

**BOARD OF SUPERVISORS, COUNTY OF SIERRA, STATE OF CALIFORNIA**

**RESOLUTION CALLING AN ELECTION FOR, AND  
AUTHORIZING THE SUBMISSION TO THE VOTERS OF, AN  
ORDINANCE AMENDING CHAPTER 8.01 OF THE SIERRA COUNTY CODE  
REGARDING RESTRICTIONS ON MARIJUANA CULTIVATION, AND  
CONSOLIDATING THE ELECTION WITH THE  
NOVEMBER 8, 2016, STATEWIDE GENERAL ELECTION**

**RESOLUTION NO. 2016-081**

WHEREAS, Sierra County Ordinance No. 1071 adopted by the Board of Supervisor related to cultivation of medical marijuana for personal use or by qualified caregivers was subject to referendum; and

WHEREAS, the Board of Supervisor opted to repeal Ordinance No. 1071 and directed County Counsel to draft an ordinance consistent with extensive public input to be placed on the ballot; and

WHEREAS, the proposed Measure would amend chapter 8.01 of the Sierra County Code and would (a) limit outdoor marijuana cultivation; (b) limit indoor marijuana cultivation to ten (10) plants for a single qualified patient or caregiver or twenty (20) plants with 2 or more qualified patients or caregivers per parcel within Sierra County and would place restrictions on the manner and location of growing activity; and

WHEREAS, the Board of Supervisors desires to submit the Ordinance to the voters at the next regularly scheduled county and statewide general election to be held on November 8, 2016; and

WHEREAS, consolidating an election on the Ordinance with the November 8, 2016, county and statewide general election significantly reduces the cost to taxpayers for conducting an election while providing for the highest level of voter participation in the election process.

NOW, THEREFORE, BE IT RESOLVED by the Sierra County Board of Supervisors that:

1. The foregoing recitals are adopted as findings of the Board of Supervisors as though set forth fully herein.
2. The Board of Supervisors hereby calls an election to be held and conducted in and for the County of Sierra on Tuesday, November 8, 2016, for the purpose of submitting the Ordinance to the voters of Sierra County, and further orders that the election be consolidated with the County and Statewide General Election to be held on November 8, 2016.

3. Pursuant to Elections Code section 9140, the Board of Supervisors hereby submits to the voters of the County of Sierra, the following Measure:

*“Shall an ordinance be adopted amending chapter 8.01 of the Sierra County Code banning commercial cultivation of marijuana, regulating outdoor cultivation and indoor cultivation of medical marijuana for qualified patients and primary caregivers only, limiting cultivation per parcel to 10 plants for one qualified caregiver or patient and 20 plants for two or more qualified caregivers or patients, and regulating the location and conditions under which marijuana may be grown within Sierra County?”*

Yes \_\_\_\_\_  
No \_\_\_\_\_

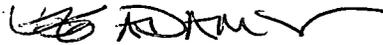
4. The Measure shall pass only if a majority of the votes cast by the voters voting on the Measure are “yes” votes. In the event a majority of the electors voting on the Measure vote in favor thereof, the Sierra County Code shall be amended to read as set forth in Exhibit “A” attached hereto and incorporated herein and, pursuant to Elections Code section 9122, shall become effective ten (10) days after the date the vote is declared by the Board of Supervisors.
5. The Sierra County Clerk as the Ex-officio Registrar of Voters is hereby directed to prepare and conduct all functions for the election and canvass the returns of the election as set forth in the Elections Code, and to do all things required by law to present the proposed Measure to the electorate, including but not limited to, preparing and publishing all required postings, notices and filings.
6. Pursuant to Elections Code section 9160(b), the Board of Supervisors hereby directs County Counsel to prepare an impartial analysis of the proposed Measure. Arguments for and against the Measure may be filed and published consistent with Elections Code section 9162, et seq.

