

CANNABIS CITIZENS GROUP

CANNABIS ORDINANCE

(CCG)

Plumas County Cannabis Cultivation Ordinance

Revised July 2, 2018

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AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
PLUMAS AMENDING **TITLE 5 – PUBLIC WELFARE** BY ADDING

**CHAPTER 15 OF THE PLUMAS COUNTY CODE PERTAINING TO
CANNABIS CULTIVATION**

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

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

5-15.01 - Authority and Title.

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

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

5-15.02 - Findings and Purpose.

- (A) California's medical marijuana laws, the Compassionate Use Act (California Health and Safety Code section 11362.5), the Medical Marijuana Program (California Health and Safety Code sections 11362.7 et seq.), and the Medical Cannabis Regulation and Safety Act (California Business and Professions Code sections 19300 et seq.), each recognize and preserve the authority of cities and counties under Section 7 of Article XI of the California Constitution to regulate the cultivation of cannabis.
- (B) The Adult Use of Marijuana Act (California Health and Safety Code sections 11362.1 et seq. and California Business and Professions Code section 26000 et seq.) likewise recognizes and preserves the authority of cities and counties to enact and enforce reasonable regulations for the cultivation of cannabis.
- (C) Plumas County's unique geographic and climatic conditions, which include dense forested areas receiving substantial precipitation, along with the sparse population in many areas of the county, provide conditions that are favorable to cannabis cultivation. Cannabis growers can achieve a high per-plant yield because of the county's favorable growing conditions.

- (D) The unregulated cultivation of medical or non-medical cannabis in the unincorporated area of Plumas County can adversely affect the health, safety, and well-being of the County and its residents. Comprehensive regulation of premises used for cannabis cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, indoor electrical fire hazards, and malodorous smells that may result from unregulated cannabis cultivation, and that are especially significant if the cultivation occurs outdoors, or if the amount of cannabis cultivated on a single premises is not regulated and substantial amounts of cannabis are thereby allowed to be concentrated in one place.
- (E) The indoor cultivation of cannabis within a residence or other structure used or intended for human occupancy presents potential health and safety risks to those living in the residence or otherwise occupying the structure, especially to children, including, but not limited to, increased risk of fire from grow light systems; exposure to fertilizers, pesticides, anti-fungus/mold agents; and exposure to potential property crimes. To adequately address these risks, it is proper and necessary that requests to cultivate cannabis within a residence or other structure used or intended for human occupancy be considered on a case-by-case basis through a waiver process administered by the Plumas County Planning Department.
- (G) Outdoor cultivation of any amount of cannabis at locations or premises within one thousand feet of schools, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with cannabis cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of cannabis in such locations or premises is especially hazardous to public health, safety, and welfare, and to the protection of children and the person(s) cultivating the cannabis plants. To adequately address these risks, it is proper and necessary that requests to cultivate cannabis in such locations be considered on a case-by-case basis through a waiver process administered by the Plumas County Planning Department.
- (H) The cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.
- (I) The cultivation of cannabis upon vacant lots (i.e., premises without a permitted residential use) presents a heightened risk of the harms that Chapter 15 was designed to prevent, including criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards due to the absence of an onsite caretaker eligible to cultivate cannabis in accordance with State law. Cannabis cultivation upon vacant lots is more likely to violate the registration, setback, plant

limit, security, and location requirements of this Chapter than cannabis cultivated accessory to a permitted residential use, is more likely to be diverted to unlawful use, and is less likely to serve the legitimate needs of persons cultivating cannabis in accordance with state law. Limiting the cultivation of cannabis to premises that contain a permitted residential use is proper and necessary to avoid the aforementioned harms, and to protect the health, safety, and welfare of the residents and businesses within the unincorporated area of Plumas County.

