

AGENDA TRANSMITTAL FORM

To: **Board of Supervisors**
 Date: 01/20/2016
 From: Aaron Brusatori
(Department Head - please type)

Phone Ext. 248

<input checked="" type="radio"/> Regular Agenda
<input type="radio"/> Consent Agenda
<input type="radio"/> Blue Slip
<input type="radio"/> Closed Session
Meeting Date Requested: <u>01/26/2016</u>

Department Head Signature *Aaron Brusatori*

Agenda Title: Shenandoah Rd / Fiddletown Rd Improvement Project - Initial Study / Mitigated Negative Declaration

Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)
 Please see the attached memorandum.

Recommendation: 1) Find the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the subject improvement project adequate and complete under the provisions of CEQA and adopt the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project pursuant to CEQA Guidelines Section 15074; 2) Approve the project and direct staff to complete the plans and specifications for the project and to acquire the necessary right-of-way.

Recommendation/Requested Action:
See above.

Fiscal Impacts (attach budget transfer form if appropriate) <u>Budgeted</u>	Staffing Impacts _____
Is a 4/5ths vote required? Yes <input type="radio"/> No <input checked="" type="radio"/>	Contract Attached: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A Resolution Attached: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A Ordinance Attached: <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A Comments: <u>See attached IS/MND</u>
Committee Review? <u>N/A</u> <input checked="" type="checkbox"/> Name _____ Committee Recommendation: _____	

Request Reviewed by:

Chairman _____ Counsel _____
 Auditor _____ GSA Director _____
 CAO _____ Risk Management *JMD*

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)
Public Works, County Counsel

FOR CLERK USE ONLY

Meeting Date 1/26/16 Time _____ Item # 6

Board Action: Approved Yes ___ No ___ Unanimous Vote: Yes ___ No ___

Ayes: _____ Resolution _____ Ordinance _____ Other: _____
 Noes _____ Resolution _____ Ordinance _____
 Absent: _____ Comments: _____

Distributed on _____	A new ATF is required from _____ Department _____ For meeting _____ of _____	I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors. ATTEST: _____ Clerk or Deputy Board Clerk
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AMADOR COUNTY COMMUNITY DEVELOPMENT AGENCY
TRANSPORTATION & PUBLIC WORKS

PHONE: (209) 223-6429

FAX: (209) 223-6395

WEBSITE: www.amadorgov.org

EMAIL: PublicWorks@amadorgov.org

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

MEMORANDUM

TO: Board of Supervisors

FROM: Department of Transportation and Public Works

DATE: January 20, 2016

SUBJECT: Shenandoah Road / Fiddletown Road Intersection Improvement Project, Environmental Document: Initial Study / Mitigated Negative Declaration

CONTACT: Jered Reinking, Senior Civil Engineer (223-6226)

Overview

This project will realign/reconfigure Shenandoah Road and Fiddletown Road intersection into a "T" intersection. This intersection of Shenandoah Road and Fiddletown Road has long been identified as a geometrically deficient roadway. Over the years, major improvements have been planned, but not implemented. Minor improvements have been made in the recent past, but have been relatively ineffective as long term solutions. The City of Plymouth and the County of Amador are now moving forward with a proposed "T" intersection design which will correct these severe deficiencies by:

- Improving the horizontal alignment geometry for Shenandoah Road and Fiddletown Road to greatly improve sight distance for all intersection approaches;
- Improving the vertical alignment geometry of Shenandoah Road required for a standard "T" intersection with Fiddletown Road;
- Extending and correcting the vertical alignment (i.e., "flatten" the grade) of the Fiddletown Road approach to Shenandoah Road, thereby improving visibility approaching the intersection and correcting the steep grade at the intersection approach.

Recommendations

1. Find the Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the subject improvement project adequate and complete under the provisions of CEQA, and adopt the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program prepared for the project pursuant to CEQA Guidelines Section 15074.
2. Approve the project and direct staff to complete the plans and specifications for the project and to acquire the necessary right-of-way.

Fiscal Impact

The proposed project is currently funded with federal grant funds from the Highway Safety Improvement Program (HSIP) and Local Traffic Mitigation Fee Program funds at a 90% reimbursement ratio from the HSIP grant up to \$1,500,000. Design, Right-of-way, and Construction phases will be either fully or partially funded though HSIP depending on the final estimated and actual project costs. The proposed project is currently underfunded for construction by approximately \$500,000. This Spring 2016, Staff will be requesting Caltrans to increase the HSIP funding to cover this shortfall.

BACKGROUND

Public meetings were conducted to discuss various intersection design options and selection criteria in effort to develop a new intersection configuration. The meetings were conducted at: the Amador County Board of Supervisors Meeting(s) on May 14, 2013, June 4, 2013, and June 25, 2013; and the City of Plymouth Council Meeting on July 11, 2013.

In the Fall of 2013, the City of Plymouth (City) was awarded a federal grant from the Highway Safety Improvement Program (HSIP) to implement the selected project ("T" Intersection). In the Spring of 2014, the City of Plymouth and the County of Amador (County) entered into a cooperative agreement to complete the project. The cooperative agreement memorialized the County responsibility as Implementing Agency and Lead Agency, respectively, for:

- Plans, Specifications, & Estimates (PS&E)
- Right of Way Appraisal and Acquisition (R/W)
- Construction (CON)
- California Environmental Quality Act (CEQA)

Over the last year and a half, Staff has acquired necessary consultant support services to perform field surveys, preliminary right-of-way work, geotechnical, and environmental studies and documentation. County Staff has been providing overall project management and developing/evaluating the project design "in-house."

DISCUSSION

As described in Section II(8) Project Description, beginning on page 4, of the Draft IS/MND, the purpose of the project is "to improve intersection safety and roadway geometrics by improving intersection visibility, maximizing sight distance through the project area, improving horizontal and vertical alignments, enhancing signage and pavement delineation, and installing traffic control improvements at the intersection." This paragraph also described that "during the 5-year period between January 2007 and December 2011, there were 14 collisions at the Shenandoah Road/Fiddletown Road intersection, including one that resulted in a fatality. Collisions at the intersection are primarily related to poor roadway geometry, resulting in driver confusion."

As a result of the analysis of the accident history, an improvement project was selected to correct deficiencies to the roadway geometry for Shenandoah Road and Fiddletown Road. Staff determined collisions at this intersection are primarily related to non-standard roadway geometrics (deficiencies). The proposed "T" intersection design corrects these severe deficiencies by:

- Improving the horizontal alignment geometry for Shenandoah Road and Fiddletown Road to greatly improve sight distance at for all intersection approaches;
- Improving the vertical alignment geometry of Shenandoah Road required for standard a "T" intersection with Fiddletown Road;
- Extending and correcting the vertical alignment (i.e., "flatten" the grade) of the Fiddletown Road approach to Shenandoah Road, thereby improving visibility approaching the intersection and correcting the steep grade at the intersection approach.

The County has completed circulation of the Draft Initial Study/Mitigated Negative Declaration (IS/MND) prepared for the project, and accepted public comment on the environmental analysis and determination

from December 11, 2015 through January 11, 2016 as required by CEQA Guidelines Section 15073. Staff has evaluated the public comments received during this period and is providing responses in the Final IS/MND. Staff has also prepared a Mitigation Monitoring and Reporting Program, pursuant to CEQA Guidelines Section 15074(d) to monitor and report on the measures identified to mitigation or avoid significant environmental effects. Staff has prepared recommendations for Board of Supervisors consideration relative to this agenda item.

MEASURES/EVALUATION

Measures or an evaluation are not applicable to this agenda item.

LEGAL ANALYSIS

Legal Analysis is not applicable to this agenda item.

FINANCIAL ANALYSIS

The proposed project is currently funded with federal grant funds from the Highway Safety Improvement Program (HSIP) and Local Traffic Mitigation Fee Program funds at a 90% reimbursement ratio from the HSIP grant up to \$1,500,000. Design, Right-of-way, and Construction phases will be either fully or partially funded through HSIP depending on the final estimated and actual project costs.

The estimated construction cost of the subject project is \$1,800,000. Design, engineering, and right-of-way acquisition costs are estimated at \$247,300. The preliminary estimated construction cost was \$1,252,700. The proposed project is currently underfunded for construction by approximately \$500,000. This Spring 2016, Staff will be requesting Caltrans to increase the HSIP funding to cover this shortfall.

Attachments:

Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program

cc: Aaron Brusatori, Director
Melissa Logue, GPA Consulting

AGENDA TRANSMITTAL FORM

To: Board of Supervisors

Date: 01/20/2016

From: Brian Oneto, Supervisor, District V
(Department Head - please type)

Phone Ext. x470

<input checked="" type="radio"/>	Regular Agenda
<input type="radio"/>	Consent Agenda
<input type="radio"/>	Blue Slip
<input type="radio"/>	Closed Session
Meeting Date Requested:	
<u>01/26/2016</u>	

Department Head Signature _____

Agenda Title: <u>State of Jefferson</u>	
Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)	
Discussion and possible action relative to the following:	
<ol style="list-style-type: none"> 1. Potential fiscal impacts regarding the State of Jefferson concept. 2. State of Jefferson Advisory Ballot Measure 	
Recommendation/Requested Action:	
Fiscal Impacts (attach budget transfer form if appropriate)	Staffing Impacts
Is a 4/5ths vote required? Yes <input type="radio"/> No <input type="radio"/>	Contract Attached: <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
Committee Review? Name _____ N/A <input type="checkbox"/>	Resolution Attached: <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
Committee Recommendation:	Ordinance Attached: <input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A
	Comments: _____

Request Reviewed by:	
Chairman _____	Counsel <u>GB</u>
Auditor <u>YOR</u>	GSA Director <u>Hop</u>
CAO _____	Risk Management <u>YOR</u>

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)
Auditor;

FOR CLERK USE ONLY		
Meeting Date <u>1-26-16</u>	Time _____	Item # <u>7</u>
Board Action: Approved Yes ___ No ___	Unanimous Vote Yes ___ No ___	
Ayes _____	Resolution _____	Ordinance _____
Noes _____	Resolution _____	Ordinance _____
Absent _____	Comments: _____	

Distributed on _____	A new ATF is required from _____ Department	I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors.
Completed by _____	For meeting of _____	ATTEST: _____ Clerk or Deputy Board Clerk




**AMADOR COUNTY
ADMINISTRATIVE AGENCY**

County Administration Center
810 Court Street ▪ Jackson, CA 95642-9534
Telephone: (209) 223-6470
Facsimile: (209) 257-0619
Website: www.co.amador.ca.us

January 20, 2016

MEMORANDUM

TO: Amador County Board of Supervisors

FROM: Chuck Iley, County Administrative Officer 

RE: Fiscal Impacts to Amador County of Creation of State of Jefferson

When the Board of Supervisors last considered endorsing the movement to create the State of Jefferson, the Board asked staff to put together an analysis of the impacts associated with the proposed separation from the State of California.

