

AMADOR COUNTY PLANNING COMMISSION

810 Court Street, Jackson, CA 95642
(209) 223-6380

PLEASE NOTE: All Planning Commission meetings are tape recorded.

- Anyone who wishes to address the Planning Commission must speak from the podium and should print their name on the speaker list located on the podium and identify themselves for the record.
- Public hearing items will commence no sooner than the times listed on the agenda.
- All proceedings are conducted in English.
- In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the Planning Department at (209) 223-6380 or (209) 257-5002 (fax). Requests must be made as early as possible and at least one-full business day before the start of the meeting.

AGENDA

DATE: Tuesday, January 5, 2016
TIME: 7:00 p.m.
LOCATION: County Administration Center, 810 Court St., Jackson, CA

A. Pledge of Allegiance

B. Approval of Agenda

C. Minutes: December 8, 2015

D. Correspondence: Pertaining to agenda items, if any.

E. Public Matters Not on the Agenda: Discussion items only, no action may be taken. Any person may address the Commission on any subject within the jurisdiction of the Commission.

F. Recent Board Actions:

G. Planning Commission: Election of Officers and Agricultural Advisory Committee Members and Alternates for 2016

Meeting materials are available for public review at the Planning Department, 810 Court St, Jackson and posted to the County's website at www.amadorgov.org under the Agendas and Minutes section (generally the Thursday prior to the Planning Commission meeting). The staff report will denote staff's recommendations and list proposed conditions for the project if the project is approved.

Public Hearings

Item 1 – Request for a Use Permit to allow a mobile food truck and outdoor seating for 18 persons in a “C-2,” Heavy Commercial District (APN 030-180-029).

Applicant: Guicelda Flores-Arbaca
Supervisorial District III

Location: 19660 CA Highway 88, approximately 0.25 miles east of Ridge Road, in Pine Grove.

Item 2 – Review and consideration of proposed Ordinances amending Amador County Code Chapter 19.84 regarding Medical Marijuana Dispensaries and Chapter 19.86 regarding Medical Marijuana Cultivation within the unincorporated County.

Item One

STAFF REPORT TO: AMADOR COUNTY PLANNING COMMISSION
FOR MEETING OF: JANUARY 5, 2016

Item 1 – REQUEST FOR A USE PERMIT TO ALLOW A MOBILE FOOD TRUCK AND OUTDOOR SEATING FOR 18 PERSONS IN A C-2/HEAVY COMMERCIAL DISTRICT. (APN 030-180-029).

Applicant: Guicelda Flores-Arbaca
Supervisorial District IV

Location: 19660 CA Highway 88, approximately 0.25 miles east of Ridge Road, in Pine Grove.

- A. GENERAL PLAN DESIGNATION:** C, Commercial
- B. ZONING:** “C2,” Heavy Commercial
- D. DESCRIPTION / BACKGROUND:** This request is to allow a mobile food truck and outdoor seating for 18 persons (3 picnic tables) adjacent to the new Pine Cone Plaza shopping center in Pine Gove. The applicant seeks permission to occupy a portion of the parking lot with the food truck (4 spaces), and placement of the picnic tables under the canopy of the adjacent building. Per County Code Section 19.24.040, the use of outdoor space for sales areas requires a Use Permit.
- E. TAC/STAFF REVIEW:** This project was reviewed by the Technical Advisory Committee on September 14 and December 7, 2015. Of primary concern to TAC was the availability of restroom facilities for “dine-in” customers; this matter was resolved through an agreement with the Pine Cone Plaza owner to allow access to the restrooms in the pharmacy on-site. TAC has no technical objection to the granting of this Use Permit subject to the conditions and findings included in the Staff Report.
- F. FINDINGS:** If the Planning Commission moves for approval of this request, the findings are recommended for adoption following:
1. The granting of this Use Permit is sanctioned by County Code Section 19.24.040 (“C2” District zoning regulations, Part 5) and is consistent with County Code Chapter 19.56 (Use Permits) in that it will not under the circumstances be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or to the general welfare of the County; and
 2. The Use Permit will not have a significant adverse effect on the environment and is Categorically Exempt pursuant to Section 15061(b) (3) – CEQA General Rule - according to the State CEQA Guidelines, and a Notice of Exemption will be filed with the County Recorder.

USE PERMIT CONDITIONS OF APPROVAL
FOR
GUICELDA FLORES-ARBACA MOBILE FOOD TRUCK

APPLICANT: Guicelda Flores-Arbaca

ADDRESS: [REDACTED]

USE PERMIT NUMBER: UP-15;9-1

PLANNING COMMISSION APPROVAL DATE: January 5, 2016

EXPIRATION DATE: N/A

PROJECT DESCRIPTION: Use Permit to allow a mobile food truck and outdoor seating for up to 18 persons in a "C-2," Heavy Commercial district.

LOCATION: 19660 CA Highway 88, Pine Grove CA 95665 **APN:** 030-180-029

-
1. All outdoor sales, seating, and dining shall be conducted in such a manner so as not to interfere with vehicular or pedestrian traffic. THE PLANNING DEPARTMENT SHALL MONITOR THIS REQUIREMENT.
 2. The outdoor seating and dining areas shall be located and conducted in substantially the same manner as shown on the approved plot plan and description. Any substantial deviation from the approved project shall require an amended or additional Use Permit. THE PLANNING DEPARTMENT SHALL MONITOR THIS REQUIREMENT.
 3. Outdoor seating connected with any food service shall only be allowed if and when there exists a valid food facility permit for this use. THE ENVIRONMENTAL HEALTH DEPARTMENT SHALL MONITOR THIS REQUIREMENT.
 4. The applicant must obtain a valid food facility permit to operate a MOBILE OR STATIONARY FOOD PREP UNIT from the Environmental Health Department prior to activation of the Use Permit. The food facility permit shall remain in effect for as long as the business is in operation. THE ENVIRONMENTAL HEALTH DEPARTMENT SHALL MONITOR THIS REQUIREMENT.
 5. Mobile food trucks shall maintain a minimum distance of 10 feet from adjacent structures. THE AMADOR FIRE PROTECTION DISTRICT SHALL MONITOR THIS REQUIREMENT.
 6. A restroom facility for mobile food truck customers which use outdoor seating/dining, as well as mobile food truck employees, shall be provided on site. The restroom shall be equipped with hot and cold running water and hand washing facilities. THE ENVIRONMENTAL HEALTH DEPARTMENT SHALL MONITOR THIS REQUIREMENT.
 7. Prior to the issuance of the Use Permit, the applicant shall pay the appropriate Regional Transportation Impact Fee and Local Transportation Impact Fee in place at the time the use is commenced. THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS SHALL MONITOR THIS REQUIREMENT.