- (J) It is the purpose and intent of this Chapter to implement State law by providing a means for regulating the cultivation of cannabis in a manner that is consistent with State law and which balances the interests of persons choosing to cultivate and use cannabis while promoting the health, safety, and welfare of the residents and businesses within the unincorporated area of Plumas County. This Chapter is intended to be consistent with California's medical cannabis laws and the Adult Use of Marijuana Act, and towards that end is not intended to prohibit persons from individually or jointly exercising any right otherwise granted by State law. Rather, the intent and purpose of this Chapter is to establish reasonable regulations upon the manner in which cannabis may be cultivated, including restrictions on the amount of cannabis that may be individually or jointly cultivated in any location or premises, in order to protect the public health, safety, and welfare in Plumas County.
- (K) In order to ensure compliance with the regulations set forth in this Chapter, facilitate enforcement in the event of non-compliance, and reduce hazards to emergency and other public agency personnel responding to premises where cannabis is cultivated, it is reasonable, proper, and necessary to require that all premises where cannabis is cultivated register annually with the Planning Department.
- (L) Neither California's medical cannabis laws nor the Adult Use of Marijuana Act confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Chapter, the County will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of cannabis in the unincorporated area of Plumas County.
- (M) Nothing in this ordinance shall be construed to allow the cultivation or use of cannabis for commercial purposes, or allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal under State or federal law. No provision of this Chapter may be deemed a defense or immunity to any action brought against any person by the Plumas County District Attorney, the Attorney General of State of California, or the United States of America.

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

5-15.03 - Definitions.

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

- (A) "Accessory structure" means a structure that is accessory to and incidental to that of the dwelling(s) and that is located on the same lot.
- (B) "Child care center" means any licensed childcare center, daycare center, or childcare home or any preschool.
- (C) "Church" means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.
- (D) "Cultivation" means the planting, growing, harvesting, drying, processing, or storage of one or more cannabis plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.
- (E) "Enforcing officer" means the Sheriff, Code Enforcement Officer, Planning Director, or their authorized designees or deputies, each of whom is independently authorized to enforce this Chapter.
- (F) "Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).
- (G) "Cannabis plant" means any mature or immature cannabis plant, or any cannabis seedling.
- (H) "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.
- (I) "Outdoor cultivation" shall mean any cultivation of cannabis that is not conducted within a detached fully enclosed secure structure conforming to the requirements of Section 5-15.04. Outdoor cultivation includes, without limitation, cultivation of cannabis within a greenhouse or "hoop house" or similar facility.
- (J) "Premises" shall mean a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single "premise" for purposes of this Chapter.

- (K) "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction, where applicable fulfilling requirements of the California Education Code. This definition includes a nursery school or pre-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.
- (L) "School evacuation site" means any location designated by formal action of the governing body, superintendent, or principal of any school as a location to which juveniles are to be evacuated, or at which they are to assemble, in the event of an emergency or other incident at the school.
- (M) "Street" shall mean any legally established access easement, which provides a primary means of access to property or a County road, a State highway, or a Forest Service System road.
- (N) "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors; or where the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

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

5-15.04 - Nuisance Declared.

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

- (A) The outdoor cultivation of cannabis, is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter, unless all of the following conditions are satisfied:
 - 1. No more than six (6) plants are cultivated.
 - 2. The cannabis plant(s) shall not be visible from any street.
 - 3. When no more than three (3) cannabis plants are cultivated, and the cannabis plant(s) are setback at least twenty-five (25) feet from the side and rear premises property lines and thirty-five (35) feet from the front premises property line.

4. When four (4) to six (6) cannabis plants are cultivated, and the cannabis plant(s) are setback at least fifty (50) feet from the side and rear premises property lines and seventy (70) feet from the front premises property line.
5. Setback distance shall be measured in a straight line from the cannabis plant(s) to the premises property line.
6. A waiver of the minimum setback distances from property lines may be granted in accordance with subdivision (E).

(B) Except as provided in a waiver granted in accordance with subdivision (F), the cultivation of cannabis within a structure upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter, unless all the following conditions are satisfied:

1. No more than six (6) cannabis plants are cultivated.
2. The cultivation of cannabis is conducted within a fully enclosed secure structure conforming to the following standards:
 - a. From sunset to sunrise, light systems utilized in connection with cannabis cultivation shall be shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.
 - b. All exterior doors are lockable.
 - c. Such structure shall be a permitted residential use or accessory to a residential use in accordance with subdivision (G) of this section.
 - d. Each structure in which cannabis is cultivated shall be set back at least ten (10) feet from the side and rear premises property lines, and twenty-five (25) feet from the front premises property lines. Such setback distance shall be measured in a straight line from the structure in which the cannabis is cultivated to the premises property line.

(C) Except as provided in a waiver granted in accordance with subdivision (F), the outdoor cultivation of cannabis, in any amount or quantity, upon any premises located within one thousand (1,000) feet of any school, school evacuation site, church, park, child care center, or youth-oriented facility is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter.

1. Except as provided in subdivision (C)(2), such distance shall be measured in a straight line from the premises property line upon which cannabis is cultivated to the premises property line upon which the school, school evacuation site, church, park, child care center, or youth-oriented facility is located.