In order to keep things simple and focused on the local level, we have concentrated the analysis on losses that would occur if Amador County were to separate from the State of California and losses associated with the loss of State revenue. We have assumed that the Federal revenues that we currently receive would continue to be realized at the same levels, but it is possible that those could change significantly. It is also possible that the State of Jefferson could choose to fund some of the things that the State of California currently funds, but there has been no commitment to that, and this analysis assumes that there will be no revenue coming from the State of Jefferson.

The assumption included here is that locally approved tax measures, such as Measure M will continue in the SOJ. State enacted taxes, such as Prop 172, would no longer be in effect and thus the revenue would be lost. The analysis is also confined to the effects on the County budget – impacts to the schools were not considered. Staff did not go into extensive hypothetical analysis such as considering whether a Prop 13-type cap on home values would be put in place or not and how the unfunded liability associated with the PERS obligations would be handled. What gas taxes will be applied and distributed is also of considerable concern. The answer to these types of questions will have a significant effect on the economic outlook of Amador County if it were part of the new State of Jefferson.

The result of our analysis based on these assumptions is attached. The revenue that is received by Amador County for each department that receives funding from the state is shown along with the total funding from all sources for that department.

If you should have any questions, please let me know.

Amador County - State Revenue by Fund & Department

Department Name	Revenue From State by Fund	Revenue from State- Department Distribution	Total Department Budget	State Funding %
General Fund	\$9,011,775.00			
Dept.				
General Revenue		\$2,047,942.00	\$0.00	
1200-Auditor/Controller		\$3,500.00	\$198,670.00	1.76%
1900-Operating Transfers		\$2,000,000.00	\$3,422,029.00	58.44%
1990-Grants		\$20,000.00	\$22,717.00	88.04%
2120-District Attorney		\$999,000.00	\$3,618,963.00	27.60%
2180-Public Defender		\$95,266.00	\$875,466.00	10.88%
2190-Victim Witness		\$116,333.00	\$143,392.00	81.13%
2210-Sheriff		\$929,281.00	\$7,237,494.00	12.84%
2211-Sheriff Court Baliff		\$550,000.00	\$590,568.00	93.13%
2213-ACCNET		\$143,540.00	\$365,728.00	39.25%
2310-Jail		\$325,108.00	\$3,893,469.00	8.35%
2350-Probation		\$644,275.00	\$2,247,028.00	28.67%
2440-Fire Protection		\$502,156.00	\$502,156.00	100.00%
2610-Ag Dept.		\$200,000.00	\$606,737.00	32.96%
2710-Recorder		\$34,106.00	\$674,671.00	5.06%
2720-Coroner		\$30,968.00	\$348,652.00	8.88%
2730-Public Conservator		\$22,933.00	\$349,714.00	6.56%
2740-Code Enforcement		\$7,977.00	\$198,980.00	4.01%
2750-Emergency Services		\$184,698.00	\$283,983.00	65.04%
2790-Animal Control		\$57,192.00	\$823,920.00	6.94%
5500-Veterans Services		\$67,500.00	\$134,215.00	50.29%
6200-Library		\$30,000.00	\$696,829.00	4.31%
		\$9,011,775.00	\$27,235,381.00	33.09%
Social Services Fund	\$6,594,849.00			
5106-Social Services Administration		\$3,521,349.00	\$5,834,510.00	60.35%
5201-Social Services Assistance Grants		\$3,073,500.00	\$4,653,500.00	66.05%
		\$6,594,849.00	\$10,488,010.00	62.88%
Behavioral Health Fund	\$5,596,364.00			
4112-Mental Health		\$5,462,101.00	\$5,904,309.00	92.51%
4113-Drug/Alcohol		\$134,263.00	\$569,345.00	23.58%
		\$5,596,364.00	\$6,473,654.00	86.45%
Health Fund	\$2,088,861.00			
2311-Jail Health		\$604,573.00	\$604,573.00	100.00%
4000-Public Health		\$934,114.00	\$1,687,661.00	55.35%
4001-CMSP Health		-\$524.00	-\$524.00	100.00%
4005-Other Health(Area 12 Agency on Aging)		\$71,844.00	\$71,844.00	100.00%
4030-Environmental Health		\$459,716.00	\$866,827.00	53.03%
4031-Local Enforcement Agency		\$19,138.00	\$19,248.00	99.43%
		\$2,088,861.00	\$3,249,629.00	64.28%
Road Fund	\$1,620,405.00			
3000-Public Works		\$1,620,405.00	\$7,006,309.00	23.13%
Local Revenue Fund	\$1,151,477.00			
2390-Local Community Corrections		\$984,099.00	\$982,783.00	100.13%
Unspent (fund balance)		\$167,378.00	\$0.00	
		\$1,151,477.00	\$982,783.00	
Total	\$26,063,731.00			

AGENDA TRANSMITTAL FORM

To: Board of Supervisors

Date: 01/14/2016

From: Aaron Brusatori Phone Ext. 248
(Department Head - please type)

<input checked="" type="radio"/> Regular Agenda <input type="radio"/> Consent Agenda <input type="radio"/> Blue Slip <input type="radio"/> Closed Session Meeting Date Requested: <u>01/26/2016</u>
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Department Head Signature *Aaron Brusatori*

Agenda Title: SR88 Corridor Project - Resolution XX-16 - Electing to Hear Resolution of Necessity

Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)
 Amador County or Caltrans can perform the right of way acquisitions for the SR88 Corridor Improvement Project. Our cooperative agreement with Caltrans requires that we specify the responsible entity. In order for Amador County to perform the acquisitions for the project, Resolution XX-16 - Resolution of the Amador County Board of Supervisors Electing to Hear Resolution of Necessity for the State Route 88 Pine Grove Corridor Improvement Project must be adopted. This resolution requires a 4/5 vote of the Board. The Resolutions of Necessity are required should acquisition of a parcel require an eminent domain action. Right of Way consultant Bender Rosenthal, will be in attendance to present their recommendations and answer questions of the board.

Recommendation/Requested Action:
Amador County adopt Resolution XX-16 Electing to Hear Resolutions of Necessity for the SR88 Corridor Project.

Fiscal Impacts (attach budget transfer form if appropriate) _____ Staffing Impacts _____

Is a 4/5ths vote required? Yes No

Contract Attached: Yes No N/A
 Resolution Attached: Yes No N/A
 Ordinance Attached: Yes No N/A

Committee Review? N/A

Name Public Works Committee

Committee Recommendation:
Bring to full Board for decision

Comments: _____

Request Reviewed by:

Chairman _____ Counsel *GG*
 Auditor *JOR* GSA Director *Hog*
 CAO _____ Risk Management *Jrd*

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)

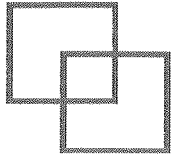
FOR CLERK USE ONLY

Meeting Date 1-21-16 Time _____ Item # 8

Board Action: Approved Yes ___ No ___ Unanimous Vote: Yes ___ No ___
 Ayes: _____ Resolution _____ Ordinance _____ Other: _____
 Noes: _____ Resolution _____ Ordinance _____
 Absent: _____ Comments: _____

Distributed on _____
 Completed by _____
 A new ATF is required from _____
 Department _____
 For meeting _____
 of _____

I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors.
 ATTEST: _____
 Clerk or Deputy Board Clerk



**BENDER
ROSENTHAL, INC.**

COMMERCIAL VALUATION AND RIGHT OF WAY SERVICES

4400 Auburn Boulevard, Suite 102
Sacramento, CA 95841
main: 916.978.4900 • *fax:* 916.978.4904
www.benderrosenthal.com

MEMORANDUM

DATE: January 13, 2016

TO: Mr. Aaron Brusatori, P.E.
Community Development Director

FROM: Brenda Schimpf, PMP, RE Broker
Director, Right of Way Services
Bender Rosenthal, Inc.

SUBJECT: Approval of Amador County Eminent Domain Process

Recommendation

It is recommended that the Board of Supervisors adopt a Resolution agreeing to hear resolutions of necessity should an eminent domain action be required for the SR 88 Pine Grove Corridor Improvement Project

Background

The planning and environmental phase of the SR 88 improvement project are almost complete. The final design and right of way phase are scheduled to begin in early 2016.

The project will be constructed in phases over a number of years. The first phase of the project will have right of way funding available in the 17/18 fiscal year with planned "Ready to List" in May 2019 (FY/18/19). The construction contract is scheduled to be approved in early 2020.