PASSED AND ADOPTED by the Board of Supervisors of the County of Sierra at a regular meeting of said Board held on the 2<sup>nd</sup> day of August, 2016, by the following vote of said Board:

AYES: Supervisors Huebner, Roen, Schlefstein and Adams  
NOES: None  
ABSENT: Supervisor Beard  
ABSTAIN: None

Resolution No. 2016-081  
August 2, 2016

COUNTY OF SIERRA



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LEE ADAMS, CHAIRMAN  
BOARD OF SUPERVISORS

ATTEST:



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HEATHER FOSTER  
CLERK TO THE BOARD

APPROVED AS TO FORM:



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DAVID PRENTICE  
COUNTY COUNSEL

**“EXHIBIT A”**

**BOARD OF SUPERVISORS COUNTY OF SIERRA,  
STATE OF CALIFORNIA**

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

**CULTIVATION OF MEDICAL MARIJUANA BY PATIENTS AND QUALIFIED  
CAREGIVERS**

**PUBLIC NUISANCES CREATED BY CULTIVATION OF MEDICAL  
MARIJUANA IN VIOLATION OF CHAPTER 8.01 SIERRA COUNTY CODE AS  
AMENDED HEREIN**

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

WHEREAS, the intent of the CUA was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law once a physician has deemed the use beneficial to a patient's health;

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program ("MMP"), codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subject to criminal prosecution under the California Penal Code;

WHEREAS, neither the CUA nor the MMP require or impose an affirmative duty or mandate upon a local government to allow, authorize, or sanction the establishment of facilities that cultivate or process medical marijuana within its jurisdiction;

WHEREAS, in May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc., et al.*, holding that cities have the authority to ban medical marijuana land uses;

WHEREAS, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 et seq., the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need;

WHEREAS, on October 9, 2015, Governor Jerry Brown signed the "Medical Marijuana Regulation and Safety Act" (" Act"), which is comprised of the state legislative bills known as AB 243, AB 266, and SB 643, into law;

WHEREAS, the Act becomes effective January 1, 2016 and contains provisions that govern the cultivating, processing, transporting, testing, and distributing of medical cannabis to qualified patients. The Act also contains new statutory provisions that:

Allow local governments to enact ordinances expressing their intent to prohibit the cultivation of marijuana and their intent not to administer a conditional permit program pursuant to Health & Safety Code Section 11362.777 for the cultivation of marijuana (Health & Safety Code § 11362.777(c)(4));

Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances, or enforcement of local permit or licensing requirements regarding marijuana (Business & Professions Code § 19315(a));

Expressly provide that the Act does not limit the authority or remedies of a local government under any provision of law regarding marijuana, including but not limited to a local government's right to make and enforce within its limits all police regulations not in conflict with general laws (Business & Professions Code § 19316(c)); and

Require a local government that wishes to prevent marijuana delivery activity, as defined in Business & Professions Code section 19300.5(m) of the Act, from operating within the local government's boundaries to enact an ordinance affirmatively banning such delivery activity (Business & Professions Code § 19340(a));

WHEREAS, several California cities and counties have reported negative impacts of marijuana cultivation, processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests;

WHEREAS, marijuana plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors;

WHEREAS, in the case of multiple qualified patients who are in control of the same legal parcel, or parcels, of property, or in the case of collective or cooperative cultivation, or in the case of a caregiver growing for numerous patients, a very large number of plants could be cultivated on the same legal parcel, or parcels, within the County of Sierra;

WHEREAS, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery;

WHEREAS, the indoor cultivation of marijuana has potential adverse effects to the structural integrity of the building, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire which presents a clear and present danger to the building and its occupants;

WHEREAS, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime;

WHEREAS, based on the experiences of other counties, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the county due to the establishment and operation of marijuana cultivation, processing and distribution activities;

WHEREAS, prior to the effective date of this ordinance, the cultivation, processing and distribution of medical marijuana is prohibited in the County to the extent such activities are prohibited by the Federal Controlled Substances Act or other law;

WHEREAS, based on the findings above, the potential establishment of the cultivation, processing and distribution of medical marijuana in the County without an express ban on such activities poses a current and immediate threat to the public health, safety, and welfare in the County due to the negative impacts of such activities as described above.

