
- f. Those using "mixed light" for the cultivation of cannabis shall use lights shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the legal parcel upon which they are placed between 30 minutes after sunset and 30 minutes before sunrise.
- g. The permittee shall facilitate one (1) on-site compliance inspection annually, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.

## 15) "Type 4 Nursery (Outdoor)" permits:

- a. Subject to the issuance of a special use permit, this permit consists of the medical and commercial cannabis cultivation of a cumulative maximum of 22,000 square feet of total canopy size.
- b. If the permittee is approved as a nursery, the permittee shall produce only tissue culture starts, vegetative starts (clones), seeds, or immature plants for the planting, propagation, and cultivation of cannabis by other permittees or state license holders or exempt individuals. If the permittee is approved as a nursery (the production of tissue cultures, clones, seeds, and immature plants), no consumable cannabis product of any kind shall be derived from the plants being cultivated under this permit.
- c. If the permittee is producing seeds, the cannabis plants intended to be grown to maturity for seed production shall be entered into the same track and trace program as all other commercial cultivation licenses to document the end use (processing or



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dispensing) or destruction of the cannabis plant material (flowers, leaf, stalk, etc.) derived from the plants once the seeds have been extracted.

- d. A maximum of 10,000 square feet of total canopy size may be dedicated to cannabis seed production under this permit. This total canopy size shall be considered equivalent to cultivation area and counted towards the maximum allowable square footage allowed under this permit.
- e. The legal parcel where cultivation may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-3, R-10, R-20, GA, and AP.
- f. The permittee shall facilitate one (1) on-site compliance inspection annually, and additional inspections if deemed necessary to be conducted by the Agricultural Commissioner and/or the Planning Department.

## **SECTION 10. Limitations on commercial cannabis total canopy size for all licenses**

There shall be limitations on the allowable total canopy size on any given size parcel(s), except for industrial zoned property.

**Cooperative grow sites:** To allow cultivators who may be prevented from growing due to zoning or other environmental restrictions, cooperative grow sites shall be allowed on properly zone and sized parcels. These cooperative grow sites may only take place on parcels with a total acreage equaling or exceeding twenty (20) acres. Each cooperative cultivator shall enter into a written lease with landowner, and the cooperative cultivator shall be responsible for all permitting and licensing requirements, unless otherwise provided pursuant to the terms of the lease. Cultivation area limitations shall be **exactly** the same as specified under state law (10% of total acreage and no more than 4 acres). The maximum number of cooperative growers allowed at one cooperative grow site on any parcel shall be ten (10).

## **SECTION 12. Commercial Cultivation Permit Application Review**

Any person or entity that wishes to engage in commercial cultivation of cannabis for medical or recreational use shall submit a Special Use Permit application to the Planning Department. Applications for Commercial Cultivation Permits shall be made upon such



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forms and accompanied by such plans and documents as may be prescribed by the Planning Department so as to assure the fullest practical presentation of facts for the review of the application. An application fee will be due at the time the application is submitted and is non-refundable.

Applicants for a Commercial Cultivation Permit shall provide the following information on, or as an attachment to, the application:

- A. The name, business and residential address, and phone number(s) of the applicant.
- B. If the applicant is not the record title owner of the legal parcel, written consent from the owner allowing the cultivation of cannabis on their property by the applicant with original signature of the record title owner.
- C. Written evidence that each person applying for the permit and any other person who will be engaged in the cultivation site is at least twenty-one (21) years of age;
- D. Site plan, drawn to standard scale, showing the entire legal parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the legal parcel, with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. The site plan shall include dimensions showing that the distance from any school to the nearest point of the cultivation area is at least 600 feet from the property line of a school site parcel in accordance with State law. The cultivation site shall also be setback 1,200 feet from the school parcel.
- E. A cultivation and operations plan which includes elements that meet or exceed the minimum legal standards for the following: water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides and other regulated products to be used on the legal parcel. Any fuel, fertilizer, pesticides, or other substance toxic to wildlife, children, or pets, must be stored in a secured and locked structure or device. The plan will also provide a description of cultivation activities including, but not limited to, permit type, cultivation area, soil/media importation and management, schedule of activities during each month of the growing and harvesting season.
- F. Copy of the statement of water diversion, or other permit, license or registration filed with California Water Resources Control Board, Division of Water Rights, if applicable.
- G. An irrigation plan and projected water usage for the proposed cultivation activities, as well as a description of legal water source, if not covered by item (G).



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- H. Copy of Notice of Intent and Monitoring Self-Certification and any other documents filed with the Central Valley Regional Water Quality Control Board (CVRWQCB) demonstrating enrollment in and compliance with (or proof of exemption from) Tier 1, 2 or 3, or any substantially equivalent rule that may be subsequently adopted by the County of Plumas or other responsible agency.
- I. If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, show proof they have notified the California Department of Fish and Wildlife (CDFW) pursuant to §1602 of the Fish and Game Code and provide a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife.
- J. If the source of water is a well, a copy of the County well permit or other documentation from the Plumas County Department of Environmental Health, if available.
- K. A copy of a State of California Driver's License or Identification Card for each person applying for the permit.
- L. Evidence that the applicant has not been convicted of a violent felony as defined in Penal Code section 667.5 (c) within the State of California, or a crime that would have constituted a violent felony as defined in Penal Code section 667.5 (c) if committed in the State of California and is not currently on parole or felony probation. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
- M. A statement describing the proposed security measures for the facility that ensures the safety of members and employees and protect the premises from theft.

A Site Security Plan shall be required subject to review and approval by the Planning Department. All Site Security Plans shall be held in a confidential file, exempt for disclosure as a public record pursuant to Government Code Section 6255(a). Security cameras shall be motion-sensor and be installed with the capacity to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels. Surveillance video shall be kept for a minimum of 30 days. Video must use standard industry format to support criminal investigations. Motion-senor lighting and alarms shall be installed to insure the safety of persons and to protect the premises from theft. All outdoor and mixed light cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations (7 feet). Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the site or surrounding area. Razor wire and similar fencing is discouraged and shall not be permitted. Weapons and firearms at the cultivation site are prohibited. Security measures shall be designed to



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ensure emergency access in compliance with fire safe standards. All structures used for cultivation shall have locking doors to prevent free access.