The preliminary design for the entire SR 88 improvement project includes right of way impacts from up to 60 parcels. These parcels are primarily temporary construction easements needed to construct sidewalks along SR 88 in the Pine Grove area. The remainder of the parcels are either fee or slope easements needed for intersection improvements and/or minor widening. The first phase of the project will impact roughly 35 parcels. Funding for the right of way phase comes from federal, state and local funding sources.

Because SR 88 is a State Highway and federal funds are involved in the project, Caltrans will oversee the right of way phase to ensure the County and its consultants meet all the Federal and State requirements. The County has decided it will be the responsible Agency for the appraisal, acquisition, and relocation, if necessary, of property owners impacted by the project.

The County still needs to decide if it will take responsibility for the eminent domain phase of the project, or whether they would prefer the California Transportation Commission (CTC) to be responsible for the eminent domain phase.

The eminent domain phase of the project includes the responsible agency passing a Resolution of Necessity, and then filing a court action against the property owner to obtain the property rights needed for the project. This is used as a last resort after all reasonable attempts to negotiate a settlement have been exhausted.

Definitions

***Eminent domain** is the inherent power of government to acquire private property for public use. The owners of such private property shall not be deprived of their property without just compensation as provided in the Fifth and Fourteenth Amendments to the United States Constitution and Articles of the California Constitution.*

***Condemnation** is the legal proceeding by which the power of eminent domain is exercised.*

Discussion

State statute allows the CTC or the County to hear and adopt resolutions of necessity for the acquisition of property needed for projects on the State Highway System. In turn, the responsible agency would be responsible for the eminent domain proceedings through the court system.

A cooperative agreement for right of way has been drafted between Caltrans and the County. Within the agreement, the roles and responsibilities of Caltrans and the County are agreed upon including how the right of way process will be managed. The decision to take Resolutions of Necessity to the Board of Supervisors or CTC is made for the project in its entirety. The County must pass a resolution, by four-fifths vote, agreeing to hear the Resolution of Necessity for the project if it wants to accept this responsibility.

If the County elects not to undertake this activity, the CTC, through Caltrans, will assume this task. The cost for providing Caltrans legal services is reimbursable to Caltrans and the requirement for this service must be included in the Cooperative Agreement or Right of Way Services Agreement. In addition, prior budgetary authority for reimbursable work must be obtained from Caltrans by the County.

Support for Recommendation

Schedule

The primary reason for the County to take on the responsibility of the eminent domain phase is schedule and budget control for the project. Currently, the Caltrans eminent domain attorneys are busy working on other priorities throughout the state, including the High Speed Rail project. The County and its consultants will have little influence over the Caltrans legal priorities and timelines. Based on the County's ROW consultant's experience, the legal timelines for an agency to acquire the property rights through eminent domain is between 5 to 6 months after the

resolution of necessity is adopted. When Caltrans Legal is responsible to acquire the property through eminent domain, it generally takes 12 to 16 months.

Communication and Continued Negotiations

During the condemnation process, the acquisition agents must continue to work closely with the Legal staff to reach a settlement with the property owners. This communication is easier when the attorneys work directly for the County as the attorneys are more accessible and more typically responsive. With close communication, most of the negotiations can be settled before a court trial.

Argument Against the Recommendation

Some County Supervisors may be reluctant to condemn property owners within their jurisdiction. A four fifths majority is required to pass any resolution of necessity for projects on the State Highway System (Cal. Sts. & High. Code Sect. 760). If this cannot be met, then it is reasonable to defer the condemnation process to the CTC and have Caltrans Legal process the court filings.

Financial Implications

Regardless of who is responsible for the resolution of necessities and court proceedings, the project will be financially responsible for the legal fees. The County will have better control of the budget if they hear the resolutions and manage the court cases. If Caltrans attorneys are responsible, the County will pay the legal fees and indirect costs but will not have any control of how much time the attorneys charge to the project.

Attachment: Resolution of the Amador County Board of Supervisors Electing to Hear Resolutions of Necessity for the Amador County SR 88 Pine Grove Corridor Improvement Project

RESOLUTION NO. XX-16

**RESOLUTION OF AMADOR COUNTY BOARD OF SUPERVISORS
ELECTING TO HEAR RESOLUTION OF NECESSITY FOR THE
STATE ROUTE 88 PINE GROVE CORRIDOR IMPROVEMENT PROJECT**

WHEREAS, California Streets and Highway Code Section 130 authorizes the State of California, the acquisition, construction, improvement or maintenance of any State Route; and

WHEREAS, the County of Amador is undertaking construction of corridor improvements to State Route 88 (“Project”) to alleviate existing traffic-related impacts, which will require that additional right of way be acquired to accommodate road widening, drainage improvements and possibly the relocation of utilities; and

WHEREAS, the draft Cooperative Agreement establishes the respective responsibilities of the County of Amador and Caltrans regarding appraisal, relocation services, and other right of way activities for the SR 88 Pine Grove Corridor Improvement Project; and,

WHEREAS, the draft Cooperative Agreement stipulates that Amador County is the Implementing Agency for the SR 88 Pine Grove Corridor Improvement Project; and,

WHEREAS, the draft Cooperative Agreement stipulates that the County of Amador will execute all contracts with landowners and perform all eminent domain activities, if necessary, regarding the acquisition of property needed for the SR 88 Pine Grove Corridor Improvement Project to provide sufficient right of way for the associated new road alignments, road widening, drainage improvements and relocation of utilities; and,

WHEREAS, in order to perform eminent domain activities, the Board of Supervisors must pass a resolution, by four-fifths vote, agreeing to hear Resolutions of Necessity for the SR 88 Pine Grove Corridor Improvement Project; and,

WHEREAS, to proceed with the Project and the acquisition process, and in light of the Project’s schedule, critical deadlines, and necessary acquisitions, it may be necessary to conduct Resolution of Necessity hearings,

NOW, THEREFORE, BE IT RESOLVED that the Amador County Board of Supervisors hereby agrees to conduct Resolution of Necessity hearings, subject to the Board’s discretion, to adopt or reject the proposed resolution of necessity, as contemplated by the draft Cooperative Agreement to obtain the real property determined to be necessary for the Project. The Board Clerk shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED by the Amador County Board of Supervisors, this ___ day of ____, 2016, upon a motion by Supervisor _____, seconded by Supervisor _____, by the following vote, to wit:

AYES: Supervisors:
NOES: Supervisors:
ABSTAIN: Supervisors:
ABSENT: Supervisors:

CHAIRMAN,

ATTEST:

BOARD CLERK,

AGENDA TRANSMITTAL FORM

To: Board of Supervisors

Date: 01/20/2016

From: Brian Oneto, Supervisor, District V
(Department Head - please type)

Phone Ext. x470

<input checked="" type="radio"/>	Regular Agenda
<input type="radio"/>	Consent Agenda
<input type="radio"/>	Blue Slip
<input type="radio"/>	Closed Session
Meeting Date Requested:	
<u>01/26/2016</u>	

Department Head Signature _____

Agenda Title: Fiddletown Cemetery Committee

Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)

Discussion and possible action relative to adoption of a Resolution establishing Fiddletown Cemetery Committee and criteria for membership.

Recommendation/Requested Action:

Fiscal Impacts (attach budget transfer form if appropriate)

Staffing Impacts

Is a 4/5ths vote required?

Yes

No

Committee Review?

Name _____

N/A

Committee Recommendation:

Contract Attached:

Yes

No

N/A

Resolution Attached:

Yes

No

N/A

Ordinance Attached:

Yes

No

N/A

Comments: _____

Request Reviewed by:

Chairman _____

Counsel GG

Auditor JOR

GSA Director HQ

CAO _____

Risk Management JMS

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)

FOR CLERK USE ONLY

Meeting Date 1-26-16

Time _____

Item # 9

Board Action: Approved Yes ___ No ___

Unanimous Vote: Yes ___ No ___

Ayes: _____

Resolution _____

Ordinance _____

Other: _____

Noes: _____

Resolution _____

Ordinance _____

Absent: _____

Comments: _____

Distributed on _____

A new ATF is required from _____

I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors.

Completed by _____

Department _____
For meeting _____

ATTEST: _____

Clerk or Deputy Board Clerk

Save

Print Form

**BEFORE THE BOARD OF SUPERVISORS OF THE
COUNTY OF AMADOR, STATE OF CALIFORNIA**

IN THE MATTER OF:

RESOLUTION ESTABLISHING FIDDLETOWN) RESOLUTION NO. 16-
CEMETERY COMMITTEE AND CRITERIA FOR)
MEMBERSHIP)
)

WHEREAS, Fiddletown Cemetery, more particularly described as Lot 28, Block 11 on the map recorded September 30, 1969, in Book 15, Maps and Plots, Page 53, is an historic, Gold Rush pioneer cemetery, which was originally set aside for the inhabitants of Fiddletown Townsite on November 25, 1870, and recorded February 27, 1873.

WHEREAS, Fiddletown Cemetery is under the jurisdiction and control of the County of Amador, Board of Supervisors pursuant to California Health and Safety Code sections 8131 and 8133.

WHEREAS, the Board of Supervisors seeks to maintain, improve and operate Fiddletown Cemetery, in addition to, promoting and preserving the County's historical and cultural heritage.

WHEREAS, the Board of Supervisors wishes to draw upon the expertise and advice of qualified individuals interested in promoting these goals within the County.

THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Amador, State of California, does hereby establish the Fiddletown Cemetery Committee to be comprised of five (5) public members-at-large from Supervisorial District V and appointed by the Board of Supervisors to serve a term of four (4) years. Prospective members shall submit an application to the Board of Supervisors and in the event there are more applicants than available seats, the District V Supervisor shall make a recommendation regarding the appointments; and

BE IT FURTHER RESOLVED that the Fiddletown Cemetery Committee's membership and authority shall be as follows:

1. Members shall serve without compensation or reimbursement for expenses incurred in the discharge of their duties.
2. The Committee shall act in an advisory capacity and make recommendations to the Board of Supervisors on all matters pertaining to the operation, maintenance, and improvement of the Fiddletown Cemetery.