ORDINANCE OF THE COUNTY OF SIERRA, STATE OF CALIFORNIA AN ORDINANCE OF THE SIERRA COUNTY BOARD OF SUPERVISORS, CALIFORNIA, IMPOSING CONDITIONS UPON THE CULTIVATION OF MARIJUANA FOR QUALIFIED PATIENT USE

**Section 1:** The Sierra County Board of Supervisors hereby finds that the above recitals are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 2:** The Board of Supervisors Modifies Chapter 8.01.020 entitled "Medical Marijuana" to the Sierra County Code to read as follows:

## **Definitions:**

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this chapter, the common and ordinary meaning of the word shall apply.

1. "Marijuana" means any or all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin or separated 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, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana. The term "marijuana" shall also include "medical marijuana" as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

2. "Bedroom" A room inside a residential building being utilized by any person for sleeping purposes.

3. "Child Care Center" Any licensed child care center, daycare center, or childcare home, or any preschool.

4. "Cultivation" The planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof for medical use consistent with the Compassionate Use Act (Health and Safety Code Section 11362.5) or the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et. seq.).

5. "Detached, fully-enclosed and secure structure" A building completely detached from a residence that complies with the Sierra County Building Code and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two inch by four inch (2" x 4") or thicker studs overlaid with three-eighths (3/8") inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

6. "Family" is any person or persons within the definition of relation pursuant to California Probate Code sections 8460 et. seq.
7. "Indoors" Within a fully enclosed and secure building.
8. "Legal parcel" Any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Gov't Code §§ 66410 et seq.).
9. "Multi-family residence" or Multi-family residential structure:" A building or structure that is designed to house several different families in separate housing units. Commonly an apartment building, duplex, quadruplex and townhomes. The entire building may be owned by an individual or entity or individuals or entities such as in a condominium.
10. "Outdoor" Any location within the County that is not within a fully enclosed and Secure structure.
11. "Premises" A single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall constitute a single "premises" for purposes of this chapter.
12. "Primary caregiver" A "primary caregiver" as defined in Health and Safety Code section 11362.7(d).
13. "Qualified patient" A "qualified patient" as defined in Health and Safety Code section 11362.7(f).
14. "Rear yard:" The rear open space portion of any premises, whether fenced or unfenced.
15. "Residential structure "Any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking and sanitation on a premises or legal parcel located within a residential or agricultural-residential zoning district.
16. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university.

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

18. "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

19. "Solid fence" A fence constructed of substantial material (such as wood) that prevents viewing the contents from one side to the other,

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

### **Section 3:**

Section 8.01.040 of the Sierra County Code is hereby amended to read:

#### **8.01.040 Nuisance Declared: Cultivation Restrictions**

A. The Cultivation of Marijuana, either Indoors or Outdoors, on any Parcel in an area or in a quantity greater than as provided herein, or in any other way not in conformance with or in violation of the provisions of this Chapter, or otherwise in a manner that violates any other provision of State law or the Sierra County Code, is hereby declared to be a public nuisance that may be abated by any means available by law. No person owning, leasing, occupying, or having charge or possession of any Parcel within the County shall cause, allow, suffer, or permit such Parcel to be used for the Cultivation of Marijuana in violation of the California Health and Safety Code or this Chapter. The provisions of Chapter 15.40 of the Sierra County Code regarding nonconforming uses shall not apply to the Cultivation of Marijuana.

B. Commercial Cannabis Activity of any nature and in any amount or quantity within the unincorporated territory of Sierra County is hereby prohibited Including Mobile Delivery services.

C. Marijuana Cultivation is prohibited on any Parcel within the unincorporated territory of Sierra County except as an accessory use to a legally established Residence on a Legal Parcel or contiguous parcels under common ownership.

D. Medical Marijuana Cultivation may be undertaken only by:

1. A Qualified Patient who occupies a legal Residence on the Legal Parcel being used for Medical Marijuana Cultivation as his or her primary place of Residence.

2. A Primary Caregiver on behalf of his or her Qualified Patient(s) but only on a Legal Parcel with a legal Residence which is occupied by the Qualified Patient or by the Primary Caregiver as his or her primary place of Residence.

3. In conformance with all applicable State and local laws, including all regulations and restrictions as set forth in this Chapter.