- N. If the applicant is organized as a corporation, the applicant shall set forth the name of the corporation exactly as shown in its Articles of Incorporation, and the names and residence addresses of each of the officers and/or directors. If the applicant is organized as a partnership, the application shall set forth the name and residence address of each of the partners, including the general partner and any limited partners. Copies of the Articles of Incorporation or Partnership Agreement shall be attached to the application.
- O. The Planning Department is hereby authorized to require in the permit application any other information reasonably related to the application including, but not limited to, any information necessary to discover the truth of the matters set forth in the application.
- P. Apply for and obtain a Board of Equalization Seller's Permit.
- Q. Written consent from applicant for an onsite pre-permit inspection of the legal parcel by County officials at a prearranged date and time in consultation with the applicant prior to the approval of a permit to cultivate commercial cannabis.
- R. For all indoor/mixed light cultivation facilities, identify the source of electrical power and plan for compliance with applicable Building Codes. Also, provide documentation that addresses the handling of waste discharge from the grow location of items including, but not limited to nutrients, spent growing media, unused containers and other associated hardware, supplies, and garbage. *RW: Use of renewable energy sources are encouraged. More discussion needed here as energy use will be a CEQA issue.*
- S. If the application would include the conversion of timberland as defined under California Public Resources Code section 4526, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection ("CalFire"). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, the applicant must provide evidence that environmental impacts have been mitigated, to the extent feasible, as required by the resource protection agencies including CalFire, the CVRWQCB and the CDFW.
- T. For activities that involve construction and other work in Waters of the United States, that are not otherwise exempt or excluded, include a copy of a federal Clean Water Act (CWA) Section 404 permit obtained from the Army Corps of Engineers and a CWA Section 401 water quality certification from the CVRWQCB.



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## SECTION 13. Permit Inspection and Issuance

- A) The authorized designee of the Plumas County Board of Supervisors or the Planning Director may issue a Cultivation Permit pursuant to this chapter only:
- e) Following the referral to and clearance or permit approval pursuant to this chapter; and
  - f) After the Agricultural Commissioner's Office, and other County and State agency staff, as appropriate, have performed a pre-permit site inspection to confirm adherence to the requirements established in this chapter.
- B) Any inspectors shall take all necessary precautions to minimize cross contamination between cultivation sites. **Note: Review state standards as they are developed.**
- C) As a condition of approval for any cultivation permit, the owner or permittee shall indemnify and hold harmless the County of Plumas and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation of cannabis for medical or recreational use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation of cannabis for medical or recreational use.
- D) If, during the pre-permit site inspection, violations of any building or other health, safety or other state or county statute, ordinance, or regulation are discovered, the applicant shall be required to submit a written plan to remediate, abate, or cure the violations at the earliest feasible date, but in no event more than one (1) year after the date of issuance of the Cultivation Permit; said plan shall be signed by the applicant, approved by the relevant enforcement agency or agencies, and compliance with said plan shall be a condition of the Cultivation Permit.
- E) Cultivation permits shall remain valid for one (1) year from the date of issuance, subject to any enforcement action or other action that may result in earlier suspension or revocation. **Note: Look at renewal process.** From Sonoma County: The operator must apply for permit renewal prior to the expiration date of the limited term permit. No property interest, vested right, or entitlement to receive a future permit to operate a medical cannabis use shall ever inure to the benefit of such permit holder as such permits are revocable.



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## SECTION 14. Performance Standards

All Cultivation Permits issued by the authorized designee of the Plumas County Board of Supervisors or the Planning Director shall obligate the permittee to comply with the following performance standards:

- A. Cultivation shall be located as shown on the approved application site plan and in compliance with all provisions of this chapter and any permit issued pursuant to this chapter.
- B. Once they become available, possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA and/or AUMA, and regulations promulgated thereunder covering a similar cannabis activity. A copy of this license shall be provided by the applicant to Plumas County.
- C. Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, including obtaining and complying with any applicable and approved permit, license or registration or the annual filing of a statement of diversion and use of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5 101. A copy of this license shall be provided by the applicant to Plumas County.
- D. Alternative power sources shall be used if available, before utilization of a generator as main power source. If a generator is used, it must have sufficient muffling to minimize noise pollution to neighboring parcels. The combined decibel level for all noise sources measured at the property line shall not exceed the ambient noise levels as specified in the Plumas County General Plan.
- E. Establish and maintain enrollment in Tier 1, 2 or 3 with the Central Valley Regional Water Quality Control Board (CVRWQB).
- F. Maintain the applicable "Defensible Space" protocols and distances, as established by the California Department of Forestry and Fire Protection around structures located on the legal parcel. The operator shall prepare and implement a Fire Prevention Plan for construction and ongoing operations and submit the plan to the Planning Department. The Fire Prevention Plan shall include, but not be limited to: emergency vehicle access and turn-around at the facility site(s), vegetation management and fire break maintenance around all structures.
- G. Comply with the terms of any applicable Streambed Alteration Permit obtained from the California Department of Fish & Wildlife.



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- H. All weighing and measuring devices shall be type approved by California Department of Food and Agriculture, Division of Measurement Standards and issued either a California Type Evaluation Program (CTEP) Certificate of Approval (COA) or a National Type Evaluation Program (NTEP) Certificate of Conformance (CC) before commercial use. All weighing and measuring devices used for commercial purposes shall be registered by the County Sealer of Weights and Measures as per Plumas County Code.
- I. An annual on-site compliance inspection, as detailed by the permit type, by the Agricultural Commissioner's and/or the Planning Department.
- J. Any use of pesticide products shall be consistent with State law and regulations enforced by the California Department of Pesticide Regulation and the Agricultural Commissioner. Before any pesticides are purchased or applied, an operator identification number must be obtained from the Agricultural Commissioner and pesticide use reports must be submitted to that office. Pesticide reports shall address the following:
  - Methods for provision of required personal protective equipment
  - Methods for provision required training and access to pesticide labels and safety information; and
  - Methods to properly store, handle, and dispose of pesticides.
- K. Code of Regulations, Title 3, Section 6147. All product labelling and any products on the site shall be placed, used, and stored in a manner that ensures that they will not enter or be released into surface or ground waters. All agricultural use pesticides and concentrated fertilizers, amendments, and similar materials shall be stored in a locked, hard-faced enclosure to prevent unauthorized entry by humans and to exclude large animals that may be attracted by odors.
- L. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.
- M. Pay all applicable fees for application, consultations, and inspections.
- N. Comply with any conditions that may apply as a result of zoning clearance certificate, minor use permit, or special use permit.
- O. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor lighting and mixed light operations shall be fully contained so that little or no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.
- P. All indoor, greenhouse and mixed light cultivation operations and any drying, aging, trimming and packaging facilities shall be equipped with order control filtration and



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ventilation system(s) to control odors, humidity, and mold. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities.