3. The Committee shall have no power to contract on behalf of itself or the County.

4. The Committee shall elect from among its members a Chairperson, Vice Chairperson, Treasurer and Secretary during its initial meeting. All officers shall serve for a term of one (1) year or until their successors are elected at an annual meeting called for that purpose. If a vacancy in office should occur prior to the expiration of the one-year term, the office shall be filled by a vote of the Committee for the remainder of the term.

5. The Committee may also exercise any further powers in relation to the Fiddletown Cemetery which may be delegated to it by the Board of Supervisors.

6. The Committee shall hold quarterly meetings on dates established by mutual consent of the members. Minutes shall be prepared for all meetings for all Committee members and the Board of Supervisors.

7. Action by the Committee shall be by majority vote of the quorum. A quorum shall consist of three (3) members.

8. All Committee meetings shall comply with the Ralph M. Brown Act and be conducted according to Roberts Rules of Order.

The foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the ____th day of _____ 2016, by the following vote:

AYES: John Plasse, Richard M. Forster, Louis D. Boitano, Lynn Morgan, and Brian Oneto

NOES: None

ABSENT: None

John Plasse
Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

AGENDA TRANSMITTAL FORM

To: Board of Supervisors

Date: 01/20/2016

From: Jennifer Burns, Clerk of the Board
(Department Head - please type)

Phone Ext. x470

<input checked="" type="radio"/> Regular Agenda
<input type="radio"/> Consent Agenda
<input type="radio"/> Blue Slip
<input type="radio"/> Closed Session
Meeting Date Requested: <u>01/26/2016</u>

Department Head Signature _____

Agenda Title: Minutes

Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)

Review and possible approval of the January 12, 2016 Board of Supervisor Meeting Minutes.

Recommendation/Requested Action:

Fiscal Impacts (attach budget transfer form if appropriate)

Staffing Impacts

Is a 4/5ths vote required? Yes No

Contract Attached: Yes No N/A
 Resolution Attached: Yes No N/A
 Ordinance Attached: Yes No N/A

Committee Review? Name _____ N/A

Committee Recommendation: _____

Comments: _____

Request Reviewed by:

Chairman _____ Counsel _____
 Auditor JOR GSA Director [Signature]
 CAO _____ Risk Management [Signature]

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)

FOR CLERK USE ONLY

Meeting Date 1-26-16 Time _____ Item # 10

Board Action: Approved Yes ___ No ___ Unanimous Vote: Yes ___ No ___

Ayes: _____ Resolution _____ Ordinance _____ Other: _____

Noes _____ Resolution _____ Ordinance _____

Absent: _____ Comments: _____

Distributed on _____
 Completed by _____
 A new ATF is required from _____
 Department _____
 For meeting _____
 of _____

I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors.
 ATTEST: _____
 Clerk or Deputy Board Clerk

Save

Print Form

AGENDA TRANSMITTAL FORM

<input checked="" type="checkbox"/>	Regular Agenda
<input type="checkbox"/>	Consent Agenda
<input type="checkbox"/>	Blue Slip
<input type="checkbox"/>	Closed Session
Meeting Date Requested:	
1/26/16	

To: **Board of Supervisors**

Date: January 20, 2016

From: Susan C. Grijalva
(Department Head - please type)

Phone Ext. X 380

Department Head Signature *Susan C. Grijalva*

Agenda Title: Review and possible action related to proposed ordinance amending County Codes 19.84 regarding medical marijuana dispensaries and 19.86 regarding medical marijuana cultivation within the unincorporated County.

Summary: (Provide detailed summary of the purpose of this item; attach additional page if necessary)

Due to recent legislation that develops and adopts regulatory and licensing requirement for the cultivation and dispensing of medical marijuana staff proposed amendments to the County's existing regulations to include 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.

See attached Staff Report for additional information and draft ordinance.

Recommendation/Requested Action:

Adopt proposed ordinance as recommended or as revised per Board action.

Fiscal Impacts (attach budget transfer form if appropriate)

Staffing Impacts

Is a 4/5ths vote required? Yes No

Contract Attached:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Resolution Attached:	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Ordinance Attached:	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>

Committee Review? N/A

Name Planning Commission

Committee Recommendation:
Recommended adoption with revisions (see attached)

Comments: _____

Request Reviewed by:

Chairman _____

Counsel GG

Auditor JOR

GSA Director HOP

CAO _____

Risk Management SM

Distribution Instructions: (Inter-Departmental Only, the requesting Department is responsible for distribution outside County Departments)

Planning Dept., Code Enforcement, Sheriff

FOR CLERK USE ONLY

Meeting Date 1-26-16 Time _____ Item # 11

Board Action: Approved Yes ___ No ___ Unanimous Vote: Yes ___ No ___

Ayes: _____ Resolution _____ Ordinance _____ Other: _____

Noes _____ Resolution _____ Ordinance _____

Absent: _____ Comments: _____

Distributed on _____	A new ATF is required from _____ Department
Completed by _____	For meeting of _____

I hereby certify this is a true and correct copy of action(s) taken and entered into the official records of the Amador County Board of Supervisors.

ATTEST: _____
Clerk or Deputy Board Clerk

**STAFF REPORT TO AMADOR COUNTY BOARD OF SUPERVISORS
FOR MEETING OF TUESDAY, JANUARY 26, 2016**

**PUBLIC HEARING - REVIEW AND POSSIBLE ACTION RELATED TO PROPOSED
ORDINANCE 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; (NOTE: The Planning Commission recommended no change to

this provision of the County's current limit – see Planning Commission Recommendation, below.)

- 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.

PLANNING COMMISSION RECOMMENDATION: The Planning Commission, after taking public comment at their January 5, 2016 meeting (see attached minutes), recommended adoption of the proposed draft ordinance as presented with the following revisions to subsection 19.86.050 B. 1. thereby retaining the same number of plants allowed as that which is allowed in the current code:

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~~ 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.

Attached is a red line, strike out version of the existing codes with the originally proposed changes as well as a “clean copy” showing the codes as they would read if the proposed changes were made subject to the Planning Commission’s recommendation.

BOARD OF SUPERVISORS ACTION: After holding the public hearing the Board of Supervisors may:

1. adopt the proposed draft ordinance as was originally presented to the Planning Commission;
2. adopt the proposed draft ordinance as amended by the Planning Commission’s recommendation (i.e., retain the current plant number limits);
3. make additional amendments to the proposed draft ordinance: or
4. decline to adopt the ordinance and retain the County’s existing regulations.

RECOMMENDED FINDING: The adoption of this ordinance is regulatory in nature and is not subject to CEQA pursuant to sections 15060(c)(2) and 15061(b)(3) in that the ordinance establishes further regulations for uses allowed by state statute. A Categorical Exemption will be adopted and filed with the County Recorder.

**ORIGINALLY
PROPOSED
DRAFT
ORDINANCE
WITH TRACK
CHANGES**

ORDINANCE NO. ____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF AMADOR COUNTY
AMENDING CHAPTERS 19.84 AND 19.86 OF THE AMADOR COUNTY CODE
RELATING TO MEDICAL MARIJUANA DISPENSARIES AND MEDICAL
MARIJUANA CULTIVATION

-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.

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 mMarijuana 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.

SECTION 3: The Board finds that this ordinance is not a project under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15060(c)(3) and 15378, and are otherwise exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15308.

SECTION 4: This ordinance, or a summary thereof, shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 26th day of January 2016, by the following vote:

AYES:

NOES:

ABSENT:

Chairman, Board of Supervisors

ATTEST:
JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

**“CLEAN COPY” WITH
PLANNING
COMMISSION
RECOMMENDATIONS**

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF AMADOR COUNTY
AMENDING CHAPTERS 19.84 AND 19.86 OF THE AMADOR COUNTY CODE
RELATING TO MEDICAL MARIJUANA DISPENSARIES AND MEDICAL
MARIJUANA CULTIVATION

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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.

SECTION 2: 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~~ 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.
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.

SECTION 3: The Board finds that this ordinance is not a project under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines sections 15060(c)(3) and 15378, and are otherwise exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15308.

SECTION 4: This ordinance, or a summary thereof, shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 26th day of January 2016, by the following vote:

AYES:

NOES:

ABSENT:

Chairman, Board of Supervisors

ATTEST:
JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California

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.

Susan C. Grijalva, Planning Director, summarized the staff report which is hereby incorporated by reference into these minutes as though set forth in full. She added County Counsel has drafted one ordinance to include the proposed changes to both Chapter 19.84 and Chapter 19.86.

Greg Gillott, County Counsel, stated the State Legislature passed three companion bills to overhaul how medical marijuana can be grown, processed and distributed throughout the state. In the state legislation there is a deadline of March 1, 2016 for local jurisdictions to have regulations in place; it has since been discovered this deadline may be repealed when the legislature reconvenes. As drafted, the proposed ordinance continues to prohibit cultivation and distribution of medical marijuana and revises the exemption for cultivation for personal use to 100 square feet, up to 12 plants. The 100 square feet personal exemption is derived from the state law. He stated other proposed changes also include the requirement the cultivator must live on the property to prevent one person growing at multiple sites. In response to Commissioner Ryan, Mr. Gillott clarified cultivation includes indoor and outdoor grows with the same limit on square feet and number of plants and there are no proposed changes to the setbacks.