AMADOR FIRE PROTECTIONS DISTRICT

810 Court Street, Jackson, CA 95642-2132

Phone (209) 223-6391



Memorandum

To: Chuck Beatty, Planning Department
CC: David Bellerive, Fire Chief
From: Earl Curtis, Fire Prevention Officer
Date: December 3, 2015

Re: TAC meeting for food truck at 19660 State Highway 88, Pine Grove

The only concern or area that AFPD might have is if the vehicle is within 10 feet of the building or an exit. The building has no automatic fire suppression or reporting system and this is like placing another building next to it that would require a fire wall or 10 foot distance. I cannot codify this because these trucks are regulated by another state law than the California Fire Code.

RECEIVED
Amador County

NOV - 4 2015

PLANNING DEPARTMENT

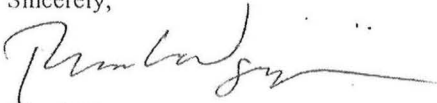
October 27, 2015

PINE CONE DRUG
19660 HWY 88
PINE GROVE, CA 95665

To Whom It May Concern:

This letter is to acknowledge that any customer of Guicelda Flores' food establishment at "19660 Hwy 88, Pine Grove, Ca 95665 will have access to the bathrooms located within the pharmacy (Pine Cone Drug) that is also located at 19660 Hwy 88, Pine Grove, Ca 95665.

Sincerely,



Thanh Nguyen
Owner





AMADOR COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT


PHONE: (209) 223-6380
 FAX: (209) 257-5002
 WEBSITE: www.amadorgov.org
 E-MAIL: planning@amadorgov.org

COUNTY ADMINISTRATION CENTER • 810 COURT STREET • JACKSON, CA 95642-2132

APPLICATION REFERRAL

TO: Mike Israel, Environmental Health Department
 Jered Reinking, Department of Transportation and Public Works
 Rich Millar, Building Department
 David Bellerive, Amador Fire Protection District
 Jim McHargue, Waste Management/Air District
 Steve Zanetta, Surveying & Engineering
 Greg Gillott, County Counsel
 Jim Wegner, Undersheriff
 Carla Meyer, Amador Transit
 Caltrans District 10
 Darin McFarlin, Cal Fire
 John Gedney, Amador County Transportation Commission
 California Department of Fish & Wildlife, Region 2

DATE: November 24, 2015

FROM:  Chuck Beatty, Planning Department

PROJECT: Request from Guicelda Flores-Abarca, for a Use Permit (UP-15;9-1) to allow for a mobile food truck and outdoor seating (18 seats) in a C-2/Heavy Commercial zoning district.

LOCATION: 19660 Highway 88, approximately 0.25 miles east of Ridge Road, in the Pine Grove community (APN 030-180-029).

REVIEW: As part of the review process, this project is being sent to County staff as well as State and local agencies for their review and comment. The **Amador County Technical Advisory Committee (TAC)** will meet on **Monday, December 7, 2015** at 10:00 a.m. in Conference Room "A" at the County Administration Building, 810 Court Street, Jackson, CA, to review the project for completeness. At this time, staff anticipates that the project will be exempt from CEQA per Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

cc: Guicelda Flores-Abarca, applicant
 Thanh Nguyen, property owner



AMADOR COUNTY COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT

PHONE: (209) 223-6380
 FAX: (209) 257-5002
 WEBSITE: www.amadorgov.org
 E-MAIL: planning@amadorgov.org

COUNTY ADMINISTRATION CENTER • 810 COURT STREET • JACKSON, CA 95642-2132

APPLICATION REFERRAL

TO: Mike Israel, Environmental Health Department
 Jered Reinking, Department of Transportation and Public Works
 Rich Millar, Building Department
 David Bellerive, Amador Fire Protection District
 Jim McHargue, Waste Management/Air District
 George Allen, Surveying & Engineering
 Greg Gillott, County Counsel
 Jim Wegner, Undersheriff
 Carla Meyer, Amador Transit
 Carl Baker, Caltrans District 10
 Darin McFarlin, Cal Fire
 John Gedney, Amador County Transportation Commission
 California Department of Fish & Wildlife, Region 2

DATE: September 14, 2015

FROM: Chuck Beatty, Planning Department

PROJECT: Request from Guicelda Flores-Abarca, for a Use Permit (UP-15;9-1) to allow for a mobile food truck and outdoor seating (18 seats) in a C-2/Heavy Commercial zoning district.

LOCATION: 19660 Highway 88, approximately 0.25 miles east of Ridge Road, in the Pine Grove community. (APN 030-180-029).

REVIEW: As part of the review process, this project is being sent to County staff as well as State and local agencies for their review and comment. The **Amador County Technical Advisory Committee (TAC)** will meet on **Monday, September 21, 2015** at 10:00 a.m. in Conference Room "A" at the County Administration Building, 810 Court Street, Jackson, CA, to review the project for completeness and draft recommendations for the Amador Planning Commission. At this time, staff anticipates that the project will be exempt from CEQA per Section 15061(b)(3), which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

cc: Guicelda Flores-Abarca, applicant
 Thanh Nguyen, property owner



PLANNING DEPARTMENT
LAND USE AGENCY
COUNTY ADMINISTRATION CENTER

810 Court Street • Jackson, CA 95642-21
Telephone: (209) 223-63

website: www.co.amador.ca.gov
e-mail: planning@co.amador.ca.gov

APPLICATION PROCEDURE FOR USE PERMIT

Public Hearing before the Planning Commission will be scheduled after the following information has been completed and submitted to the Planning Department Office:

1. Complete the following:
 - Name of Applicant Rosalda Flores
 - Mailing Address [REDACTED]
 - Phone Number [REDACTED]
 - Assessor Parcel Number 030-180-029-000
2. Use Permit Applied For:
 - Excessive Height
 - ** Bed and Breakfast Inn
 - ** Temporary Caretaker Mobile Home
 - ** Mobile Home for Farm Labor Quarters
 - ** Other outdoor/drive in use in C2 district - Mobile food truck w/outdoor seating.
3. Attach a letter explaining the purpose and need for the Use Permit.

days & times; # of seats/tables
4. Attach a copy of the deed of the property (can be obtained from the County Recorder's Office).

N/A
5. If Applicant is not the property owner, a consent letter must be attached.
6. Assessor Plat Map (can be obtained from the County Surveyor's Office).

N/A
7. Plot Plan (no larger than 11" X 17") of parcel showing location of request in relation to property lines, road easements, other structures, etc. (see Plot Plan Guidelines). Larger map(s) or plans may be submitted if a photo reduction is provided for notices, Staff Reports, etc. The need is for easy, mass reproduction.
8. Planning Department Filing Fee: \$ [REDACTED]
- Public Works Agency Review Fee: \$ [REDACTED]
- Environmental Health Review Fee: [REDACTED]
9. If necessary, complete an Environmental Information Form (ask Planning Department Staff).

N/A
10. Proposed floor plan (Guest House applications only).