- Q. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA and California Agricultural Labors Relations Act.

## SECTION 15. Cultivation Site Inspections: Violations and Enforcement

If the Planning Department and/or the Agricultural Commissioner's office determines that the site does not comply with the requirements established by this chapter, the inspector shall serve notice to the permit holder with a written statement identifying the items not in compliance, and may suggest action(s) that the permit holder may take to cure the noncompliance(s). Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The time frame allowed for the permit holder to take appropriate actions to cure the noncompliance shall be the shortest feasible time frame as determined by the inspector. The Planning Department and/or the Agricultural Commissioner's office may amend the time frame if deemed inappropriate. A re-inspection by the Planning Department and/or the Agricultural Commissioner's office inspector will be required to confirm and document the curative measure(s) taken by the permit holder. It is the responsibility of the permit holder to facilitate the above mentioned reinspection by the end of the allowed timeframe. Failure to request re-inspection or to cure any items of noncompliance shall initiate an unscheduled compliance inspection from the Planning Department and/or the Agricultural Commissioner's office. Inspection fees shall be charged to the permittee for any additional compliance inspections required beyond those regularly scheduled. All additional inspection fees shall consist of the hourly rate for an inspector from the Planning Department and/or Agricultural Commissioner's office for the travel and inspection time plus the standard IRS mileage rate for travel distance.

If the non-compliance(s) are substantiated during the unscheduled compliance inspection above, the Planning Department and/or Agricultural Commissioner's office shall notify other public agencies or County departments of these findings. The cultivation permit issued pursuant to this chapter shall be reinspected. This re-inspection will be to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request and facilitate this re-inspection or to cure any items of noncompliance shall be grounds for the Planning Department to initiate revocation of the permit proceedings.



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The County shall additionally notify any state license authority, as defined by the MAUCRSA and AUMA, whenever the County cultivation permit has been suspended or terminated, as appropriate.

## SECTION 17. Commercial Non-Cultivation Permits – Specific Requirements

**A. “Type 6 Manufacturer Level 1”** Subject to the issuance of a special use permit, this permit consists of sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

1. The legal parcel where manufacturing may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): S-1, S-3, R-10, R-20, C-1, C-2, C-3, I-1, I-2, GA, AP, GF, and M.
2. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Department of Environmental Health during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). **Check Cottage Industry rules. Pending state rules. Review home business and home industry rules.**

**B. “Type 8 Testing Laboratory”** Subject to the issuance of a special use permit, this permit consists of a testing laboratory for testing cannabis and cannabis products.

1. The legal parcel where testing may occur must have one of the following zoning designations:
  - i) Zones that require Special Use Permit (SUP): I-1, I-2, C-1, C-2, and C-3.
2. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Department of Environmental Health during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).

**C. “Type 10 Retailer/Dispensary”** Subject to the issuance of a special use permit, this permit consists of Retailer/Dispensary for the retail sale of cannabis or cannabis products. This license shall allow for delivery from a permitted Dispensary.



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1. The legal parcel where retailing may occur, or delivery is initiating must have one of the following zoning designations:

- i) Zones that require Special Use Permit (SUP): C-1, C-2, C-3 and I-2.

2. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Department of Environmental Health during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).

**D. “Type 11 Distributor”** Subject to the issuance of a special use permit, this permit consists of Distributor for the distribution of cannabis and cannabis product. Licensee shall be bonded and insured at a level no less the minimum established by the licensing authorities.

1. The legal parcel where retailing may occur, or delivery is initiating must have one of the following zoning designations:

- i) Zones that require Special Use Permit (SUP): I-1, I-2, C-1, C-2, and C-3.

2. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary to be conducted by the Department of Environmental Health during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).

**E. “Type 12 Microbusiness”** Subject to the issuance of a special use permit, this permit consists of a Business for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

1. The legal parcel where cultivation, distribution, manufacturing and retailing may occur must have one of the following zoning designations:

- i) Zones that require Special Use Permit (SUP): I-1, I-2, S-3, R-10, R-20, C-1, C-2, C-3, L-1, L-2, GA, and AP.



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2. The permittee shall facilitate the annual on-site compliance inspection, and additional inspections if deemed necessary, with at least 24 hours prior notice, to be conducted by the Department of Environmental Health during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).

## SECTION 18. Cannabis Dispensary Standards

1. Purpose. This section provides the location and operational standards for any cannabis dispensary within the unincorporated county in order to promote the health, safety, and general welfare of its residents and businesses.
2. Customers: Dispensaries will serve qualified medical patients and recreational users.
3. Permit Requirements. A Special Use permit from the County Planning Department shall be required for any cannabis dispensary.
4. Compliance with Operating Plan and Conditions Required. A cannabis dispensary shall submit, as a part of the Special Use permit application, an operating plan that specifies the manner in which operations will be handled and security provided and hours and days of operation. Any medical cannabis dispensary approved under this section shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.
5. Exercise and Renewal of Permit. A special use permit annual renewal may be approved by the planning director only if all of the following findings are made:
  - a. The use has been conducted in accordance with this section, with the dispensary's approved operating plan, and with all applicable use permit conditions of approval; and
  - b. There are no outstanding violations of health, safety, or land use.
6. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the special use permit, and shall include affidavits agreeing to abide by and conform to the conditions of the use permit and all provisions of the Plumas County



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Code pertaining to the establishment and operation of the cannabis dispensary use, including, but not limited to, the provisions of this section. The affidavit(s) shall acknowledge that the approval of the cannabis dispensary special use permit shall in no way permit any activity contrary to the Plumas County Code, or any activity which is in violation of any applicable laws

## 7. Location Requirements.

- a. A cannabis dispensary shall not be within 1,200 feet from any parcel occupied by a school. "School" shall be as defined in Section 5 (SS).

## 8. Operating Standards. The following are the minimum development criteria and operational standards applicable to any cannabis dispensary use:

- a. The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and accessibility requirements;
- b. The dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. The applicant shall submit a security plan for review and approval. The Security Plan shall remain confidential;
- c. No person shall be allowed onto the premises unless they are an employee, vendor or contractor of the dispensary, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance. If the dispensary denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the dispensary may be closed. In strict accordance with California Health and Safety Code Section 11362.5 et seq. no person under the age of eighteen (18) shall be allowed on the dispensary site. All persons entering the site shall present a photo identification and shall establish proof of doctor's recommendation except as representing a regulatory agency or once recreational use is allowed by California State Law. The operating plan submitted as a part of the use permit application shall specify how this provision will be complied with and enforced.
- d. No dispensary shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises;



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- e. An exhaust and ventilation system shall be utilized to prevent off-site odors;
- f. A dispensary may sell live starter plants, clones and seeds from qualified nurseries. A dispensary may sell manufactured cannabis, including edible product, tinctures and concentrates. It may also sell vaporizing and smoking devices and other merchandise. Dispensaries cannot sell tobacco or alcohol;
- g. No dispensary may increase in size without amending the special use permit. The size limitation shall be included in the operational plan.