Chairman Lindstrom asked if staff had any idea how many people in the county are utilizing the exemption or how many complaints were received. Ms. Grijalva stated no permit is required so there is no record of how many people utilize the exemption and the number of complaints is not tracked.

Chairman Lindstrom opened the public hearing.

Amir Daliri, Amador County resident and patient utilizing the exemption, stated there is no longer a need for urgency to adopt an ordinance because Assemblyman Wood has presented an open letter to repeal the March 1 deadline. He appreciated the leadership Amador County has done in regulating the personal exemption. He stated there is no urgency to make a recommendation to the Board; the recommendation of the allowable plant area in the staff report is a substantial reduction to what is currently allowed. He stated Placer County has a great placeholder ordinance that can be used as an example. He urged the Commission to take their time and submitted the open letter from Assemblyman Wood, AB 243, AB21, and the County of Placer Medical Marijuana Placeholder Ordinance and Community Outreach Memo (see attached).

Mr. Gillott agreed AB21 has been introduced to remove the deadline and added that as of this meeting the March 1 deadline is still in effect. He recommended the Planning Commission move forward with a recommendation to the Board of Supervisors. Commissioner Ryan stated there is the possibility the deadline will be removed but felt the Planning Commission is only making a recommendation to the Board of Supervisors not a final decision.

Steve Goldsmith, Amador County resident, stated he produces a radio show in West Point and has the opportunity to speak with a lot of local residents. He is concerned about the Commission making a hasty decision because of the March 1 deadline; he believed the intent of the legislature is to allow the counties to make their own regulations without imposing a deadline. Mr. Goldsmith stated this is a plant and should be a business; this is an industry that can bring millions, if not billions, to California. He expressed concern that people have to drive to dispensaries in Sacramento.

August Gonzaga, Amador County resident, stated the currently allowed 12 plants with up to 24 plants with two recommendations per parcel works for him and for other people he knows. He encouraged the Commission to maintain the current rules and not rush into a decision.

Commissioner Ryan asked about the requirements. Mr. Gonzaga stated he understood the current rules to allow up to 24 plants per parcel with two recommendations.

Mr. Daliri stated the recommended change is a significant reduction from what is currently allowed; it will allow a 100 square foot area only which may allow for only one plant to be grown instead of the 12 plants per person and up to 24 plants per parcel. The canopy reduction is a big problem.

Mr. Goldsmith agreed the 24 plant limit is a good limit.

Mark Bastin asked if the proposed change is 100 square feet or 12 plants. Mr. Gillott stated it is 100 square feet, not

to exceed 12 plants. Mr. Bastin stated 100 square feet would only allow for one or two plants. He asked where that number came from. Mr. Gillott stated the Board of Supervisors wanted to maintain a local personal use exemption and proposed adopting the State standards for the personal use exemption which is the 100 square feet. Ms. Grijalva clarified the County's current code allows 12 plants per patient, up to 24 plants per parcel.

Mr. Bastin wanted the Commission to be aware the 100 square feet would limit the number of plants to be grown to one or two; it is a significant reduction to what is currently allowed.

MOTION: It was moved by Commissioner Byrne, seconded by Commissioner Wardall and unanimously carried to close the public hearing.

Commissioner Byrne stated he is confused about the idea of being able to grow the 12 plants; it seems like it is possible to grow 12 plants in a 100 square foot area but he could be wrong. Based on what is being said it is not possible.

Commissioner Ryan stated he did a "google search" and based on what he is reading is that each plant requires a 10 by 10 square foot area. He understood the needs of the county and the patients.

Mr. Gillott stated the 100 square feet is the state limit to be exempt from the proposed license.

Commissioner Callsen asked about the 500 square foot requirement as a caregiver. Mr. Gillott stated the caregiver is different than a patient; the state does define caregiver.

Commissioner Byrne asked what the Board is trying to regulate; will the County allow anything besides the personal use exemption. Mr. Gillott stated the proposed revisions will allow for personal use. Ms. Grijalva clarified if the County allowed 12 plants without the 100 square feet limit, the patient would need to obtain a license from the state for exceeding the 100 square feet exemption allowed by the state without a license.

Commissioner Ryan stated the regulation should be based on the number of plants and not on the space requirements; the County needs to balance both the needs of the patient and the needs of the neighboring property owners. He added if the state requires a license after a certain square footage, that should not mean the County has to have the same square foot limitation for the personal use cultivation; if the County allows 12 plants and that exceeds the area allowed by the state without a license, the grower would have to obtain the license from the state. Commissioner Byrne agreed and added that not knowing if the square footage limits came from indoor or outdoor propagation it is difficult to make informed decisions for outdoor cultivation.

Commissioner Callsen stated it didn't seem reasonable to limit the 12 plants to 100 square feet.

Commissioner Ryan suggested removing the 100 square feet spacing requirement but the other proposed revisions seemed reasonable.

Commissioner Wardall read from the email and attachment he received from Sheriff Ryan, attached. He voiced concerns about possible exploitation and would like to recommend language to protect neighboring property owners. Commissioner Byrne stated there is language to protect neighboring property owners.

MOTION: It was moved by Commissioner Ryan, seconded by Commissioner Byrne and carried to recommend the Board of Supervisors approve the proposed ordinance revisions and findings as contained in the staff report with the following changes to subsection 19.86.050 B. 1.

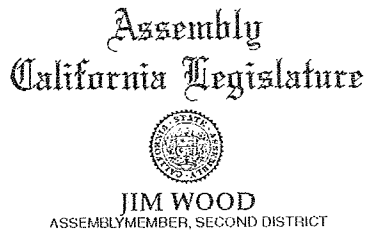
1. ~~Cultivation is limited to an area measuring a maximum of 100 square feet on any parcel, and in no event shall the total number of mature or immature plants on any parcel exceed twelve (12) regardless of the number of qualified patients or caregivers. The area used to cultivate medical marijuana 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~~ 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.

Ayes: Commissioner Ryan, Commissioner Byrne, Commissioner Callsen, Chairman Lindstrom

Noes: Commissioner Wardall

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The Marijuana Regulation and Safety Act's March 1st Deadline

An open letter to County and City Government Officials:

Like many of my colleagues, I began my public service career at the local level where decisions made in Sacramento often have a profound impact on the decisions we make in our communities. Over the past several weeks, I have learned that cities and counties are scrambling to put regulations regarding medical marijuana in place ahead of a March 1st deadline that was inadvertently included in AB243 of the Medical Marijuana Regulation and Safety Act (MMRSA). As a former local elected I understand this reaction. However, I am writing this letter to clarify some of the confusion that has resulted from the inclusion of the March 1st deadline in the MMRSA.

The MMRSA will bring a multi-billion dollar industry that has grown up largely in the shadows into the light. Ultimately, the goal is to provide Californians with the legal, consumer, and environmental protections we have come to expect from any other industry.

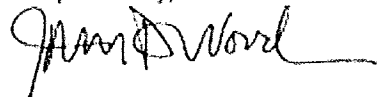
During the scramble at the end of the legislative session this year, an inadvertent drafting error placed a deadline on local jurisdictions, requiring them to adopt their own land use regulations for medical cannabis cultivation by March 1, 2016, or turn that responsibility over to the state. As soon as I was aware of the error I published a letter in the Assembly Journal, the official record of the Assembly, declaring my intention to pass urgency legislation as soon as the legislature reconvenes in January. The compromise agreement with the Governor's office did not include the March 1st deadline and this urgency legislation will ensure that the MMRSA's legislative intent is not altered. I have already amended one of my bills with language that will strike the deadline and maintain a local jurisdiction's ability to create their own regulations. As an urgency measure, the law will go into effect as soon as it is signed by the Governor.

My intent to remove the deadline has bi-partisan and stakeholder support. The Governor's office is prepared to partner with my office to ensure local control on this issue. I appreciate the Governor's acknowledgement of this drafting error and his office's willingness to work with me to quickly resolve the problem. Even if my urgency measure is not signed until after March 1st,

the Bureau of Medical Marijuana Regulation (BMMR), the entity responsible for developing the State's regulations, currently exists on paper only. It will be many months before the Bureau has the capacity to develop and enforce statewide regulations. Additionally we have received legal feedback confirming that once my urgency measure is in effect jurisdictions will retain the local control they need.

I am confident that my colleagues and I will eliminate the March 1st deadline before it becomes a realistic problem as opposed to a theoretical concern for local lawmakers.

Respectfully,

A handwritten signature in black ink that reads "Jim Wood". The signature is written in a cursive style with a long horizontal flourish at the end.

JIM WOOD
ASSEMBLYMEMBER, 2ND DISTRICT

Assembly Bill No. 243

CHAPTER 688

An act to add Article 6 (commencing with Section 19331), Article 13 (commencing with Section 19350), and Article 17 (commencing with Section 19360) to Chapter 3.5 of Division 8 of the Business and Professions Code, to add Section 12029 to the Fish and Game Code, to add Sections 11362.769 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana, and making an appropriation therefor.

[Approved by Governor October 9, 2015. Filed with
Secretary of State October 9, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 243, Wood. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by boards or bureaus within the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would require the Department of Food and Agriculture, the Department of Pesticide Regulation, the State Department of Public Health, the Department of Fish and Wildlife, and the State Water Resources Control Board to promulgate regulations or standards relating to medical marijuana and its cultivation, as specified. The bill would also require various state agencies to take specified actions to mitigate the impact that marijuana cultivation has on the environment. By requiring cities, counties, and their local law enforcement agencies to coordinate with state agencies to enforce laws addressing the environmental impacts of medical marijuana cultivation, and by including medical marijuana within the Sherman Act, the bill would impose a state-mandated local program.