N/A

** Environmental Health and Public Works Fee's apply.

August 27, 2015

To who it may concern:

My purpose is to park my taco truck at the following address:

19660 Hwy 88
Pine Grove.

We will be open six days a week
From 8:AM to 6:00PM with outdoor
seating and would be three tables
with six seats each one.

Thank you very much for your time
and consideration, if you have any
questions or concern: please feel free
to contact me at: [REDACTED]

Sincerely,
C. S. S. S.

8/19/15

PINE CONE PLAZA
19660 HWY 88
PINE GROVE, CA 95665

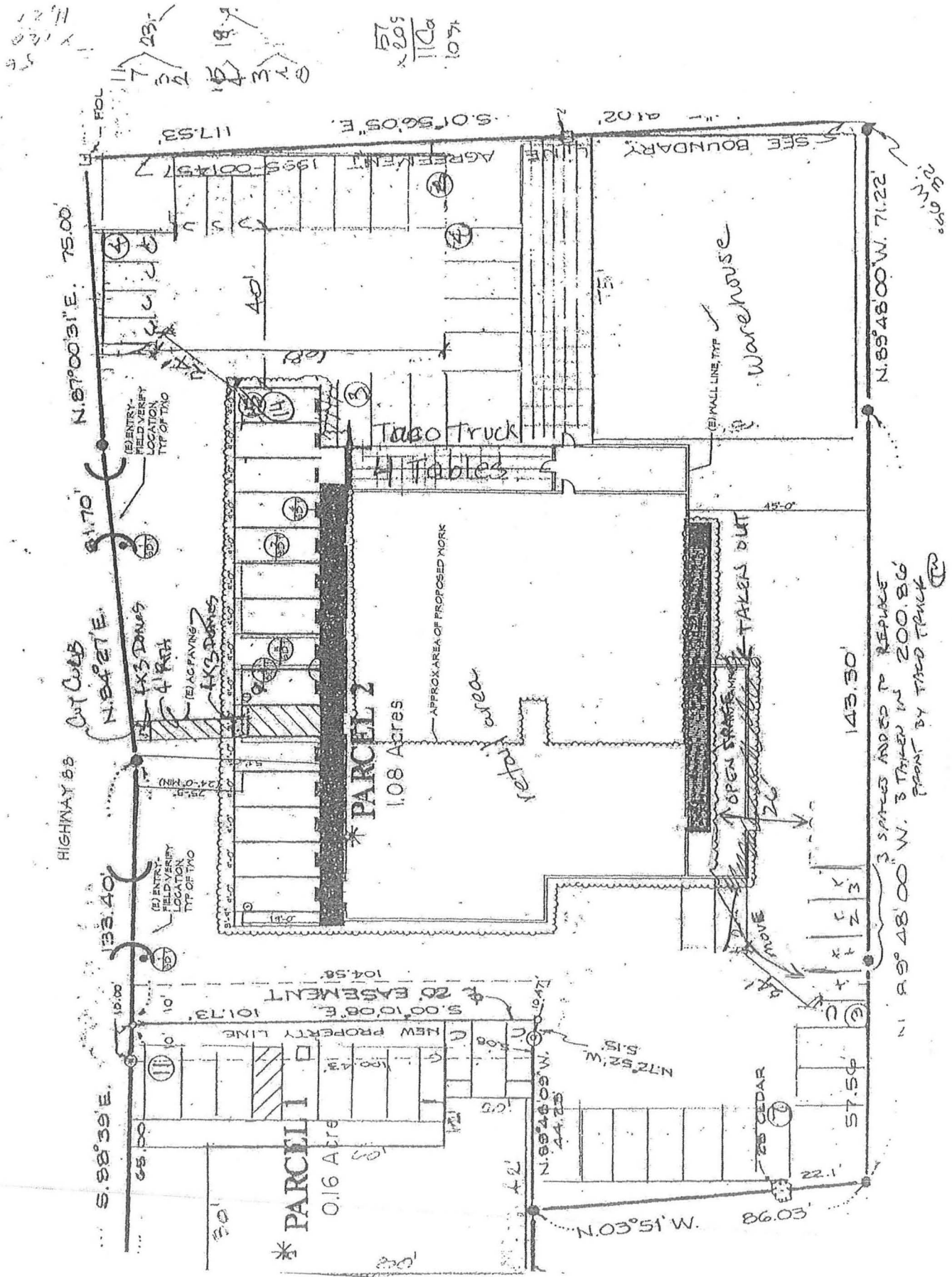
TO WHOM IT MAY CONCERN;

I'm writing to confirm that ~~Georgetta~~
Flores is applying for the placement
of a Food Truck at the address stated
above. Please call me with any questions
or concerns. Thank you.

Sincerely,

Frank Szymen, Owner of property
[REDACTED]

Total spaces shown = 54 on Parcel 2 = 11 on Parcel 1



Item Two

**STAFF REPORT TO AMADOR COUNTY PLANNING COMMISSION
FOR MEETING OF TUESDAY, JANUARY 5, 2016**

**ITEM NO. 2 - REVIEW AND CONSIDERATION OF PROPOSED ORDINANCES
AMENDING AMADOR COUNTY CODE CHAPTER 19.84 REGARDING MEDICAL
MARIJUANA DISPENSARIES AND CHAPTER 19.86 REGARDING MEDICAL
MARIJUANA CULTIVATION WITHIN THE UNINCORPORATED COUNTY.**

BACKGROUND: Currently, Amador County prohibits Medical Marijuana Dispensaries (County Code Chapter 19.84 Medical Marijuana Dispensaries Prohibited) and the cultivation of medical marijuana except under and within specific conditions and criteria (County Code Chapter 19.86 Medical Marijuana Cultivation) wherein a limited amount of medical marijuana may be cultivated if all of the conditions set forth in 19.86.050 can be met. These conditions relate generally to location, visibility, landowner permission, light and glare and odors.

Recent legislation (effective January 1, 2016) in the form of Assembly Bill 266, Senate Bill 642, and Assembly Bill 243 created new regulatory and licensing schemes at both the state and local levels. Local jurisdictions have until March 1, 2016 to enact local regulations before the state regulations become effective.

In order to meet the extremely short time frame for developing and adopting regulatory and licensing requirements for the cultivation and dispensing of medical marijuana staff proposes to amend the County's existing regulations to include only those provisions felt to be necessary to address those items in the new legislation not currently addressed in County code while maintaining the County's ban on dispensaries and cultivation with limited exceptions.

DESCRIPTION:

The proposed amendments to Chapter 19.84 Medical Marijuana Dispensaries Prohibited, clarify that mobile deliveries of medical marijuana fall within the ban on dispensaries within the unincorporated County and are prohibited.