**E.** Indoor Medical Marijuana Cultivation is allowed only within a legal structure that meets the definition of Indoor as set forth in this Chapter, 8.01, and complies with all applicable provisions of the Sierra County Code. Structures that are exempt from the requirement to obtain a building permit under the Sierra County Code shall not be used for the Cultivation of Marijuana, provided however, that Cultivation in a greenhouse shall, pursuant to subsection (F), below, be allowed as Outdoor Cultivation, subject to the provisions and restrictions as otherwise set out in this Chapter, 8.01 of the Sierra County Code. Lights used indoors shall comply with all applicable laws, including without limitation, restrictions on the use of lights or lighting that interferes with the use of any radio or other communication device.

**F.** Outdoor Marijuana Cultivation may, subject to the other provisions and restriction established in this Chapter, 8.01, of the Sierra County Code, only occur on a Legal Parcel that is not less than two (2) acres in size. Cultivation within any detached greenhouse shall be considered Outdoor Cultivation. Cultivation on parcels less than two acres in size are limited to a maximum of three plants, and are subject to all other restrictions and limitations set out in this code and California law.

1. All Marijuana grown outside of any building must be fully enclosed by an approved fence at least six (6) feet in height of the Marijuana in order to secure the cultivation area. Bushes and hedgerows may constitute an adequate fence under this subdivision if sufficient to prevent access to the cultivation area. Use of plastic material, shade cloth, or tarps is strictly prohibited.

2. Any outdoor area in which the Marijuana is cultivated shall be set back at least thirty (30) feet from all boundaries of the Parcel. Such setback distance shall be measured in a straight line from the fence. In addition the cultivation area must be at least one hundred (100) feet from an occupied neighboring residence. Parcels that cannot meet the mandatory setback requirements above may apply for a variance in accordance with the procedures set out in chapter (15.24).

3. Notwithstanding the foregoing, Marijuana cultivation in the front of any residence or adjacent to roadways is prohibited. All cultivation must be contained within the setbacks described in section F 2 and is restricted to side and backyard areas. Parcels that cannot meet this restriction may apply for a variance in accordance with the procedures set out in chapter (15.24).

4. No artificial lights may be used outdoors as part of the growing of Marijuana; the prohibition shall also be applicable to greenhouses.

**G.** Notwithstanding any other provision of this Chapter (8.01) to the contrary, the following limitations apply to Cultivation of Marijuana, both as to Indoor and to Outdoor Cultivation on any property located within the unincorporated area of Sierra County. These limitations apply irrespective of the number of Qualified Patients or Primary Caregivers residing at the Parcel or participating directly or indirectly in the Marijuana Cultivation activity. These limitations also apply to any person Cultivating Medical Marijuana as a Primary Caregiver(s) for Qualified

**Patients.**

1. Medical Marijuana Cultivation shall be limited to ten (10) Marijuana plants, which Cultivation shall not exceed a total area of one hundred (100) square feet, Plants may be grown in no more than ten (10) planting beds, the total aggregate of all ten beds not to exceed the maximum of one hundred (100) square feet and all plants to be within fifty (50) feet of each other.

2. Notwithstanding the limits set out in subparagraph G,1, above, as to the number of plants allowed to be cultivated, any person growing Medical Marijuana shall be allowed to grow no more than twenty (20) starter plants within the area not to exceed the restrictions set out in subparagraph G.1, above. For the purpose of this section, starter plants shall mean a plant that is less than twenty-four (24) inches in vertical height. The provisions for growing of starter plants is not to be construed to be in addition to the plant count and area limits established in subsection G.1, above. On or after August 1" of each year, no Marijuana plant growing on any property shall be deemed to be a starter plant, irrespective of the size of the plant.

3. Cultivation on any Parcel shall be for no more than two (2) individuals, whether as Qualified Patients and/or Primary Caregivers, such that no more than twenty (20) Marijuana plants within a square footprint not to exceed two hundred (200) square feet shall be allowed on any Parcel or contiguous parcel under common ownership.

4. No Marijuana plant shall exceed a height limit of ten (10) feet and cultivation of Marijuana on tiers or any basis for stacking plants within the allowed footprint is prohibited.