This bill would require a state licensing authority to charge each licensee under the act a licensure and renewal fee, as applicable, and would further require the deposit of those collected fees into an account specific to that licensing authority in the Medical Marijuana Regulation and Safety Act Fund, which this bill would establish. This bill would impose certain fines

and civil penalties for specified violations of the Medical Marijuana Regulation and Safety Act, and would require moneys collected as a result of these fines and civil penalties to be deposited into the Medical Cannabis Fines and Penalties Account, which this bill would establish within the fund. Moneys in the fund and each account of the fund would be available upon appropriation of the Legislature.

This bill would authorize the Director of Finance to provide an initial operating loan from the General Fund to the Medical Marijuana Regulation and Safety Act Fund of up to \$10,000,000, and would appropriate \$10,000,000 from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the bureau.

This bill would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would become operative only if AB 266 and SB 643 of the 2015–16 Regular Session are enacted and take effect on or before January 1, 2016.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 6 (commencing with Section 19331) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 6. Licensed Cultivation Sites

19331. The Legislature finds and declares all of the following:

(a) The United States Environmental Protection Agency has not established appropriate pesticide tolerances for, or permitted the registration and lawful use of, pesticides on cannabis crops intended for human consumption pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(b) The use of pesticides is not adequately regulated due to the omissions in federal law, and cannabis cultivated in California for California patients can and often does contain pesticide residues.

(c) Lawful California medical cannabis growers and caregivers urge the Department of Pesticide Regulation to provide guidance, in absence of federal guidance, on whether the pesticides currently used at most cannabis

cultivation sites are actually safe for use on cannabis intended for human consumption.

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

(d) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).

(f) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor or outdoor cultivation of medical cannabis meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture include:

(1) Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(5) Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(8) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 4, or “nursery,” for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

19333. An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

SEC. 2. Article 13 (commencing with Section 19350) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 13. Funding

19350. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 19335, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Medical Marijuana Regulation and Safety Act Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

19351. (a) The Medical Marijuana Regulation and Safety Act Fund is hereby established within the State Treasury. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.

(b) (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Medical Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(2) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this chapter.

(3) The Director of Finance may provide an initial operating loan from the General Fund to the Medical Marijuana Regulation and Safety Act Fund that does not exceed ten million dollars (\$10,000,000).

(c) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Marijuana Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to subdivision (d).

(d) (1) The bureau shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.

(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.

(3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid.

19352. The sum of ten million dollars (\$10,000,000) is hereby appropriated from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the Bureau of Medical Marijuana Regulation. Funds appropriated pursuant to this section shall not include moneys received from fines or penalties.

SEC. 3. Article 17 (commencing with Section 19360) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 17. Penalties and Violations

19360. (a) A person engaging in cannabis activity without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the department, state or local authority, or court may order the destruction of medical cannabis associated with that violation. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the Marijuana Production and Environment Mitigation Fund established pursuant to Section 31013 of the Revenue and Taxation Code.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person or entity engaging in cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the Health and Safety Code.

SEC. 4. Section 12029 is added to the Fish and Game Code, to read:

12029. (a) The Legislature finds and declares all of the following:

(1) The environmental impacts associated with marijuana cultivation have increased, and unlawful water diversions for marijuana irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

(2) The remediation of existing marijuana cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for marijuana cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.

(b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with marijuana cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.

(c) The department, in coordination with the State Water Resources Control Board, shall establish a permanent multiagency task force to address the environmental impacts of marijuana cultivation. The multiagency task force, to the extent feasible and subject to available Resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on fish and wildlife and their habitats throughout the state.

(d) In order to facilitate the remediation and permitting of marijuana cultivation sites, the department shall adopt regulations to enhance the fees on any entity subject to Section 1602 for marijuana cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

SEC. 5. Section 11362.769 is added to the Health and Safety Code, to read:

11362.769. Indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical marijuana cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 6. Section 11362.777 is added to the Health and Safety Code, to read:

11362.777. (a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary, except as specified in subdivision (c), shall administer this section as it pertains to the cultivation of medical marijuana. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of the Business and Professions Code, medical cannabis is an agricultural product.

(b) (1) A person or entity shall not cultivate medical marijuana without first obtaining both of the following:

(A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(B) A state license issued by the department pursuant to this section.

(2) A person or entity shall not submit an application for a state license issued by the department pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(3) A person or entity shall not submit an application for a state license issued by the department pursuant to this section if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

(c) (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical marijuana pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability prior to issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical marijuana cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical marijuana prior to obtaining both a permit from the city, county, or city and county and a state medical marijuana cultivation license from the department.

(2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.

(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.

(d) (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.

(2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical marijuana. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.

(e) (1) The department, in consultation with, but not limited to, the Bureau of Medical Marijuana Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical marijuana. In implementing the program, the department shall consider issues, including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(B) Cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats.

(2) The department shall establish a program for the identification of permitted medical marijuana plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical marijuana plant.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 19335 of the Business and Professions Code.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical marijuana plant.

(D) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(f) (1) A city, county, or city and county that issues or denies licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(2) Unique identifiers and associated identifying information administered by a city or county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(g) This section does not apply to a qualified patient cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 100 square feet and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity. This section does not apply to a primary caregiver cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 500 square feet and he or she cultivates marijuana exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live marijuana plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.

SEC. 7. Section 13276 is added to the Water Code, to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

(1) Site development and maintenance, erosion control, and drainage features.

(2) Stream crossing installation and maintenance.

(3) Riparian and wetland protection and management.

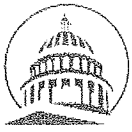
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 10. This measure shall become operative only if both Assembly Bill 266 and Senate Bill 643 of the 2015–16 Regular Session are enacted and become operative.



California
LEGISLATIVE INFORMATION

AB-21 Medical marijuana: cultivation licenses. (2015-2016)

SECTION 1. *Section 11362.777 of the Health and Safety Code is amended to read:*

11362.777. (a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the ~~secretary~~, *secretary and*, except as specified in subdivision (c), shall administer this section as it pertains to the cultivation of medical marijuana. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of the Business and Professions Code, medical cannabis is an agricultural product.

(b) (1) A person or entity shall not cultivate medical marijuana without first obtaining both of the following:

(A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(B) A state license issued by the department pursuant to this section.

(2) A person or entity shall not submit an application for a state license issued by the department pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(3) A person or entity shall not submit an application for a state license issued by the department pursuant to this section if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

(c) (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical marijuana pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability prior to issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical marijuana cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical marijuana prior to obtaining both a permit from the city, county, or city and county and a state medical marijuana cultivation license from the department.

(2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.

~~(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.~~

(d) (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.

(2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted

in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical marijuana. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.

(e) (1) The department, in consultation with, but not limited to, the Bureau of Medical Marijuana Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical marijuana. In implementing the program, the department shall consider issues, including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability.

(B) Cultivation will not negatively impact springs, riparian wetlands, and aquatic habitats.

(2) The department shall establish a program for the identification of permitted medical marijuana plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical marijuana plant.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 19335 of the Business and Professions Code.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each medical marijuana plant.

(D) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(f) (1) A city, county, or city and county that issues or denies licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(2) Unique identifiers and associated identifying information administered by a city or county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(g) This section does not apply to a qualified patient cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 100 square feet and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity. This section does not apply to a primary caregiver cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 500 square feet and he or she cultivates marijuana exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live marijuana plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.

SEC. 2. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

To allow local governments to protect the health of their citizens by regulating marijuana at the earliest possible date, it is necessary that this act take effect immediately.



MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE OFFICER
COUNTY OF PLACER

To: Honorable Board of Supervisors
From: David Boesch, County Executive Officer
By: Bekki Riggan, Deputy CEO
Date: January 5, 2016
Subject: Medical Marijuana Placeholder Ordinance and Community Outreach

ACTION REQUESTED

1. Introduction of an Ordinance, waive oral reading, adding Article 8.10 and sections 8.10.010 to 8.10.120 to the Placer County Code regarding Medical Marijuana Regulations and asserting Placer County's right to regulate medical marijuana.
2. Receive an update regarding development of a comprehensive regulatory framework for Medical Marijuana in Placer County.

BACKGROUND

On December 8, 2015, your Board received an update on the California Medical Marijuana Regulation and Safety Act (MMRSA) and the potential implications to County ordinances and local authority. MMRSA, comprised of three bills - SB 643, AB 266, and AB 243 - is the most comprehensive regulation enacted since the passage of Proposition 215, "The Compassionate Use Act of 1996", and addresses all aspects of commercial medical marijuana including cultivation, manufacturing, testing, dispensing, distribution, and transport. MMRSA becomes operative January 1, 2016, however many of the new state standards will not take effect until January 1, 2018. MMRSA legislation makes clear that local public entities retain their right to regulate or ban medical marijuana cultivation and other related activities, and currently identifies a March 1, 2016 deadline for asserting local authority over medical marijuana regulation, otherwise the State assumes control.

Staff was directed to develop an ordinance that asserts local control by the March 1, 2016 deadline and to commence working with the community and other stakeholders in developing a comprehensive regulatory structure mirroring the licensing structure established under MMRSA. The "placeholder" ordinance (Attachment 1) enables the County to administer a conditional use permit program for regulating the cultivation of medical marijuana. The ordinance provides that cultivation and related operations comply with state and local laws and regulations associated with land, water and pesticide use and other permitting requirements. This ordinance will become effective 30 days after the ordinance is passed at the second reading per Government Code 25123, and will meet the March 1, 2016 deadline.