2. If the premises is twenty (20) acres or greater in size and the cultivation is within a structure complying with subdivision (B), then such distance shall be measured in a straight line from the fully enclosed secure structure in which the cannabis is cultivated to the premises property line upon which the school, school evacuation site, church, park, child care center, or youth oriented facility is located.
- (D) The foregoing limitations shall be imposed regardless of the number of persons residing at the premises or participating directly or indirectly in the cultivation. Further, this limitation shall be imposed, notwithstanding, any assertion that the person(s) cultivating cannabis are the primary caregiver(s) for qualified patients or that such person(s) are collectively or cooperatively cultivating cannabis.
- (E) The owner or occupant of the premises may seek a waiver or reduction in the premises cultivation property line setback provision of subdivisions (A), based upon findings of unusual hardship or other good cause by following the Special Use Permit process of Plumas County Code Title 9, Chapter 2, Article 6 – Special Use Permits.
- (F) Except for the six (6) plant maximum limit, the owner or occupant of the premises may seek a waiver or reduction in the provision of subdivisions (B) or (C), based upon findings of unusual hardship or other good cause by following the Special Use Permit process of Plumas County Code Title 9, Chapter 2, Article 6 – Special Use Permits.
- (G) The cultivation of cannabis, in any amount or quantity upon any premises is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter, unless the premises contains a permitted residential use. For purposes of this subdivision, "permitted residential use" shall mean actual residential use of the premises that is conducted in a residential structure or manufactured home on a permanent foundation for which a final certificate of occupancy has been issued in accordance with Title 8 – Building Regulations of the Plumas County Code.
- (H) The cultivation of cannabis, in any amount or quantity upon any premises, in connection with any "commercial cannabis activity," as defined in the Medical Cannabis Regulation and Safety Act, or any "commercial cannabis activity," as defined in the Adult Use of Marijuana Act, or by any licensee or person required to obtain a license under either is hereby declared to be unlawful and a public nuisance that may be abated in accordance with this Chapter.
- (I) No person owning, leasing, occupying, or having charge or possession of any premises within the county shall cause, allow, suffer, or permit such premises to be used for the outdoor or indoor cultivation of cannabis plants in violation of this Chapter.

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

5-15.05 – Delivery of Cannabis.

Cannabis delivery by any person or entity, including, but not limited to, clinics, collectives, cooperatives and dispensaries, is prohibited in the County except when such delivery occurs in accordance with the following reasonable regulations. Any delivery that takes place in violation of any provision of this Chapter is unlawful and is hereby declared a public nuisance. Nothing in this Chapter is intended to, nor shall it be construed to, make legal any delivery activity that is otherwise prohibited under California law.

- (A) Primary Caregivers. A primary caregiver, who is not subject to the MMRSA, engaged in the delivery of cannabis to a qualified patient is exempt from the prohibition prescribed in this Chapter.
 - (B) “Cannabis Delivery” or “Delivery” means the commercial delivery, transfer or transport, or arranging for the delivery, transfer or transport, or the use of any technology platform to arrange for or facilitate the commercial delivery, transfer or transport of cannabis, cannabis edibles, and/or any cannabis products to or from any location within the jurisdictional limits of the County, and any and all associated business and/or operational activities.
 - (C) Delivery by Cannabis Dispensary. It is unlawful for any cannabis dispensary to deliver, which includes, but is not limited to, dispense, distribute, exchange, transmit, transport, sell or provide, cannabis to a qualified patient or a primary caregiver without a valid permit as specified herein.
3. Application. The form and content of the application for a permit shall be specified by the Planning Director. The application shall be signed under the penalty of perjury, and the following standards constitute the minimum standards to qualify for a permit to deliver cannabis to a qualified patient or primary caregiver:
- a. Name and address of the applicant; if the applicant is a corporation or limited liability company, the names and addresses of its directors or members respectively.
 - b. Certificate of insurance demonstrating ability to comply with the insurance requirements set forth in this Section in a form acceptable to the County.
 - c. Applicant’s trade name and business address.
 - d. Copies of applicable authorizing State and local licenses and permits issued to applicant allowing it to operate a cannabis dispensary in a neighboring jurisdiction.