The proposed amendments to Chapter 19.86 Medical Marijuana Cultivation, would generally:

- Amend and/or provide additional definitions of terms contained in the proposed ordinance (cultivate, distribute/distribution, Enforcing Officer, manufacture, and marijuana);
- Expressly prohibit certain indoor and outdoor activities related to marijuana, such as cultivation, manufacturing and distribution of marijuana, marijuana nurseries, and marijuana testing laboratories;
- Change the current limited exemption allowing cultivation of medical marijuana by qualified patients and/or caregivers to a maximum area of 100 square feet not to exceed 12 mature or immature plants regardless of the number of qualified patients or caregivers, on any single parcel;

- Include additional conditions for cultivation of medical marijuana related to occupancy of the parcel on which the cultivation is taking place, water source requirements, and prohibition of any illicit discharges of water or chemicals from the property; and
- Clarify which County officials may enforce the regulations and what enforcement procedures, mechanisms and penalties are available.

Attached are red line, strike out versions of the existing codes with the proposed changes as well as “clean copies” showing the codes as they would read if the proposed changes were made.

PLANNING COMMISSION ACTION: The Planning Commission, after taking public comment on the proposed draft ordinances, may make any recommendations felt necessary. Those recommendations will be forwarded to the Board of Supervisors for their consideration at a future public hearing.

RECOMMENDED FINDING: The adoption of these ordinances is regulatory in nature and is not subject to CEQA pursuant to section 15060(c)(2) and 15061(b)(3) in that the ordinances establish further regulations for uses allowed by state statute. Categorical Exemptions should be adopted and filed with the County Recorder.

Board of Supervisors
Minutes
December 8, 2015

Ms. Sandy Anderson, City of Sutter Creek Councilmember and local Bed and Breakfast Owner
 Ms. Sherry Curtis, District III resident

ACTION: Direction given to bring this matter back to the Board on December 22, 2015 with further information regarding the legal formation and financial viability of a Marketing District.

General Services Administration: Discussion and possible action relative to the FAA Jet Fuel Revenue Ruling Requirements and compliance with the December 8th Action Plan.

Mr. Jon Hopkins, General Services Director, addressed the Board and summarized this item. He stated on November 9, 2015 General Services received information from the California State Association of Counties (CSAC) regarding a ruling in 2014 that requires every State and Local government redirect certain sales tax revenues derived from the sales of aviation fuels to airports for capital and operating costs. He stated the recent ruling requires the County to provide an action plan by December 8, 2015 and allows for a transition period until December 8, 2017. Mr. Hopkins stated he is seeking Board approval of the draft action plan incorporated in the Board packet for today's date, and required to be received by the FAA on December 8, 2015.

ACTION: Direction given pursuant to the following motion.

MOTION: It was moved by Supervisor Boitano, seconded by Supervisor Blasse and unanimously carried to authorize staff to submit the action plan to the FAA as presented.

County Counsel: Discussion and possible action relative to recent State legislation regarding Medical Marijuana: (SB643, AB266 and AB243).

Mr. Greg Gillott, County Counsel, addressed the Board and stated this matter is before the Board to seek direction in starting the process to develop or change current County Code as they relate to medical marijuana in light of the Medical Marijuana Regulation and Safety Act. He stated currently qualified individuals and caregivers are allowed to have a certain number of plants and the ability to sell grow and distribute and sell cooperatively as a non profit. He continued by stating the new Act will essentially be a highly regulated, potentially locally taxed commercial system which will require state licenses that will be issued and required for cultivation, manufacturing, dispensaries and distributors transportation of medical marijuana.

Lengthy discussion ensued with the following action being taken.

ACTION: Direction given to staff to develop a draft ordinance to include an allowance for twelve (12) plants per parcel, not to exceed an area of more than 100 square feet; one medical marijuana prescription per parcel; a ban on dispensaries; and prohibition of processing manufacturing, cultivation and mobile deliveries.

DRAFT

Ordinance 19.84

Medical Marijuana

Dispensaries

Track Changes Version

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF AMADOR COUNTY AMENDING CHAPTER 19.84 OF THE AMADOR COUNTY CODE RELATED TO MEDICAL MARIJUANA DISPENSARIES

-oOo-

The Board of Supervisors of the County of Amador ordains as follows:

SECTION 1: Amador County Code Chapter 19.84, related to Medical Marijuana Dispensaries, is repealed in its entirety and the following amended and revised Chapter 19.84 is adopted and substituted in its place to read as follows [deletions indicated by ~~strikethrough~~ and additions indicated by underline]:

Sections:

- 19.84.010 ~~Medical marijuana dispensaries prohibited.~~ Purpose and intent.
- 19.84.020 ~~Violation—Penalty.~~ Definitions.
- 19.84.030 Medical marijuana dispensaries prohibited.
- 19.84.040 Violations—Penalty.
- 19.84.050 Severability.

19.84.010 ~~Medical marijuana dispensaries prohibited.~~ Purpose and intent.

The intent of this chapter is to prohibit the establishment of facilities for distribution of medical marijuana within unincorporated Amador County in order to preserve and protect the public health, safety, and welfare of residents. This chapter is not intended to prohibit or inhibit the rights of qualified patients and primary caregivers, as defined in California Health and Safety Code Section 11362.7 et seq., to cultivate, obtain, and use medical marijuana in compliance with local and state laws.

19.84.020 ~~Violations—Penalty.~~ Definitions.

For purposes of this chapter, these words and phrases shall be defined as follows:

- A. “Delivery” shall have the same definition as in California Business and Professions Code Section 19300.5(m) as it now reads or as amended.
- B. “Facility” means any building, structure, premises or location, whether fixed or mobile, permanent or temporary, and any delivery service.
- C. “Marijuana” shall have the same definition as in California Health and Safety Code Section 11018, and shall also mean cannabis as defined in Section 19300.5(f) of California Business and Professions Code as it now reads or as amended and medical

cannabis product as defined in Section 19300.5(ag) of California Business and Professions Code as it now reads or as amended.

D. “Marijuana dispensary” means any operation, including store-front facility or structure, mobile facility, or delivery service, wherein medical marijuana is made available, sold, offered for sale, given, distributed, traded, cultivated for, or otherwise provided to qualified patients or primary caregivers as defined in California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.

A marijuana dispensary shall not include the following uses, as long as the location of such uses are otherwise regulated or allowable by code or applicable law: (i) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; (ii) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; (iii) a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code; (iv) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; and (v) a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

E. “Medical marijuana” means marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.7 et seq.

19.84.030 Medical marijuana dispensaries prohibited.

It shall be unlawful for any person or entity to locate or operate a medical marijuana dispensary in any zoning district in the unincorporated area of Amador County.

19.84.040 Violations—Penalty.

The penalty for any violation of this chapter shall be a misdemeanor, punishable by a fine of five hundred dollars and/or six months imprisonment.