Next Steps in Developing a Comprehensive Regulatory Framework

Over the next several months, staff will convene public meetings to solicit community and stakeholder input on effectively regulating medical marijuana. Staff recommends a community outreach process consisting of 3 regional town hall presentations including Municipal Advisory Councils. In addition, the County's website will include up-to-date information and the ability for input and feedback. From this input, staff will develop recommendations for a comprehensive

regulatory framework to work in conjunction with state licensing established under MMRSA, as outlined below:

1. Cultivation
 - a. Commercial and personal cultivation
 - b. Indoor, outdoor and mixed light cultivation
 - c. Setbacks and fencing requirements
 - d. Zoning, parcel size allowances and buffer zones from other entities, such as schools
2. Manufacturing
 - a. Products using non-volatile solvents (edibles, concentrates, salves, lotions)
 - b. Products using volatile solvents
3. Testing and Labeling
 - a. Establishing accurate product labeling and general product quality
 - b. Ensuring product is free from contaminants, pesticides and molds
4. Dispensing
 - a. Limiting number and/or density
 - b. Establishing set distances from schools and parks
5. Distribution
 - a. Coordination with testing facilities
 - b. Registration, record-keeping, licensing and taxing
6. Transport
 - a. Training, insurance requirements, licensing and taxing

The RAND Drug Policy Research Center recommends identifying broad goals when contemplating medical marijuana policy so that policy options can be evaluated in relation to achieving desired outcomes. Potential policy goals that could guide the development of an effective regulatory framework include:

1. Promoting public health and safety
2. Reducing the size of the illicit market for cultivation and retail sale
3. Preventing non-medical access and use by youth
4. Reducing environmental harm to water, habitat and wildlife
5. Providing clear criteria for responsible businesses and patients who wish to operate within the law
6. Developing a fair system of regulation and taxation that supports public purposes
7. Provide flexibility and authority for modification or adoption of additional measures into the regulatory process to ensure effective implementation

Regulation should help to ensure that the regulated market does not act as a cover for illegal activity. These concerns should be addressed through effective enforcement and oversight; including, inspections and demands for correction for licensed entities, civil enforcement tools such as assignment and collection of fines, suspensions and license revocations for entities that fail to meet standards, and ensuring appropriate criminal penalties for individuals who cultivate on public land, engage in large-scale trafficking, sell to youth or engage in other criminal activity.

Staff will work with departments who have a significant role in regulation to identify the resources necessary for regulation, enforcement and education associated with the new regulatory structure. Staff will also develop recommendations for a tax mechanism to defray these costs and to minimize the burden to taxpayers.

Environmental Clearance

The proposed action is not a project as defined by Public Resources Code Section 21065 and is therefore exempt from environmental review under CEQA.

Fiscal Impact

Staff anticipates that department(s) associated with the regulation and enforcement will require additional resources commensurate with the level of regulation developed. County Executive staff will work with impacted departments to identify costs and funding mechanisms as a part of future Board discussions.

Attachment 1 – Ordinance - Article 8.10 Medical Marijuana Regulations

Before the Board of Supervisors
County of Placer, State of California

In the matter of:

AN ORDINANCE AMENDING PLACER
COUNTY CODE CHAPTER 8, HEALTH AND
SANITATION, BY ADDING ARTICLE 8.10
MEDICAL MARIJUANA REGULATIONS

Ordinance No.: _____

First Reading: _____

The following ORDINANCE was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA
HEREBY FINDS AND DECLARES THE FOLLOWING:

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996"); and

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or

to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere”; and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 *et seq.*) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes; and

WHEREAS, Health and Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420; and

WHEREAS, the County’s geography and climate, which includes dense vegetated areas that are remote and sparsely populated, provide conditions that are favorable to outdoor marijuana cultivation. Additionally, the County’s remote rural areas and hillsides provide ideal locations to conceal illegal cultivation operations; and

WHEREAS, unregulated marijuana cultivation in the unincorporated areas of Placer County can adversely affect the health, safety and well-being of the County, its residents and environment. The regulating of the cultivation of marijuana is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, offensive odor, and fire hazards that may result from unregulated medicinal marijuana cultivation.

WHEREAS, Placer County and other public agencies have reported adverse impacts from cultivation, including, but not limited to, disagreeable odors; negative effects on the environment; unsanitary conditions; negative effects on physical, mental and community health; violation of building codes and other land development codes; increased risk of burglary and other property crimes; and acts of violence in connection with the commission of such crimes or occupants’ attempts to prevent such crimes.

WHEREAS, on October 9, 2015 Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA is a package of three separate bills (AB 243, AB 266 and SB 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; and

WHEREAS, AB 243, Section 6, adds Section 11362.777 to the Health and Safety Code which includes the provision in subsection (c)(4) that provides:

“(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county”; and

WHEREAS, it is the purpose and intent of this Article to assert and preserve the County's local regulatory authority over the cultivation of medicinal marijuana by choosing to administer a conditional permit program pursuant to Health and Safety Code § 11362.777 (c)(4) prior to March 1, 2016; and

WHEREAS, it is further the purpose and intent of this Article to implement State law by providing a means for regulating the cultivation of medicinal marijuana that is consistent with State Law and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the unincorporated area of Placer County. This Article is intended to prohibit the cultivation of marijuana by anyone for any purpose other than allowed within the strict compliance with local ordinances and applicable State law. This Article is not intended to prohibit persons from exercising any right otherwise granted by State law, including Proposition 215 and Senate Bill 420. Rather, the intent and purpose of this Article is to establish reasonable regulations upon the manner in which marijuana for medicinal purposes may be cultivated, including restrictions on the amount of marijuana that may be cultivated in any location or premises, in order to protect the public health, safety and environment in Placer County; and

WHEREAS, the rights or qualified patients, primary caregivers, and licensees under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Article, the County will achieve a significant reduction in the aforementioned harms caused or threatened by unregulated cultivation of marijuana in the unincorporated area of Placer County; and

WHEREAS, nothing in this Article shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal.

NOW THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:

Section 1. Chapter 8 Health and Sanitation of the Placer County Code is hereby amended to add Article 8.10, which shall read as follows:

**Article 8.10
MEDICAL MARIJUANA REGULATIONS**

SEC. 8.10.010 Retention of Local Authority.

By this ordinance, the County of Placer chooses to administer a conditional permit program pursuant to Health & Safety Code §§ 11362.777 (c)(4). All local authority established by the California Constitution, general laws, local charter and case law that is vested with the County of Placer to regulate all activity related to the cultivating, possessing, selling, distributing, dispensing, or offering to sell, distribute, or dispense Medical Cannabis or a Medical Cannabis Infused Product is hereby claimed by the County of Placer.

SEC. 8.10.020 Agricultural Commissioner.

The Agricultural Commissioner is authorized to administer the conditional permit program for the commercial cultivation of cannabis for medical use and all other commercial cannabis activity. The Agricultural Commissioner shall have the authority for the issuance, renewal, revocation or reinstatement of the local license or permit for the commercial cultivation of cannabis for medical use and all other commercial cannabis activity.

SEC. 8.10.030 General Provisions.

No person shall engage in the business or activity of cultivating, possessing, selling, distributing, dispensing, or offering to sell, distribute, or dispense Medical Cannabis or a Medical Cannabis Infused Product unless such person fully complies with the provisions of this Article, has received all permits required in this Article and Code, and operates solely at a location approved by the County, subject to all requirements and conditions of approval attendant to the issuance of such permits and approval of such location.

SEC. 8.10.040 Applicability.

Commercial cultivation of cannabis for medical use and all other commercial cannabis activity is permitted only in those zone districts identified in Chapter 17 of this Code. The Agricultural Commissioner's authority under this Article shall become effective on the date said zone districts are established by separate ordinance.

SEC. 8.10.050 Prior Cultivation.

The commercial cultivation of cannabis for medical use within the jurisdiction of the County of Placer shall be controlled by the provisions of this Article, regardless of whether the cultivation existed or occurred prior to the adoption of this Article.

SEC. 8.10.060 Other County and State Regulations.

Nothing in this Article is intended, nor shall it be construed, to exempt the commercial cultivation of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water use, water rights, pesticide permitting and use, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

SEC. 8.10.070 Development and Use Regulations.

Commercial cultivation of cannabis for medical use and all other commercial cannabis activity shall be subject to development and use regulations, which regulations will be established and incorporated in this section by separate ordinance. The Agricultural Commissioner's authority under this Article shall become effective on the date said regulations are effective.

SEC. 8.10.080 Private Property.

Nothing in this Article is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation of cannabis for medical use.

SEC. 8.10.090 Severability.

If any provision of this Article, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Article that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Article are severable.

SEC. 8.10.100 Definitions.

The definitions in this Section are intended to apply solely to the regulations in this Article. Applicable definitions in other parts of the Placer County Code may also apply to this Article. The following definitions shall apply to this Article:

- (a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.
- (b) "Applicant," means the following:
 - (1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used for the facility, or cultivation site.
 - (2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.
 - (3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- (c) "Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.
- (d) "Bureau" means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.
- (e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.
- (f) "Cannabis" 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; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose 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.
- (g) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the

product's potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(h) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

(i) "Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

(j) "Chief" means Chief of the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(k) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

(l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under the MMRSA, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) "Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to the MMRSA.

(q) "Distributor" means a person licensed under the MMRSA to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(t) "Fund" means the Medical Marijuana Regulation and Safety Act Fund established pursuant to Section 19351.

(u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by the MMRSA.

(v) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona

bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(w) "Licensing authority" means all of the following depending on the context: the state agency responsible for the issuance, renewal, or reinstatement of the state license, the state agency authorized to take disciplinary action against the license or licensee, the local County of Placer agency responsible for the issuance, renewal, or reinstatement of the local license or permit, or the local County of Placer agency authorized to take disciplinary action against the license or licensee.

(x) "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid permit, local license, or local permit issued by the County of Placer and a valid state license pursuant to the MMRSA.

(y) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or re-labels its container, that holds a valid state license pursuant to the MMRSA, and that holds a valid local license or permit from the County of Placer.