## **SECTION 19: Dispensary On-site Consumption Permit**

- A. An applicant must obtain an on-site consumption permit from the Planning Department in order for cannabis to be consumed on the premises of the dispensary.
- B. An on-site consumption permit may be issued at the discretion of the Planning Director to dispensaries that takes into consideration the operating history and business practices of the applicant, and any other factors that are deemed necessary to promote the peace, order and welfare of the public.
- C. An application for an on-site consumption permit may be denied for failure to meet requirements of the County Building Code, County Fire Code, County Zoning Code, and/or any violation of State or local law relevant to the operation of dispensaries.
- D. The Planning Director shall establish conditions of approval for each onsite consumption permit, including but not limited to a parking plan, ventilation plan, and set hours of operation.

## **SECTION 20. Public Nuisance**

- A. All of the remedies provided for in this chapter shall be cumulative and not exclusive for violations of this chapter. Any violation of this chapter, including, but not limited to failure to obtain and maintain in good standing any permit required by this chapter, compliance with any required element on which a permit was issued pursuant to this chapter, or any violation of the provisions of this chapter where a permit is not required, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative or civil remedy available to the County



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under the applicable state and county laws, including but not limited to those set forth in Plumas County Code, MAUCRSA, and AUMA . .

- B. The County may abate the violations of this chapter in accordance with the provisions of County Code Section \_\_\_\_\_ or 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.
- C. The County may also abate the violation of this chapter through the abatement process established by Government Code Section 25845.

## SECTION 21. Attorneys' Fees

Pursuant to Government Code Section 25845(c), in any action, administrative proceeding, or matter commenced by the County to abate a nuisance, or to collect the cost of abatement or any penalty or fee related thereto, the prevailing party shall recover its attorneys' fees. The recovery of attorneys' fees under this Section is limited to those actions, administrative proceedings, or matters in which the County chooses at the initiation of the action, administrative proceeding, or matter to seek the recovery of its own attorneys' fees. In no event shall an award of attorneys' fees under this Section exceed the reasonable amount of attorneys' fees incurred by the County in the action or proceeding. **Indemnification**

## SECTION 23. Zoning Matrix Summary

When revisions are made to the zoning matrix those revisions will be made and reflected in this document.

THE CITIZENS GROUP  
FOR A RESPONSIBLE CANNABIS ORDINANCE  
(CGRCO)

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Plumas County DRAFT Cannabis Cultivation Ordinance

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October 17, 2017

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ORDINANCE NO. XXXX

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE  
COUNTY OF PLUMAS AMENDING **TITLE 5 - PUBLIC WELFARE**  
BY ADDING **CHAPTER 15** OF THE PLUMAS COUNTY CODE  
PERTAINING TO **CANNABIS CULTIVATION**

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

**SECTION 1.** Section 5-15.01 is hereby added to the Plumas  
County Code to read:

5-15.01 - Authority and title.

Pursuant to the authority granted by Article XI, section  
7 of the California Constitution, Health and Safety Code  
sections 11362.2, subdivision (b), 11362.777,  
subdivision (g), and 11362.83, and Government Code  
sections 25845 and 53069.4, the Board of Supervisors does  
enact this chapter, which shall be known and may be cited  
as the "Plumas County Cannabis Cultivation Ordinance."

**SECTION 2.** Section 5-15.02 is hereby added to the Plumas  
County Code to read:

5-15.02 - Findings and Purpose.

- (A) California's medical marijuana laws, the Compassionate  
Use Act (California Health and Safety Code section 1  
1362.5), the Medical Marijuana Program (California  
Health and Safety Code sections 11362.7 et seq.), and  
the Medical Cannabis Regulation and Safety Act  
(California Business and Professions Code sections 19300

et seq.), each recognize and preserve the authority of cities and counties under Section 7 of Article XI of the California Constitution to regulate the cultivation of cannabis.

- (B) The Adult Use of Marijuana Act (California Health and Safety Code sections 11362.1 et seq. and California Business and Professions Code section 26000 et seq.) likewise recognizes and preserves the authority of cities and counties to enact and enforce reasonable regulations for the cultivation of cannabis.
- (C) Plumas 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 cannabis cultivation. Cannabis growers can achieve a high per-plant yield because of the county's favorable growing conditions.
- (D) The unregulated cultivation of medical or non-medical cannabis in the unincorporated area of Plumas County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive regulation of premises used for cannabis 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 cannabis cultivation, and that are especially significant if the cultivation occurs outdoors, or if the amount of cannabis cultivated on a single premises is not regulated and substantial amounts of cannabis are thereby allowed to be concentrated in one place.
- (E) The cultivation of cannabis outdoors, where it is often readily observable by neighbors and the general public, increases the risk of trespassing and burglary, and acts of violence in connection with the commission of such

crimes or the occupant's attempts to prevent such crimes. Outdoor cultivation further makes the premises more prone to act as an attractive nuisance for children, and increases the likelihood of offensive odors traveling off the premises. Additionally, experience in Plumas County and elsewhere demonstrates that outdoor cultivation of cannabis is often associated with violations of local, state, and federal environmental laws and pesticide regulations, threatening harm to local waterways and groundwater quality, and endangering the public health, safety, and welfare. To adequately protect the public health safety, and welfare, it is proper and necessary to prohibit the outdoor cultivation of cannabis within the unincorporated area of Plumas County.

- (F) The indoor cultivation of cannabis within a residence or other structure used or intended for human occupancy presents potential health and safety risks to those living in the residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems, exposure to fertilizers, pesticides, anti-fungus/mold agents, and exposure to potential property crimes. To adequately address these risks, it is proper and necessary that requests to cultivate cannabis within a residence or other structure used or intended for human occupancy be considered on a case-by-case basis through a waiver process administered by the Plumas County Planning Department.
- (G) Cultivation of any amount of cannabis at locations or premises within one thousand feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the cannabis 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 cannabis cultivation in such locations poses heightened

risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of cannabis in such locations or premises is especially hazardous to public health, safety, and welfare, and to the protection of children and the person(s) cultivating the cannabis plants. To adequately address these risks, it is proper and necessary that requests to cultivate cannabis in such locations be considered on a case-by-case basis through a waiver process administered by the Plumas County Planning Department.