19.84.050 Severability.

If any part or subdivision of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

DRAFT

Ordinance 19.84

Medical Marijuana

Dispensaries

Clean Version

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF AMADOR COUNTY
AMENDING CHAPTER 19.84 OF THE AMADOR COUNTY CODE RELATED TO
MEDICAL MARIJUANA DISPENSARIES

-oOo-

The Board of Supervisors of the County of Amador ordains as follows:

SECTION 1: Amador County Code Chapter 19.84, related to Medical Marijuana Dispensaries, is repealed in its entirety and the following amended and revised Chapter 19.84 is adopted and substituted in its place to read as follows:

Sections:

- 19.84.010 Purpose and intent.
- 19.84.020 Definitions.
- 19.84.030 Medical marijuana dispensaries prohibited.
- 19.84.040 Violations—Penalty.
- 19.84.050 Severability.

19.84.010 Purpose and intent.

The intent of this chapter is to prohibit the establishment of facilities for distribution of medical marijuana within unincorporated Amador County in order to preserve and protect the public health, safety, and welfare of residents. This chapter is not intended to prohibit or inhibit the rights of qualified patients and primary caregivers, as defined in California Health and Safety Code Section 11362.7 et seq., to cultivate, obtain, and use medical marijuana in compliance with local and state laws.

19.84.020 Definitions.

For purposes of this chapter, these words and phrases shall be defined as follows:

- A. “Delivery” shall have the same definition as in California Business and Professions Code Section 19300.5(m) as it now reads or as amended.
- B. “Facility” means any building, structure, premises or location, whether fixed or mobile, permanent or temporary, and any delivery service.
- C. “Marijuana” shall have the same definition as in California Health and Safety Code Section 11018, and shall also mean cannabis as defined in Section 19300.5(f) of California Business and Professions Code as it now reads or as amended and medical cannabis product as defined in Section 19300.5(ag) of California Business and Professions Code as it now reads or as amended.

D. “Marijuana dispensary” means any operation, including store-front facility or structure, mobile facility, or delivery service, wherein medical marijuana is made available, sold, offered for sale, given, distributed, traded, cultivated for, or otherwise provided to qualified patients or primary caregivers as defined in California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.

A marijuana dispensary shall not include the following uses, as long as the location of such uses are otherwise regulated or allowable by code or applicable law: (i) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; (ii) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; (iii) a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code; (iv) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; and (v) a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

E. “Medical marijuana” means marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.7 et seq.

19.84.030 Medical marijuana dispensaries prohibited.

It shall be unlawful for any person or entity to locate or operate a medical marijuana dispensary in any zoning district in the unincorporated area of Amador County.

19.84.040 Violations—Penalty.

The penalty for any violation of this chapter shall be a misdemeanor, punishable by a fine of five hundred dollars and/or six months imprisonment.

19.84.050 Severability.

If any part or subdivision of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

DRAFT

Ordinance 19.86

Medical Marijuana

Cultivation

Track Changes Version

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF AMADOR COUNTY AMENDING CHAPTER 19.86 OF THE AMADOR COUNTY CODE RELATED TO MEDICAL MARIJUANA CULTIVATION AND RELATED ACTIVITIES

-oOo-

The Board of Supervisors of the County of Amador ordains as follows:

SECTION 1: Amador County Code Chapter 19.86, related to Medical Marijuana Cultivation, is repealed in its entirety and the following amended and revised Chapter 19.86 is adopted and substituted in its place to read as follows [deletions indicated by ~~strikethrough~~ and additions indicated by underline]:

Chapter 19.86
MEDICAL MARIJUANA CULTIVATION AND RELATED ACTIVITIES

- 19.86.010 Findings.**
- 19.86.020 Purpose and intent.**
- 19.86.030 Relationship to other laws.**
- 19.86.040 Definitions.**
- 19.86.050 ~~Medical m~~Medical marijuana cultivation and related activities prohibited.**
- 19.86.060 ~~Prohibited medical marijuana cultivation and related activities~~ declared a public nuisance.**
- 19.86.070 Enforcement.**
- 19.86.080 Penalties for violation and liability for costs.**
- 19.86.090 Severability.**

19.86.010 Findings.

The Board of Supervisors of the County of Amador finds and declares as follows:

- A. In 1996, the voters of the state of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and 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. In 2004, Senate Bill 420 was enacted (codified as “California Health and Safety Code Section 11362.7 et seq. and titled the "Medical Marijuana Program Act”) to clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows 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 affirms that counties can adopt ordinances that restrict the location and establishment of medical marijuana collectives.
- E. In 2015, Assembly Bill 266, Senate Bill 643, and Assembly Bill 243 were enacted to create the “Medical Marijuana Regulation and Safety Act” (codified as California Business and Professions Code Section 19300 et seq.). These bills create new regulatory and licensing schemes at both the state and local levels.
- F. Pursuant to subdivision (a) of Business and Professions Code Section 19315(a) and subdivision (c) of Business and Professions Code Section 19316, nothing in the Medical Marijuana Regulation and Safety Act is interpreted to supersede or limit existing local authority to enact or enforce local regulations governing medical marijuana.
- G. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act of 1996 nor the Medical Marijuana Program Act precludes a local jurisdiction from regulating or prohibiting facilities that distribute medical marijuana. In *Browne v. County of Tehama* (2013) 213 Cal.App.4th 704 and in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal of California, Third Appellate District upheld local regulations governing the cultivation of medical marijuana.
- H. This chapter is enacted, consistent with ~~California Health and Safety Code Section 11362.7 et seq.~~ the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Marijuana Regulation and Safety Act to protect the public health, safety, and welfare of Amador County residents.
- I. Large-scale medical marijuana cultivation increases the risk of criminal activity, degradation of the natural environment, and malodorous smells. As marijuana plants begin to flower, and for a period of approximately two months or more during the growing season, they produce an extremely strong odor that is

offensive to many people and detectable well beyond property boundaries upon which they are grown. The strong odor of marijuana may create an attractive nuisance, alerting individuals to the location of plants, thereby creating the risk of potential crimes such as burglary, robbery, armed robbery, assault, attempted murder, and murder.

- J. The indoor cultivation of substantial amounts of medical marijuana poses potential health and safety risks to those living in the residence, especially to children, and includes the increased risks of fire from grow light systems, exposure to fertilizers pesticides, anti-fungus/mold agents, and exposure to potential property crimes targeting the residence.
- K. The Federal Drug Enforcement Administration reports that various types of cannabis plants under certain planting conditions may yield an average of between ½ pound to nearly 2 pounds of marijuana. The “street value” of domestically produced high-grade cannabis sold illegally in California is substantial and can range from \$2,000 to \$5,000 per pound.
- L. ~~Large-scale medical marijuana cultivation has been occurring in Amador County and some operations have been the subject of criminal activity, including an apparent armed robbery and murder.~~ attracts crime and associated violence in this and other counties, and grows may involve armed guards and/or booby traps that threaten severe bodily harm or death to anyone who attempts to access the area of the grow. In 2011, there was an armed robbery and murder associated with an illegal grow in the County, and an apparent triple murder in neighboring Calaveras County in late 2015. Large-scale medical marijuana cultivation creates a nuisance and threatens the safety and property of nearby land owners and their families. ~~This chapter is not subject to the Environmental Quality Act pursuant to California Code of Regulations Sections 15060(c)(2) and 15061(b)(3).~~
- M. The cultivation of medical marijuana at locations or premises within the vicinity of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore, be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with the cultivation or distribution of medical marijuana in the proximity of such locations poses heightened risks that juveniles will be involved or endangered.