**H. Cultivation of Marijuana is prohibited outdoors on any Parcel located within the following areas:**

1. Upon any Parcel located within one hundred (100) feet of any School, Church, Park, Child Care Center, or Youth-Oriented Facility. Such distance shall be measured in a straight line from the Fence or other enclosure required by this Chapter to the nearest boundary line of the Parcel upon which the School, Church, Park, Child Care Center, or Youth-Oriented Facility is located.

2. Mobile home parks, travel trailer parks, apartments, multi-family residential structures, Commercial zoning districts, Public Service zoning districts, Industrial and Business Park zoning districts, Stateline Highway Commercial zoning districts, Aviation zoning districts, and Planned Development zoning districts.

**I. All Cultivation areas shall comply with the following requirements:**

1. All Cultivation areas shall be adequately secure to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times when a Qualified Patient or Primary Caregiver is not present within the Cultivation area.

2. Marijuana Cultivation shall not adversely affect the health, safety, or general welfare of persons at the Cultivation site or at any nearby residence by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, or vibration, by the use or storage of hazardous materials,

processes, products or wastes, or by any other way. The Cultivation of Marijuana shall not subject residents of neighboring parcels who are of normal, sensitivity to reasonably objectionable odors.

3. All new structures used or intended for use in Indoor Cultivation shall submit complete construction plans for review to the Building Department, obtain building permits, and obtain required building inspections and a final certificate of occupancy prior to the start of any Indoor Cultivation activities.

4. All electrical, mechanical, and plumbing used for Cultivation of Marijuana shall be installed with valid electrical, mechanical, and plumbing permits issued and inspected by the Sierra County Building Department, which building permits shall only be issued to the legal owner of the Parcel.

5. All structures used for Cultivation of Marijuana shall contain adequate ventilation, air filtration and odor control filters to prevent odor, mold and mildew in any area used for Cultivation or which is used as, designed or intended for human occupancy, or on adjacent Parcel. Indoor grow lights shall not exceed one thousand two hundred watts (1200W) and shall comply with the California Building, Electrical and any applicable Fire Codes. Gas products (including, without limitation, CO<sub>2</sub>, butane, propane and natural gas), or generators shall not be used within any structure used for Indoor Cultivation. Grow light systems associated with Cultivation shall be shielded to confine light and glare to the interior of the structure and shall conform to all applicable building and electrical codes. Lights used indoors shall not interfere with the use of any radio or other communication devices.

6. Any lights used for the Cultivation of Marijuana shall be shielded or otherwise positioned in a manner that will not shine light outside of the structure in which the Cultivation occurs and shall comply with the requirements of the Sierra County Code and provisions of State law. The Cultivation of Marijuana shall not exceed the noise level standards as set forth in the County General Plan.

7. Wherever Medical Marijuana is grown, a copy of a current and valid, State-issued Medical Marijuana identification card, physician recommendation or Affidavit as set forth in this Section must be displayed at or immediately adjacent to the Cultivation area, in such a manner as to allow law enforcement officers to easily see the recommendation or Affidavit. If a Qualified Patient has a verbal medical recommendation, then the Qualified Patient shall provide an Affidavit setting forth the name and contact information of the physician making the recommendation, the date of the recommendation and amount(s) of Marijuana recommended by the physician. The Affidavit shall be signed under penalty of perjury under the laws of the State of California.

8. If the person(s) Cultivating Marijuana on any Legal Parcel is/are not the legal owner(s) of the Parcel, the person(s) who is/are Cultivating Marijuana on such Parcel shall, (a) give written notice to the legal owner(s) of the Parcel prior to commencing Cultivation of Marijuana on such Parcel, and (b) shall obtain a signed and notarized letter from the legal owner(s) consenting to the Cultivation of Marijuana on the Parcel. The person(s) Cultivating Marijuana shall obtain this written letter of consent from the legal owner prior to Cultivating Marijuana on the Parcel and at least annually thereafter. A copy of the most current letter of consent shall be displayed in the

same immediate area as the recommendations set forth in section 8.01.040 (G)(10) in such a manner as to allow law enforcement officers to easily see the letter of consent without having to enter any building of any type. The person(s) Cultivating Marijuana shall maintain the original letter of consent on the Parcel at which Marijuana is being cultivated and shall provide the original letter to the Enforcement Officer for review and copying upon request. The Sheriff may prescribe forms for such letters.