- (H) The cultivation or other concentration of cannabis 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.
- (I) The cultivation of cannabis upon vacant lots (i.e., premises without a permitted residential use) presents a heightened risk of the harms that Chapter 15 was designed to prevent, including criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards due to the absence of an onsite caretaker eligible to cultivate cannabis in accordance with state law. Cannabis cultivation upon vacant lots is more likely to violate the registration, setback, plant limit, security, and location requirements of this Chapter than cannabis cultivated accessory to a permitted residential use, is more likely to be diverted to unlawful use, and is less likely to serve the legitimate needs of persons cultivating cannabis in accordance with state law. Limiting the cultivation of cannabis to premises that contain a permitted residential use is proper and necessary to avoid the aforementioned harms, and to protect the health, safety, and welfare of the residents and businesses within the unincorporated area of Plumas County.

- (J) It is the purpose and intent of this chapter to implement State law by providing a means for regulating the cultivation of cannabis in a manner that is consistent with State law and which balances the interests of persons choosing to cultivate and use cannabis and promotes the health, safety, and welfare of the residents and businesses within the unincorporated area of Plumas County. This chapter is intended to be consistent with California's medical cannabis laws and the Adult Use of Marijuana Act, and towards that end, is not intended to prohibit persons from individually or jointly 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 cannabis may be cultivated, including restrictions on the amount of cannabis that may be individually or jointly cultivated in any location or premises, in order to protect the public health, safety, and welfare in Plumas County.
- (K) In order to ensure compliance with the regulations set forth in this chapter, facilitate enforcement in the event of non-compliance, and reduce hazards to emergency and other public agency personnel responding to premises where cannabis is cultivated, it is reasonable, proper, and necessary to require that all premises where cannabis is cultivated register annually with the Planning Department.
- (L) Neither California's medical cannabis laws nor the Adult Use of Marijuana Act 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 cannabis in the unincorporated area of Plumas County.
- (M) Nothing in this ordinance shall be construed to allow the cultivation or use of cannabis for commercial

purposes, or allow any activity relating to the cultivation, distribution, or consumption of cannabis 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 Plumas County District Attorney, the Attorney General of State of California, or the United States of America.

**SECTION 3.** Section 5-15.03 is hereby added to the Plumas County Code to read:

5-15.03 - 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 cannabis 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 Planning Director or the Sheriff, or the authorized designees or deputies of either, or any person employed by the County of Plumas and appointed to the position of code enforcement officer, as established by any future Plumas County Resolution, 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) "Cannabis plant" means any mature or immature cannabis plant, or any cannabis seedling.
- (G) "Outdoor cultivation" shall mean any cultivation of cannabis that is not conducted within a detached fully enclosed secure accessory structure conforming to the requirements of Section 5-15.04, subdivision E(1). Outdoor cultivation includes, without limitation, cultivation of cannabis within a greenhouse or "hoophouse" or similar facility.
- (H) "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 "premise" for purposes of this chapter.
- (I) "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.
- (J) "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.

- (K) "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.
- (L) "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.

**SECTION 4.** Section 5-15.04 is hereby added to the Plumas County Code to read:

5-15.04 - Nuisance Declared.

The following regulations shall apply to premises used for cannabis cultivation in the unincorporated area of Plumas County:

- (A) The outdoor cultivation of cannabis, in any amount or quantity, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.
- (B) The cultivation of more than six cannabis plants on any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter. The foregoing limitation shall be imposed regardless of the number of persons 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 cannabis are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating cannabis.

(C) Except as provided in a waiver granted in accordance with subdivision (F), the cultivation of cannabis, in any amount or quantity, upon any premises located within one thousand 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 (C)(2), such distance shall be measured in a straight line from the boundary line of the premises upon which cannabis 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 acres or greater in size, then such distance shall be measured in a straight line from the detached fully enclosed secure accessory structure in which the cannabis is cultivated as required by subdivision (E)(1) 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.

(D) Except as provided in a waiver granted in accordance with subdivision (F), the cultivation of cannabis, in any amount or quantity, within a residence or any other structure used or intended for human occupancy is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.

(E) Except as provided in a waiver granted in accordance with subdivision (F), the cultivation of cannabis, in any amount or quantity, 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 cultivation of cannabis must be conducted within a detached fully enclosed secure accessory structure conforming to the following standards:
  - a. The structure shall be a building completely detached from any residence or other structure used or intended for human occupancy. The structure shall comply with Title 8 - Building Regulations of the Plumas County Code, and have a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments. The structure shall be secure against unauthorized entry, and accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two inch by four inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
  - b. Any structure, regardless of square footage, constructed, altered or used for the cultivation of cannabis must obtain a building permit from the building official. The intended use of the structure for cannabis cultivation shall be disclosed in the application for a building permit, and the structure shall be inspected for compliance with this chapter prior to the commencement of any cultivation. The conversion of any existing accessory

structure, or portion thereof, for cultivation of cannabis shall be subject to these same permit requirements, and must be inspected by the building official for compliance with this chapter prior to the commencement of any cultivation. Cultivation within any structure may not commence without final approval of the building official.

- c. The maximum electrical panel for the structure shall be fifty amps. Except for temporary use in case of emergency power loss, the use of generators to supply power to any system or activity associated with cannabis cultivation is prohibited.
- d. Light systems utilized in connection with cannabis cultivation shall not exceed one thousand two hundred watts, shall comply with all applicable provisions of Title 8 - Building Regulations of the Plumas County Code, and shall be shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
- e. The structure shall be equipped with odor control filtration and ventilation system(s) adequate to prevent cannabis plant odors from exiting the interior of the structure.
- f. The structure shall have locking doors and a working security system which shall consist of a standard audible residential alarm of at least ninety dB A, but not exceeding one hundred ten dB A.
- g. Such structure shall be accessory to a permitted residential use in accordance with subdivision (G) of this section.