- N.** Amador County has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which large-scale medical marijuana cultivation operations may exist, and, in providing access to medical marijuana for ill residents.
- O.** The limited right of qualified patients and their primary caregivers under state law to cultivate marijuana for medical purposes does not confer upon them the right to create or maintain a public nuisance.
- P.** Nothing in this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. 841, or to license any activity that is prohibited under the Act except as mandated by state law.
- Q.** Nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of marijuana for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is illegal under state or federal law.

19.86.020 Purpose and intent.

It is the purpose and intent of this chapter to prohibit the large-scale cultivation, manufacture, and distribution of medical marijuana in order to preserve the public peace, health, safety, and general welfare of the citizens of Amador County.

19.86.030 Relationship to other laws.

This chapter is not intended to, nor shall it be construed or given effect in a manner that causes it to apply to, any activity that is regulated by federal or state law to the extent that application of this chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. It is the intention of the board that this chapter shall be interpreted to be compatible and consistent with federal, county, and state enactments and in furtherance of the public purposes which those enactments express. It is the intention that the provisions of this chapter will supersede any other provisions of this code found to be in conflict.

19.86.040 Definitions.

For purposes of this chapter, these words and phrases shall be defined as follows:

- A. "County" or "county" means the eCounty of Amador or the unincorporated area of the eCounty of Amador as required by the context.

- B. “Cultivate” or “cultivation” is the planting, growing, harvesting, drying, curing, grading, trimming, processing, or storage of one or more marijuana plants or any part thereof in any location.
- C. “Church” means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- D. “Distribute” or “distribution” shall have the same definition as in Section 19300.5(p) of California Business and Professions Code as it now reads or as amended.
- E. “Enforcing Officer” means any person employed by the County of Amador and appointed to the position of code enforcement officer, or, the Sheriff or his authorized deputies or designees.
- F. “Manufacture” means the production, preparation, propagation, or compounding of marijuana by direct or indirect methods or by extraction methods, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.
- G. “Marijuana” shall have the same definition as in California Health and Safety Code Section 11018 as it now reads or as amended, and shall also mean cannabis as defined in Section 19300.5(f) of California Business and Professions Code as it now reads or as amended and medical cannabis product as defined in Section 19300.5(ag) of California Business and Professions Code as it now reads or as amended.
- H. “Medical marijuana” means marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.7 et seq.
- I. “Primary caregiver” shall have the same definition as in California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.
- J. “Qualified patient” shall have the same definition as in California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.
- K. “Residential treatment facility” means a facility providing treatment of drug and alcohol dependency.

- L. “School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a preschool, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but does not include a vocational or professional institution of higher education.
- M. “Youth-oriented facility” means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate, or assemble at the establishment are predominantly minors.

19.86.050 ~~Medical M~~marijuana cultivation and related activities prohibited.

- A. ~~Outdoor~~ The cultivation, manufacture, and distribution of medical-marijuana is prohibited in all unincorporated areas of the County-, including, but not limited to, the following:-
1. Indoor and outdoor cultivation of marijuana.
 2. Marijuana distribution as defined by Section 19300.5 (p) of California Business and Professions Code as it now reads or as amended.
 3. Marijuana manufacturing as defined by Section 19300.5(y) of California Business and Professions Code as it now reads or as amended.
 4. Marijuana nurseries as defined by Section 19300.5(ah) of California Business and Professions Code as it now reads or as amended.
 5. Marijuana testing laboratories as defined by Section 19300.5(z) of California Business and Professions Code as it now reads or as amended.
- B. This section shall not apply to ~~outdoor~~ cultivation of medical marijuana by a qualified patient cultivating medical marijuana only for his or her own personal medical use and who does not sell, distribute, donate, or provide marijuana to any other person or entity, or by a primary caregiver cultivating medical marijuana only for the personal medical use of specified qualified patients for whom he or she is the primary caregiver within the meaning of Health and Safety Code Section 11362.7 provided that cultivation of medical marijuana is in compliance with all the following conditions: twelve or fewer medical marijuana

~~plants, mature or immature, per qualified patient or primary caregiver; not to exceed a maximum of twenty-four plants on any legal parcel of record if the area(s) of the parcel where medical marijuana is being cultivated meet all of the following conditions:~~

1. Cultivation is limited to an area measuring a maximum of 100 square feet on any parcel, and in no event shall the total number of mature or immature plants on any parcel exceed twelve (12) regardless of the number of qualified patients or caregivers. The area used to cultivate medical marijuana shall be measured from the outer edge of the marijuana plant canopy and includes the aggregate area, including the space between plants, whether indoor or outdoor.
2. Cultivation is not within six hundred (600) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein.
3. Cultivation is not visible from the public right-of-way or publicly traveled roads.
4. Cultivation is a minimum of one hundred (100) feet from any occupied legal residential structure located on a separate parcel and a minimum of fifty feet from a parcel under separate ownership. If either of these minimum distances cannot be met, the area under cultivation shall be screened to the extent feasible to ensure the plants are not readily visible to parcels under separate ownership.
5. If the grower individual cultivating medical marijuana is not the landowner, written permission from the landowner must be obtained prior to planting and shall be provided to the eCounty upon request of any Enforcing Officer.
6. All lights used for the cultivation of medical marijuana shall be shielded or downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
7. The cultivation of medical marijuana shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors.

8. Cultivation may occur only on a parcel with a permitted dwelling unit that is permanently occupied by the qualified patient or the primary caregiver.
9. All persons engaging in the cultivation of medical marijuana shall:
 - i. Have a legal water source on the parcel,
 - ii. Not engage in unlawful or unpermitted surface drawing of water for such cultivation, and
 - iii. Not allow illicit discharges of water or chemicals from the property.

19.86.060 Prohibited medical marijuana cultivation and other activities declared a public nuisance.

The establishment, maintenance, or operation of any prohibited cultivation, manufacture, or distribution of medical marijuana, as defined in this chapter, within the unincorporated county is declared to be a public nuisance and subject to abatement as provided in this Chapter.