9. The use of Hazardous Materials for and/or in association with the Cultivation of Marijuana, except for limited quantities of Hazardous Materials that are below State of California threshold, is prohibited. Any Hazardous Materials stored shall maintain a minimum setback distance of one hundred (100) feet from any private drinking water well, spring, water canal, creek or other surface water body, and two hundred (200) feet from any public water supply well or source. The production of any Hazardous Waste as part of the Cultivation process shall be prohibited.

10. All Parcel used for the Cultivation of Marijuana shall have a legal and permitted water source on the Parcel and shall not engage in unlawful or unpermitted diversion or drawing of surface water or permit illegal discharges of water from the Parcel.

**J. Accessory Structures used for the Cultivation of Marijuana shall meet all of the following criteria:**

1. The accessory structure, regardless of size, shall be legally constructed in accordance with all applicable development permits and entitlements including, but not limited to, grading, building, structural, electrical, mechanical and plumbing permits approved by applicable federal, state and local authorities prior to the commencement of any Cultivation activity. The conversion of any existing accessory structure, or portion thereof, for Cultivation shall be subject to these same permit requirements and must be inspected for compliance by the applicable federal, state and local authorities prior to commencement of any Cultivation activity.

2. The accessory structure shall not be built or placed within any setback as required by the Sierra County Code or approved development permit or entitlement.

3. The accessory structure shall be equipped with permanently installed and permitted electricity, and shall not be served by temporary extension cords. Electrical wiring conductors shall be sized based on the current California Electrical Code with anticipated loads identified.

4. The accessory structure shall be equipped with a permanently installed and permitted odor control filtration and ventilation system adequate to prevent any odor, humidity, or mold problem within the structure, on the Parcel, or on adjacent Parcels.

5. If the accessory structure is a greenhouse, the panels shall be of glass or polycarbonate and should be opaque for security and visual screening purposes. Where the greenhouse panels are not obscure, the greenhouse shall be screened from view by a solid Fence.

**K. Where the provisions of this Chapter are more restrictive than other provisions of the Sierra County Code, the provisions of this Chapter shall govern.**

L. Nothing herein shall limit the ability of the Chief Building Official or designee, Fire Marshall or designee, or any other state or local employees or agents from entering the property to conduct the inspections authorized by or necessary to ensure compliance with this Chapter, or the ability of the Sheriff to make initial inspections or independent compliance checks. The Sheriff is authorized to determine the number and timing of inspections that may be required.

M. Marijuana Cultivated in violation of this section shall be subject to administrative penalties, fines and cost of enforcement set out in County Code Chapter 1.16 through 1.18.

N. Enforcement of this code shall require an inspection warrant issued by the Sierra County Court to enter upon private property if the cultivation site is not in plain view from a legal vantage point by enforcement officer. Fourth amendment protections shall not be abridged by enforcement officers and warrants will be obtained where required.

### **Constitutionality/Severability**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have adopted the ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

**Section 4:** The Board of Supervisors finds the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the County finds the approval of this ordinance is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

**Section 5:** This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirtieth (30th) day after its passage, and prior to the expiration of fifteen (15) days from its passage, it shall be posted in a prominent location at the Board of Supervisors Chambers, Downieville, California, together with the names of the Board of Supervisors voting for and against the same, and shall remain posted thereafter for at least one week. (Note: Per Government Code 25123, all ordinances shall become effective 30 days from the date of final passage, except the following ordinances, which shall take effect immediately: (a) Those calling or otherwise relating to an election. (b) Those specifically required by this code or by any other law to take immediate effect. (c) Those fixing the amount of money to be raised by taxation, or the rate of taxes to be levied. (d) Those for the immediate preservation of the public peace, health, or safety, which shall contain a declaration of the facts constituting the urgency, and shall be passed by a four-fifths vote of the board of supervisors. (e) Those specifically relating to the adoption or implementation of a memorandum of understanding with an employee organization.

(f) Those relating to salaries and other compensation of officers, other than elected officers, and employees.)

**Severability**

If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, Subsection, sentence, clause, portion, or phrase hereof, including the irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional. (Ord. 1055, eff. 8/21/14)