2. Each structure in which the cannabis is cultivated shall be set back at least one hundred feet from all boundaries of the premises. Such setback distance shall be measured in a straight line from the structure in which the cannabis is cultivated to the boundary line of the premises.
- (F) The cultivation of cannabis, in any amount or quantity, upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter, unless the person(s) owning, leasing, occupying, or having charge or possession of any premises have submitted the required annual registration for the premises to the Plumas County Planning Department, and provided all of the following current information and documentation to the department:
1. The name of each person owning, leasing, occupying, or having charge or possession of the premises;
  2. The name of each person who participates in the cultivation, either directly or by providing reimbursement for cannabis or the services provided in conjunction with the provision of that cannabis;
  3. The number of cannabis plants cultivated on the premises; and
  4. Such other information and documentation as the Department determines is necessary to ensure compliance with state law and this chapter.
  5. If the person(s) cultivating cannabis 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 cannabis on the parcel. This letter shall be examined by Department, and shall then be returned

to the submitter. The Department shall prescribe forms for such letters.

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 Plumas County Planning Department may refuse to accept a registration for any premises upon which cannabis cultivation is being conducted, or is proposed to be conducted, in violation of this chapter. The acceptance of a registration pursuant to this chapter shall not be deemed or construed to be a permit for or approval of any violation of this chapter. The acceptance of a registration shall not prevent the enforcing officer from thereafter requiring correction of violations or from preventing cannabis cultivation being carried out thereunder when in violation of this chapter.

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

Every registration under this chapter shall be valid for no more than one calendar year and shall expire on December 31st of that year. An expired registration shall be renewed in the same manner as an initial registration hereunder. In the event that the registration of any premises for any calendar year is submitted after March 1st of that year, the registrant shall pay a late registration penalty equal to fifty percent of the applicable registration fee. The Planning Director may waive the late registration penalty if the failure to timely register was due to reasonable cause and not due to willful neglect.

The owner or occupant of the premises may seek a waiver or reduction in the provision of Subdivisions (C), (D), or (E), based upon findings of unusual hardship or other good cause by applying for a special use permit, pursuant to Plumas County Code Article 6. In the event that the California Attorney General issues a determination under Health and Safety Code section 11362.2, subdivision (b)(4), the foregoing waiver procedure shall then also include Subdivision (A).

- (G) The cultivation of cannabis, in any amount or quantity upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter, unless the premises contains a permitted residential use. For purposes of this subdivision, "permitted residential use" shall mean actual residential use of the premises that is conducted in a residential structure or manufactured home on a permanent foundation for which a final certificate of occupancy has been issued in accordance with Title 8 - Building Regulations of the Plumas County Code.
- (H) The cultivation of cannabis, in any amount or quantity upon any premises, in connection with any "commercial cannabis activity," as defined in the Medical Cannabis Regulation and Safety Act, or any "commercial cannabis activity," as defined in the Adult Use of Marijuana Act, or by any licensee or person required to obtain a license under either is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this chapter.
- (I) 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 cannabis plants in violation of this chapter.

**SECTION 5.** Section 5-15.05 is hereby added to the Plumas County Code to read:

5-15.05 - Notice to Abate Unlawful Cannabis Cultivation.

Whenever the enforcing officer determines that a public nuisance as described in chapter exists on any premises within the unincorporated area of Plumas 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 Cannabis Cultivation."

**SECTION 6.** Section 5-15.06 is hereby added to the Plumas County Code to read:

5-15.06 - Contents of Notice.

The notice set forth in Section 5-15.05 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 cannabis 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 cannabis cultivation that exists and the actions required to abate it.
- (F) Contain a statement that the owner or occupant is required to abate the unlawful cannabis cultivation within ten calendar days after the date that said notice was served.
- (G) Contain a statement that the owner or occupant may, within ten 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.
- (H) Contain a statement that, unless the owner or occupant abates the unlawful cannabis 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.
- (I) State the applicable hearing fee, if such a fee has been established, and contain a statement that one who is legally indigent may obtain a waiver of the hearing fee as provided in this chapter.

**SECTION 7.** Section 5-15.07 is hereby added to the Plumas County Code to read:

5-15.07 - Service of Notice.

(A) The notice set forth in Section 5-15.05 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 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.

**SECTION 8.** Section 5-15.08 is hereby added to the Plumas County Code to read:

5-15.08 - Recordation.

(A) Upon issuance of a notice to abate unlawful cannabis cultivation or notice and administrative order to show cause, the enforcing officer may record with the Plumas County Recorder a notice of pending nuisance abatement

proceeding. A notice of pending nuisance abatement proceeding will describe the property and the condition in violation of this chapter.

- (B) If a notice of pending nuisance abatement proceeding is recorded, the enforcing officer shall serve and record a notice of final disposition when the nuisance abatement proceeding has been completed, including any hearings or appeals and the completion of any work necessary to abate the nuisance. If the work to abate the nuisance is performed at county expense, or if administrative penalties are imposed under this chapter, the notice of final disposition need not be issued until those costs and penalties have been paid or a lien for those costs and penalties has been recorded. The notice of final disposition shall be served upon any party that was served with the notice to abate unlawful cannabis cultivation or notice and administrative order to show cause.

**SECTION 9.** Section 5-15.09 is hereby added to the Plumas County Code to read:

5-15.09 - Administrative Review.

- (A) Any person upon whom a notice to abate unlawful cannabis 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 (11) 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 cannabis 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 cannabis

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.

**SECTION 10.** Section 5-15.10 is hereby added to the Plumas County Code to read:

5-15.10 - Alternative procedure.

As an alternative to the procedures set forth in Sections 5-15.05 through 5-15.09, the enforcing officer may issue a notice and administrative order to show cause in accordance with this section. The notice and administrative order to show cause may be combined with a notice of violation and proposed administrative penalty issued pursuant to Section 5-15.19.

- (A) The notice and order shall:
1. 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.
  2. 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.
  3. Identify such property by reference to the assessor's parcel number.

4. Contain a statement that unlawful cannabis cultivation exists on the premises and that it has been determined by the enforcing officer to be a public nuisance described in this chapter.
5. Describe the unlawful cannabis cultivation that exists and the actions required to abate it.
6. Contain a statement that the owner or occupant is required to abate the unlawful cannabis cultivation within five calendar days after the date that said notice was served.
7. Notify the recipient(s) that, unless the owner or occupant abates the conditions, a hearing will be held before a hearing officer appointed in accordance with this Section to determine whether there is any good cause why these conditions should not be abated. The notice shall specify the date, time, and location of this hearing, and shall state that the owner or occupant will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated.
8. Contain a statement that, unless the owner or occupant abates the conditions, or shows good cause before the Hearing Officer why the conditions should not be abated, 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.