(z) "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.

(2) Registered with the State Department of Public Health.

(aa) "Transporter" means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

(ab) "Licensee" means a person issued a state license under the MMRSA to engage in commercial cannabis activity.

(ac) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ad) "Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

(ae) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(af) "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ag) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(ah) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis. "Nursery" does not mean "Plant Nurseries" or "Plant Production Nurseries" as such are defined in Chapter 17.

(ai) "Permit," "local license," or "local permit" means an official document granted by the County of Placer that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(aj) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ak) "State license," "license," or "registration" means a state license issued pursuant to the MMRSA.

(al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to the MMRSA.

(an) "MMRSA" means the Medical Marijuana Regulation Safety Act.

(ao) "Outdoor Cultivation" means the cultivation of medical marijuana which is performed outdoors, or in temporary or permanent structures without the use of artificial light.

(ap) "Mixed Light Cultivation" means the cultivation of medical marijuana in temporary or permanent structures while utilizing both natural sunlight and artificial light sources.

(aq) "Indoor Cultivation" means the cultivation of medical marijuana in permanent structures while utilizing only artificial light sources.

(ar) "Inspector" means an employee of the County of Placer working in their official capacity.

(as) "Medical Marijuana-Infused Product" means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, but not limited to edible products, ointments, and tinctures.

SEC. 8.10.110 Local License or Permit Classifications.

License classifications pursuant to this chapter are as follows:

- (a) Type 1 = Cultivation; Specialty outdoor; Small.
- (b) Type 1A = Cultivation; Specialty indoor; Small.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small.
- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.
- (g) Type 3 = Cultivation; Outdoor; Medium.

- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing.
- (n) Type 10 = Dispensary; General.
- (o) Type 10A = Dispensary; No more than three retail sites.
- (p) Type 11 = Distribution.
- (q) Type 12 = Transporter.

SEC. 8.10.120 Penalties and Enforcement.

All of the remedies provided for in this Article shall be cumulative and not exclusive of remedies available for violations under any other section of the County Code.

Any violation of this Article, including, but not limited to failure to obtain and maintain in good standing any required license, permit, clearance certificate specified in this Article, 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, civil, or criminal remedy available to the County.

Section 2. This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with government code section 25124.



Planning Department <planning@amadorgov.org>

Marijuana Ordinance

2 messages

Dave Wardall <[REDACTED]> Mon, Jan 4, 2016 at 8:29 PM
To: "Amador Co. Planning" <planning@amadorgov.org>
Cc: Ray Ryan <[REDACTED]>, Ray Lindstrom <[REDACTED]>, Caryl Callsen <[REDACTED]>, Andy Byrne <[REDACTED]>, Richard Forster <RForster@amadorgov.org>, John Plasse <JPlasse@amadorgov.org>, Louis Boitano <lboitano@amadorgov.org>, Brian Oneto <BOneto@amadorgov.org>, LMorgan@amadorgov.org

Commissioners and Supervisors:

I asked Sheriff Martin Ryan for his experience and analysis of the proposed marijuana ordinance.

Please take a look at his reply and the attachment.

Respectfully,

Dave Wardall

From: Martin Ryan [mailto:martinryan@amadorgov.org]
Sent: Monday, January 04, 2016 2:44 PM
To: Dave Wardall
Subject: Re: Marijuana Ordinance

Good afternoon Dave. The proposed draft ordinance deals specifically with Prop 215 medical marijuana and is intended to ensure our county regulations are in line with the new state law on the subject that came into effect on January 1, 2016. The Bills are Assembly Bills 243 and 266 and Senate Bill 643. All provided for new rules and regulations on those growing medical marijuana through licensing etc., the establishment of a state Bureau of Medical Marijuana Regulation, and new regulations on physicians that issue the recommendations to their patients.

The county Planning Commission proposal differs from the current one in a couple of significant ways. The first is that it bans all medical marijuana dispensaries including mobile ones that the current ordinance doesn't address. Secondly, it reduces the current number of recommendations allowed for qualified patients per parcel from 2 to 1. Currently, Prop 215 qualifiers can grow a maximum of 12 plants per recommendation or 24 total if two residents have recommendations. The new version would limit the plant count to 12 or what can be grown in a 100 square foot area.

As for an outright county ban on all medical marijuana growing and distribution, it has been done successfully in Fresno and I believe Kern Counties and those bans have held up in court.

Our Board of Supervisors will have the ultimate say in what is being proposed in Amador County although they previously voted to allow the limited medical marijuana cultivation as noted above.

As for my opinion on this matter, I am in agreement that the cultivation, distribution and use of marijuana is detrimental to public health and safety as is evidenced by the experiences found in Colorado which has allowed for both medical and recreational use of the drug. I have attached the draft of an editorial I have authored for the upcoming edition of the California State Sheriff's Association magazine. It details the negative impacts of marijuana on society as reported by the DEA in a published report on the matter.

I am hopeful that the new proposed county ordinance will reduce the instances of crime associated with medical marijuana grows due to the reduction of the number of plants allowed. This position is qualified by the need for effective regulation and enforcement against those who violate the conditions of the ordinance.

I hope this information is of use.

Martin



Colorado Marijuana Experience.docx

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Amador County Sheriff's Office

“Official Federal Report Identifies Public Health and Safety Concerns with Colorado’s Decriminalization of Marijuana”

The purpose of this article is to summarize some of the impacts that the legalization of marijuana for medical and recreational use has had in Colorado according to a report by Colorado’s federally-recognized “High Intensity Drug Trafficking Area” (HIDTA). The Rocky Mountain HIDTA report ‘The Legalization of Marijuana in Colorado: The Impact,’ (Volume 2, August 2014), which can be reviewed at www.rmhidta.org/reports,’ has identified a number of harmful effects of the Colorado legalization and decriminalization efforts that should greatly concern our citizens.

According to the Rocky Mountain HIDTA report, the claims that marijuana legalization for medical and recreational purposes would have a positive impact on the state and numerous communities have been debunked by the study and statistics scientifically developed and documented in the report.

Adverse consequences of the laws include an increase in marijuana use among youth and young adults, an increase in marijuana-impaired driving fatalities; a rise in the number of marijuana-addicted users in treatment; diversion of marijuana for unintended purposes; adverse impacts have been realized for the costs associated with physical and mental health damage caused by marijuana use, and, the economic cost to society is far outweighed by any potential revenue that may be generated. The HIDTA report highlights some of the more significant and most alarming impacts of Colorado’s marijuana legalization efforts.

In November of 2000, Colorado law first legalized limited amounts of medical marijuana for qualified patients and their caregivers. In November of 2010, Colorado changed their law to create a state regulated medical marijuana distribution system. This “state regulated” system has had significant negative impacts. Highway drug interdiction seizures of Colorado based marijuana destined for 40 other states increased by 397% from 2008 to 2013. United States mail parcel interceptions of Colorado based marijuana destined for 33 other states increased 1,280% from 2010 to 2013.

In November of 2012, Colorado voters passed Amendment 64, which legalized marijuana for recreational use. This law allows individuals 21 years or older to grow up to six plants, possess/use one ounce or less and furnish an ounce or less of marijuana to another person if not for remuneration. The law also allows marijuana retail stores, marijuana cultivation sites, marijuana edible factories, and marijuana testing sites.

Some of the negative impacts of these legalization efforts in Colorado include serious public health and safety ramifications related to the proliferation and use of marijuana. For example, between 2007 and 2012, traffic fatalities involving operators testing positive for marijuana increased 100%. The majority of DUI (driving under the influence) arrests involve marijuana and 25 to 40 percent involve marijuana alone.

During 2012, 10.47 percent of youths ages 12 to 17 were current marijuana users (4th in nation and 39% higher than national average). Drug-related school suspensions/expulsions increased 32% (2008/2009 to 2012/2013) and the vast majority of these suspensions were for marijuana violations.

During 2013, 48.4% of Denver adult arrestees tested positive for marijuana. Between 2011 and 2013, there was a 57% increase in marijuana-related emergency room visits. Hospitalizations related to marijuana increased 82% from 2008 to 2013. Marijuana exposure for children 0 to 5 years-old, on-average, have increased 268% from 2006-2009 to 2010-2013. During the last nine years, the top three drugs involved in treatment admissions have been alcohol, marijuana, and amphetamines.

In 2013, 12 marijuana THC extraction lab explosions were reported but during first half of 2014, this rate doubled. Extractions labs produce a highly-concentrated form of cannabis that contains THC concentration levels from about 60 to over 80 percent. In 2013, 18 injuries resulted from THC extraction labs; during 2014, 27 injuries occurred in the first half of the year.

In Colorado, marijuana THC (potency) levels have risen from an average of 3.96% in 1995 to an average of 12.33% in 2013. In California, these THC levels are considerably higher and can range from over 10 percent to over 30 percent.

According to the National Survey on Drug Use and Health, of the 7.3 million Americans in 2012 who met the criteria for needing treatment, 4.3 million were dependent on marijuana. According to their survey, 95% of those needing treatment do not seek it.

School surveys indicate that the “perceived risk” associated with marijuana use by students has declined from 80% in 1991 to only 39% in the past year, arguably due to the belief that if marijuana is legal it is not harmful. Early marijuana use by adolescents has been linked with emotional and psychological disorders, poor school and work performance, crime, and habitual use can result in a lower IQ, especially if marijuana is used habitually from the early teens.

According to Amador County Sheriff Martin Ryan, “The Colorado HIDTA report clearly illustrates the dangers associated with legalized recreational marijuana use and the citizens of Amador County should seriously scrutinize any claims that the legalization of recreational marijuana would somehow be a benefit to this state and our community given Colorado’s experience”.