19.86.070 Enforcement.

- A. Whenever any Enforcing Officer determines that a public nuisance as described in this Chapter exists within the unincorporated county, he or she is authorized to issue an initial warning as provided in Chapter 2.06.
- B. Notwithstanding any other provision of this Chapter, when any unlawful marijuana cultivation, manufacture, or distribution constitutes an immediate threat to public health or safety, and when the procedure set forth above in Section 19.86.070(A) would not result in abatement of that nuisance within a timely period to avoid a threat to health or safety, the Enforcing Officer may carry out summary abatement of the nuisance. The Enforcing Officer shall make reasonable efforts to notify the owner of the property, but the formal notice and hearing procedures set forth in Chapter 2.06 shall not apply. The County may recover its costs for abating the nuisance in the manner described in Section 19.86.080.

19.86.080 Penalties for violation and liability for costs.

- A. Any person and/or entity that owns or leases the property upon which medical marijuana is cultivated, manufactured, or distributed in violation of this chapter, ~~owns the medical marijuana that is cultivated in violation of this chapter,~~ or otherwise violates any of the provisions of this chapter can be subject to all of the civil, ~~criminal,~~ and administrative remedies as provided in Chapter 2.06 of this code, or any other remedy provided by law.

- B. In any enforcement action brought to enforce the provisions of this Chapter, each person who causes, permits, suffers, or maintains the unlawful cultivation of marijuana to exist shall be liable for all actual costs incurred by the County, including, but not limited to, all administrative costs, including staff time and attorneys' fees, and abatement costs in the event the County brings and prevails in any administrative proceeding, civil suit, or other action to enforce the provisions of this Chapter. ~~the person(s) or entity(ies) responsible for such violation shall be liable to the county for costs of the suit, including, but not limited to, attorney's fees.~~

19.86.090 Severability.

If any part or subsection of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

DRAFT

Ordinance 19.86

Medical Marijuana

Cultivation

Clean Version

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF AMADOR COUNTY AMENDING CHAPTER 19.86 OF THE AMADOR COUNTY CODE RELATED TO MEDICAL MARIJUANA CULTIVATION AND RELATED ACTIVITIES

-oOo-

The Board of Supervisors of the County of Amador ordains as follows:

SECTION 1: Amador County Code Chapter 19.86, related to Medical Marijuana Cultivation, is repealed in its entirety and the following amended and revised Chapter 19.86 is adopted and substituted in its place to read as follows:

Chapter 19.86
MEDICAL MARIJUANA CULTIVATION AND RELATED ACTIVITIES

- 19.86.010 Findings.**
- 19.86.020 Purpose and intent.**
- 19.86.030 Relationship to other laws.**
- 19.86.040 Definitions.**
- 19.86.050 Marijuana cultivation and related activities prohibited.**
- 19.86.060 Prohibited marijuana cultivation and related activities declared a public nuisance.**
- 19.86.070 Enforcement.**
- 19.86.080 Penalties for violation and liability for costs.**
- 19.86.090 Severability.**

19.86.010 Findings.

The Board of Supervisors of the County of Amador finds and declares as follows:

- A. In 1996, the voters of the state of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and 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. In 2004, Senate Bill 420 was enacted (codified as "California Health and Safety Code Section 11362.7 et seq. and titled the "Medical Marijuana Program Act") to

clarify the scope of the Compassionate Use Act of 1996. The Medical Marijuana Program Act allows 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 affirms that counties can adopt ordinances that restrict the location and establishment of medical marijuana collectives.
- E. In 2015, Assembly Bill 266, Senate Bill 643, and Assembly Bill 243 were enacted to create the “Medical Marijuana Regulation and Safety Act” (codified as California Business and Professions Code Section 19300 et seq.). These bills create new regulatory and licensing schemes at both the state and local levels.
- F. Pursuant to subdivision (a) of Business and Professions Code Section 19315(a) and subdivision (c) of Business and Professions Code Section 19316, nothing in the Medical Marijuana Regulation and Safety Act is interpreted to supersede or limit existing local authority to enact or enforce local regulations governing medical marijuana.
- G. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court concluded that nothing in the Compassionate Use Act of 1996 nor the Medical Marijuana Program Act precludes a local jurisdiction from regulating or prohibiting facilities that distribute medical marijuana. In *Browne v. County of Tehama* (2013) 213 Cal.App.4th 704 and in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal of California, Third Appellate District upheld local regulations governing the cultivation of medical marijuana.
- H. This chapter is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act, and the Medical Marijuana Regulation and Safety Act to protect the public health, safety, and welfare of Amador County residents.
- I. Large-scale medical marijuana cultivation increases the risk of criminal activity, degradation of the natural environment, and malodorous smells. As marijuana plants begin to flower, and for a period of approximately two months or more during the growing season, they produce an extremely strong odor that is offensive to many people and detectable well beyond property boundaries upon which they are grown. The strong odor of marijuana may create an attractive

nuisance, alerting individuals to the location of plants, thereby creating the risk of potential crimes such as burglary, robbery, armed robbery, assault, attempted murder, and murder.

- J. The indoor cultivation of substantial amounts of medical marijuana poses potential health and safety risks to those living in the residence, especially to children, and includes the increased risks of fire from grow light systems, exposure to fertilizers pesticides, anti-fungus/mold agents, and exposure to potential property crimes targeting the residence.
- K. The Federal Drug Enforcement Administration reports that various types of cannabis plants under certain planting conditions may yield an average of between ½ pound to nearly 2 pounds of marijuana. The “street value” of domestically produced high-grade cannabis sold illegally in California is substantial and can range from \$2,000 to \$5,000 per pound.
- L. Large-scale medical marijuana cultivation attracts crime and associated violence in this and other counties, and grows may involve armed guards and/or booby traps that threaten severe bodily harm or death to anyone who attempts to access the area of the grow. In 2011, there was an armed robbery and murder associated with an illegal grow in the County, and an apparent triple murder in neighboring Calaveras County in late 2015. Large-scale medical marijuana cultivation creates a nuisance and threatens the safety and property of nearby land owners and their families.
- M. The cultivation of medical marijuana at locations or premises within the vicinity of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore, be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with the cultivation or distribution of medical marijuana in the proximity of such locations poses heightened risks that juveniles will be involved or endangered.
- N. Amador County has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which large-scale medical marijuana cultivation operations may exist, and, in providing access to medical marijuana for ill residents.

- O. The limited right of qualified patients and their primary caregivers under state law to cultivate marijuana for medical purposes does not confer upon them the right to create or maintain a public nuisance.
- P. Nothing in this chapter shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. 841, or to license any activity that is prohibited under the Act except as mandated by state law.
- Q. Nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of marijuana for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is illegal under state or federal law.

19.86.020 Purpose and intent.

It is the purpose and intent of this chapter to prohibit the large-scale cultivation, manufacture, and distribution of medical marijuana in order to preserve the public peace, health, safety, and general welfare of the citizens of Amador County.