- (B) The notice and order shall be served in the manner set forth in Section 5-15.07, provided that any service by mail shall be made by overnight mail or overnight courier service. If the Notice and Order is served by overnight mail or overnight courier service, then the time periods set forth in subdivisions (A)(6) and (D) of this section shall be extended by one additional day. Copies of the notice and order shall also be posted in accordance with subdivision (A)(2) of Section 5-15.07, in addition to any other methods of service set forth in that section. The failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings.
- (C) In order to hear cases brought by the enforcing officer under this section, the Board of Supervisors hereby establishes for such purpose the Office of County Hearing Officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, to which Office the Board of Supervisors shall appoint one or more hearing examiners. Each such hearing examiner shall be an attorney at law having been admitted to practice before the courts of this state for at least five years. Hearing examiners shall be appointed for a period of not less than one year. In the event that the Board appoints more than one hearing examiner, each day of hearings required under this section shall be assigned to a hearing examiner based upon an alphabetical rotation. Hearing examiners shall have those powers set forth in sections 27721 and 27722 of the Government Code, including the power to conduct the hearing, the power to decide the matter under this section upon which a hearing has been held, the power to make findings of fact and conclusions of law required for the decision, the power to issue subpoenas at the request of a party of interest, the power to receive evidence, the power to administer oaths, the power to rule on questions of law and the admissibility of evidence, the power to continue the hearing from time to time, and the power to prepare a record of the proceedings.

- (D) Pursuant to Government Code sections 25845, subdivision (i) and 27721, subdivision (A), the Hearing Officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than five calendar days after service of the notice.
- (E) The owner or occupant of the property shall be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated.
- (F) In the event that the owner or occupant does not appear and present evidence at the hearing, the hearing officer may base their decision solely upon the evidence submitted by the enforcing officer. Failure of the owner or occupant to appear and present evidence at the hearing shall constitute a failure to exhaust administrative remedies.
- (G) 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 Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

- (H) The hearing officer shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the notice and order. The Hearing Officer shall issue a written decision, which shall include findings relating to the existence or nonexistence of the alleged unlawful cannabis cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice. If the notice and order has been combined with a Notice of Violation and Proposed Administrative Penalty, the decision shall also include the matters set forth in section 5-15.19, subdivision (H). 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. The decision shall be final when signed by the Hearing Officer and served as herein provided.
- (I) Whenever the enforcing officer becomes aware that an owner or occupant has failed to abate any unlawful cannabis cultivation within two calendar days of the date of service of the decision of the Hearing Officer under this section requiring such abatement, the enforcing officer may 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.

- (J) The costs of abatement and administrative costs for every abatement carried out under this section may be recovered in accordance with Sections 5-15.11 and 5-15.13 through 5-15.18.

**SECTION 11.** Section 5-15.11 is hereby added to the Plumas County Code to read:

5-15.11 - 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 cannabis 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 cannabis 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 attorney's fees incurred by the county in the action or proceeding.

**SECTION 12.** Section 5-15.12 is hereby added to the Plumas County Code to read:

5-15.12 - Abatement by Owner or Occupant.

Any owner or occupant may abate the unlawful cannabis cultivation or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer. An owner or occupant abating unlawful cannabis cultivation hereunder shall notify the enforcing officer upon completion of abatement and shall provide evidence that the unlawful cannabis cultivation has been lawfully disposed or lawfully relocated to another premises in compliance with this chapter or outside the county. Abatement shall not be deemed completed until the unlawful cannabis cultivation has been completely removed from the premises and lawfully disposed or relocated, and notification has been provided as set forth in this section.

**SECTION 13.** Section 5-15.13 is hereby added to the Plumas County Code to read:

5-15.13 - 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.

**SECTION 14.** Section 5-15.14 is hereby added to the Plumas County Code to read:

5-15.14 - 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 there-with a notice informing the owner that, at a date and time not less than ten (10) calendar days after the date of mailing of the notice, the Board of Supervisors or hearing officer, as applicable, 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. 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.

**SECTION 15.** Section 5-15.15 is hereby added to the Plumas County Code to read:

5-15.15 - 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 cannabis 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 cannabis 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.

**SECTION 16.** Section 5-15.16 is hereby added to the Plumas County Code to read:

5-15.16 - Modifications.

The board of supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.

**SECTION 17.** Section 5-15.17 is hereby added to the Plumas County Code to read:

5-15.17 - Alternative Hearing Procedure.

If a hearing officer has been appointed in accordance with Section 5-15.10, the hearing required under Sections 5-15.14 through 5-15.16 may be conducted by such hearing officer, who will prepare a recommended decision and resolution for the Board of Supervisors pursuant to Government Code sections 25845, subdivision (i) and

27721, subdivision (b). The recommended decision and resolution shall include any proposed modifications to the accounting. The hearing officer shall promptly submit that recommendation and the administrative record to the Clerk of the Board of Supervisors, The Board of Supervisors may adopt the recommended decision and resolution without further notice of hearing, or may set the matter for a de novo hearing before the Board of Supervisors. In the event that the Board of Supervisors sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of Sections 5-15.06 through 5-15.16.

**SECTION 18.** Section 5-15.18 is hereby added to the Plumas County Code to read:

5-15.18 - Special Assessment and Lien.

The Board of Supervisors may order that all or any part of the cost of abating nuisances pursuant to this chapter and the administrative costs as confirmed by the Board of Supervisors 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.

**SECTION 19.** Section 5-15.19 is hereby added to the Plumas County Code to read:

5-15.19 - Administrative Civil Penalties.

- (A) In addition to any other remedy prescribed in this chapter, any nuisance as described in this chapter may be subject to an administrative penalty of up to one thousand dollars per day. The administrative penalty may be imposed via the administrative process set forth in this section, as provided in Government Code Section 53069.4 or may be imposed by the court if the violation requires court enforcement without an administrative process.
- (B) Acts, omissions, or conditions in violation of this chapter that continue, exist, or occur on more than one day constitute separate violations on each day. Violations continuing, existing, or occurring on the service date, the effective date, and each day between the service date and the effective date are separate violations.
- (C) In the case of a continuing violation, if the violation does not create an immediate danger to health or safety, the enforcing officer or the court shall provide for a reasonable period of time, not to exceed five calendar days, for the person responsible for the violation to correct or otherwise remedy the violation prior to the imposition of administrative penalties.
- (D) In determining the amount of the administrative penalty, the enforcing officer, or the court if the violation requires court enforcement without an administrative process, shall take into consideration the nature, circumstances, extent and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic savings, if any resulting from the violation, and any other matters justice may require.
- (E) The enforcing officer may commence the administrative process by issuance of a notice of violation and proposed administrative penalty, which shall state the amount of

the proposed administrative penalty and the reasons therefore. The notice of violation and proposed administrative penalty may be combined with a notice to abate unlawful cannabis cultivation issued pursuant to Section 5-15.05 or a notice and administrative order to show cause pursuant to Section 5-15.10. The notice shall be served by certified mail addressed to all of the following: (i) the owner of the property on which the violation exists, at the address shown on the last equalized assessment roll or as otherwise known to the enforcing officer; (ii) anyone known to the enforcing officer to be in possession of the property subject to the notice, at the street address of the property; and (iii) any other person known to the enforcing officer who has caused, permitted, maintained, conducted, or otherwise suffered or allowed the violation to exist. The failure to serve any person described in this subsection shall not affect the validity of service or the validity of any penalties imposed upon any other person.

- (F) Except as provided in subdivision (G), the notice shall inform the recipient of their right to request a hearing before the board of supervisors in accordance with this section. If such a hearing is not requested within ten (10) calendar days after issuance of the notice, the proposed penalty shall become final and conclusive, and the person to whom the notice was issued shall immediately make payment of the penalty amount to the county. If any person to whom the notice is issued requests a hearing before the Board of Supervisors, the person shall be notified by first class mail, postage prepaid, when the matter has been set for hearing.
- (G) If the notice of violation and proposed administrative penalty is combined with a notice and administrative order to show cause pursuant to Section 5-15.10, the notice shall inform the recipient that a hearing will be held before a hearing officer appointed in accordance

with that section and specify the date, time, and location of this hearing. Failure of the person or persons to whom the notice was issued to appear and present evidence shall constitute a failure to exhaust administrative remedies.

- (H) After the hearing, the Board of Supervisors or hearing officer may impose, modify, or disapprove, in whole or in part, by written order, the proposed penalty set forth in the notice. The decision of the Board of Supervisors or hearing officer shall be final and conclusive. Any order of the Board of Supervisors or hearing officer shall become effective upon issuance thereof and shall be served by first class mail, postage prepaid, upon the appellant. Payment of an administrative penalty specified in said order shall be made to the county within twenty (20) calendar days of service of the order, unless timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b).
- (I) Interest shall accrue on all amounts due under this section, from the effective date of the administrative penalty order, as set forth in this section, to the date paid pursuant to the laws applicable to civil money judgments.
- (J) In addition to any other legal remedy, whenever the amount of any administrative penalty imposed pursuant to this Section has not been satisfied in full within ninety (90) days and has not been timely appealed to the Superior Court in accordance with Government Code section 53069.4, subdivision (b), or if appealed, such appeal has been dismissed or denied, all or any part of this obligation may be enforced as a lien against the real property on which the violation occurred.
  - 1. The lien provided herein shall have no force and effect until recorded with the County Recorder. Once

recorded the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Code of Civil Procedure section 697.340, and may be extended as provided in Code of Civil Procedure sections 683.110 to 683.220, inclusive.

2. Interest shall accrue on the principal amount of the lien remaining unsatisfied pursuant to the law applicable to civil money judgments.
3. Prior to recording any such lien, the enforcing officer shall prepare and file with the Clerk of the Board of Supervisors a report stating the amounts due and owing.
4. The Clerk of the Board of Supervisors will fix a time, date, and place for the Board of Supervisors or hearing officer, as applicable, to consider the report and any protests or objections to it.
5. The Clerk of the Board of Supervisors shall serve the owner of the property with a hearing notice not less than ten (10) calendar days before the hearing date. The notice must set forth the amount of the delinquent administrative penalty that is due. Notice must be delivered by first class mail, postage prepaid, addressed to the owner at the address shown on the last equalized assessment roll or as otherwise known. Service by mail is effective on the date of mailing and failure of owner to actually receive notice does not affect its validity.
6. Any person whose real property is subject to a lien pursuant to this Section may file a written protest with the Clerk of the Board of Supervisors and/or may protest orally at the hearing. Each written protest or objection must contain a description of

the property in which the protesting party is interested and the grounds of such protest or objection.

7. At the conclusion of the hearing, the Board of Supervisors will adopt a resolution confirming, discharging, or modifying the lien amount.
8. If a hearing officer has been appointed in accordance with Section 5-15.10, the hearing required under this subdivision (J) may be conducted by such hearing officer, who will prepare a recommended decision and resolution for the Board of Supervisors. The hearing officer shall forthwith submit that recommendation and the administrative record to the Clerk of the Board of Supervisors. The Board of Supervisors may adopt the recommended decision and resolution without further notice of hearing, or may set the matter for a de novo hearing before the Board of Supervisors. In the event that the Board of Supervisors sets the matter for de novo hearing, such hearing shall be held in accordance with the provisions of this subdivision.
9. Within thirty (30) days following the Board of Supervisors adoption of a resolution imposing a lien, the Clerk of the Board of Supervisors will file same as a judgment lien in the Plumas County Recorder's Office.
10. Once the County receives full payment for outstanding principal, penalties, and costs, the Clerk of the Board of Supervisors will either record a notice of satisfaction or provide the owner with a notice of satisfaction for recordation at the Plumas County Recorder's Office. This notice of satisfaction will cancel the County's lien under this section.

11. The lien may be foreclosed and the real property sold, by the filing of a complaint for foreclosure in a court of competent jurisdiction, and the issuance of a judgment to foreclose. There shall be no right to trial by jury. The county shall be entitled to its attorney's fees and costs.
- (K) Administrative penalties imposed pursuant to this section shall also constitute a personal obligation of each person who causes, permits, maintains, conducts or otherwise suffers or allows the nuisance to exist. In the event that administrative penalties are imposed pursuant to this section on two or more persons for the same violation, all such persons shall be jointly and severally liable for the full amount of the penalties imposed. In addition to any other remedy, the county may prosecute a civil action through the office of the county counsel to collect any administrative penalty imposed pursuant to this section.
- (L) Payment of administrative penalties under this section does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice of violation and proposed administrative penalty. The payment of administrative penalties does not bar the county from taking any other enforcement action regarding a violation that is not corrected.

**SECTION 20.** Section 5-15.20 is hereby added to the Plumas County Code to read:

5-15.20 - Enforcement by civil action.

As an alternative to the procedures set forth in Sections 5-15.05 through 5-15.09, 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.

**SECTION 21.** Section 5-15.21 is hereby added to the Plumas County Code to read:

5-15.21 – No criminal Penalty.

Notwithstanding any other provision of this Code, violation of this chapter shall not be a misdemeanor or an infraction.

**SECTION 22.** 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 Plumas County News, a newspaper of general circulation in Plumas County.