19.86.030 Relationship to other laws.

This chapter is not intended to, nor shall it be construed or given effect in a manner that causes it to apply to, any activity that is regulated by federal or state law to the extent that application of this chapter would conflict with such law or would unduly interfere with the achievement of federal or state regulatory purposes. It is the intention of the board that this chapter shall be interpreted to be compatible and consistent with federal, county, and state enactments and in furtherance of the public purposes which those enactments express. It is the intention that the provisions of this chapter will supersede any other provisions of this code found to be in conflict.

19.86.040 Definitions.

For purposes of this chapter, these words and phrases shall be defined as follows:

- A. "County" or "county" means the County of Amador or the unincorporated area of the County of Amador as required by the context.
- B. "Cultivate" or "cultivation" is the planting, growing, harvesting, drying, curing, grading, trimming, processing, or storage of one or more marijuana plants or any part thereof in any location.

- C. “Church” means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- D. “Distribute” or “distribution” shall have the same definition as in Section 19300.5(p) of California Business and Professions Code as it now reads or as amended.
- E. “Enforcing Officer” means any person employed by the County of Amador and appointed to the position of code enforcement officer, or, the Sheriff or his authorized deputies or designees.
- F. “Manufacture” means the production, preparation, propagation, or compounding of marijuana by direct or indirect methods or by extraction methods, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.
- G. “Marijuana” shall have the same definition as in California Health and Safety Code Section 11018 as it now reads or as amended, and shall also mean cannabis as defined in Section 19300.5(f) of California Business and Professions Code as it now reads or as amended and medical cannabis product as defined in Section 19300.5(ag) of California Business and Professions Code as it now reads or as amended.
- H. “Medical marijuana” means marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.7 et seq.
- I. “Primary caregiver” shall have the same definition as in California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.
- J. “Qualified patient” shall have the same definition as in California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.
- K. “Residential treatment facility” means a facility providing treatment of drug and alcohol dependency.
- L. “School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a preschool, kindergarten, elementary school, middle or junior high school, senior high school,

or any special institution of education, but does not include a vocational or professional institution of higher education.

- M. “Youth-oriented facility” means elementary school, middle school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate, or assemble at the establishment are predominantly minors.

19.86.050 Marijuana cultivation and related activities prohibited.

- A. The cultivation, manufacture, and distribution of marijuana is prohibited in all unincorporated areas of the County, including, but not limited to, the following:
1. Indoor and outdoor cultivation of marijuana.
 2. Marijuana distribution as defined by Section 19300.5 (p) of California Business and Professions Code as it now reads or as amended.
 3. Marijuana manufacturing as defined by Section 19300.5(y) of California Business and Professions Code as it now reads or as amended.
 4. Marijuana nurseries as defined by Section 19300.5(ah) of California Business and Professions Code as it now reads or as amended.
 5. Marijuana testing laboratories as defined by Section 19300.5(z) of California Business and Professions Code as it now reads or as amended.
- B. This section shall not apply to cultivation of medical marijuana by a qualified patient cultivating medical marijuana only for his or her own personal medical use and who does not sell, distribute, donate, or provide marijuana to any other person or entity, or by a primary caregiver cultivating medical marijuana only for the personal medical use of specified qualified patients for whom he or she is the primary caregiver within the meaning of Health and Safety Code Section 11362.7 provided that cultivation of medical marijuana is in compliance with all the following conditions:
1. Cultivation is limited to an area measuring a maximum of 100 square feet on any parcel, and in no event shall the total number of mature or immature plants on any parcel exceed twelve (12) regardless of the

number of qualified patients or caregivers. The area used to cultivate medical marijuana shall be measured from the outer edge of the marijuana plant canopy and includes the aggregate area, including the space between plants, whether indoor or outdoor.

2. Cultivation is not within six hundred (600) feet of a youth-oriented facility, a school, a park, or any church or residential treatment facility as defined herein.
3. Cultivation is not visible from the public right-of-way or publicly traveled roads.
4. Cultivation is a minimum of one hundred (100) feet from any occupied legal residential structure located on a separate parcel and a minimum of fifty feet from a parcel under separate ownership. If either of these minimum distances cannot be met, the area under cultivation shall be screened to the extent feasible to ensure the plants are not readily visible to parcels under separate ownership.
5. If the individual cultivating medical marijuana is not the landowner, written permission from the landowner must be obtained prior to planting and shall be provided to the County upon request of any Enforcing Officer.
6. All lights used for the cultivation of medical marijuana shall be shielded or downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.
7. The cultivation of medical marijuana shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors.
8. Cultivation may occur only on a parcel with a permitted dwelling unit that is permanently occupied by the qualified patient or the primary caregiver.
9. All persons engaging in the cultivation of medical marijuana shall:
 - i. Have a legal water source on the parcel,
 - ii. Not engage in unlawful or unpermitted surface drawing of water for such cultivation, and
 - iii. Not allow illicit discharges of water or chemicals from the property.

19.86.060 Prohibited marijuana cultivation and other activities declared a public nuisance.

The establishment, maintenance, or operation of any prohibited cultivation, manufacture, or distribution of marijuana, as defined in this chapter, within the unincorporated county is declared to be a public nuisance and subject to abatement as provided in this Chapter.

19.86.070 Enforcement.

- A. Whenever any Enforcing Officer determines that a public nuisance as described in this Chapter exists within the unincorporated county, he or she is authorized to issue an initial warning as provided in Chapter 2.06.

- B. Notwithstanding any other provision of this Chapter, when any unlawful marijuana cultivation, manufacture, or distribution constitutes an immediate threat to public health or safety, and when the procedure set forth above in Section 19.86.070(A) would not result in abatement of that nuisance within a timely period to avoid a threat to health or safety, the Enforcing Officer may carry out summary abatement of the nuisance. The Enforcing Officer shall make reasonable efforts to notify the owner of the property, but the formal notice and hearing procedures set forth in Chapter 2.06 shall not apply. The County may recover its costs for abating the nuisance in the manner described in Section 19.86.080.

19.86.080 Penalties for violation and liability for costs.

- A. Any person and/or entity that owns or leases the property upon which marijuana is cultivated, manufactured, or distributed in violation of this chapter or otherwise violates any of the provisions of this chapter can be subject to all of the civil and administrative remedies as provided in Chapter 2.06 of this code, or any other remedy provided by law.

- B. In any enforcement action brought to enforce the provisions of this Chapter, each person who causes, permits, suffers, or maintains the unlawful cultivation of marijuana to exist shall be liable for all actual costs incurred by the County, including, but not limited to, all administrative costs, including staff time and attorneys' fees, and abatement costs in the event the County brings and prevails in any administrative proceeding, civil suit, or other action to enforce the provisions of this Chapter.

19.86.090 Severability.

If any part or subsection of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.