- e. Listing of all vehicles and devices to be used for delivery of cannabis to a qualified patient or primary caregiver within the County, which includes the vehicle's make, model, year, license plate number and vehicle identification number.
 - f. Identifying all persons who will deliver cannabis on behalf of the dispensary to qualified patients or primary caregivers located in the County. Such individuals must be at least 21 years of age at the time of submittal of the application.
- 4 . Review of Application. The Planning Director shall consider the application, as well as the criminal records, if any, and personal references, if demanded by the Planning Director, of individuals identified in the application, and any other results from investigation into the application as deemed necessary by the Planning Director.
- 5 . Disapproval of Application. If the Planning Director disapproves an application, he or she shall notify the applicant in writing, stating the reasons for the disapproval. Notification of disapproval shall be delivered by first class mail to the applicant. No permit shall be issued unless a successful appeal of the disapproval is made within the requisite time frame.
- 6 . Appeal of Disapproval:
- a . Within twenty (20) days after the Planning Director serves notification of disapproval, an applicant may appeal the disapproval by notifying the Clerk of the Board of Supervisors in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
 - b . The Clerk of the Board shall set a hearing on the appeal and shall fix a date and time certain, within forty-five (45) days after the receipt of the applicant's appeal, unless the County and the applicant agree to a longer time, to consider the appeal. The Clerk of the Board shall provide notice of the date, time and place of hearing, at least ten (10) days prior to the date of the hearing.
 - c . The Planning Director shall appoint a Hearing Officer to hear the appeal and determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the Planning Director shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, and the strict rules of evidence shall not apply, and all evidence

shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.

- d. The Hearing Officer shall issue a written decision within twenty (20) days after the close of the hearing. The decision of the Hearing Officer shall be final.

7. Grounds for Denial, Revocation or Suspension of Permit. The granting of a permit or a renewal thereof may be denied, and an existing permit revoked or suspended if the applicant or permittee, or any individual engaged by the applicant or permittee to deliver cannabis in the County:

- a. Has knowingly made a false statement in the application or in any reports or other documents furnished to the County.
- b. Engages vehicles or devices for delivery that are neither maintained nor operated in a manner and in a condition required by law and applicable regulations.
- c. Is required to register as a sex offender under Section 290 of the California Penal Code.
- d. Has been convicted of any offense relating to the use, sale, possession or transportation of narcotics or habit-forming drugs.
- e. Has been under suspension, revocation or probation by the Department of Motor Vehicles for a cause involving the safe operation of a motor vehicle or has been convicted of any of the following offenses: driving while under the influence, or reckless driving involving bodily injury, or not possessing a valid driver's license.
- f. Has been convicted of any offense punishable as a felony or has been convicted within a five (5) year period immediately preceding the crime of theft in either degree.
- g. Has been convicted of any offense involving moral turpitude.
- h. Has been involved within the two years immediately preceding the application in any motor vehicle accident causing death or personal injury.
- i. Has been in three or more motor vehicle accidents within the year immediately preceding the application.

- j . Engages individuals to deliver cannabis who were not identified in the application.
 - k . Fails to pay required County fees and taxes.
 - l . Violates any provision of this Chapter.
- 8 . Suspension and Revocation.
- a . If the Planning Director deems continuation of the operation of delivery by the cannabis dispensary will cause a significant threat to the health, safety or welfare of the public, the Planning Director may suspend the permit and all rights and privileges there under until a Hearing Officer renders a written decision on the revocation of the permit.
 - b . The Planning Director shall give notice to a cannabis dispensary of his or her intent to revoke a permit in the same manner as notice of disapproval and provide the Clerk of the Board with a copy of the notice.
 - c . The hearing for the revocation of the permit shall be set and conducted in the same manner as an appeal of disapproval. The decision of the Hearing Officer shall be final.
- 9 . Permittee's Obligations. Permittee's duties and obligations shall include all of the following:
- a . Comply with all applicable state and local laws.
 - b . Maintain at all times all licenses and permits as required by California state law and the laws of the local jurisdiction in which the permittee is located and provide immediate notification to the Planning Director if any license or permit is suspended or revoked.
 - c . Package the cannabis to be delivered in compliance with California Business Professions Code section 19347 and any other regulations promulgated by the State Department of Public Health.
 - d . Any person who delivers cannabis from a cannabis dispensary must have in possession a copy of the permit, which shall be made available upon request to law enforcement.
 - e . Delivery vehicles shall not advertise any activity related to cannabis nor shall it advertise the name of the permittee.

- f. Delivery of the cannabis shall be directly to the residence or business address of the qualified patient or the qualified patient's primary caregiver; deliveries to any other location are prohibited.
- g. Deliveries of cannabis shall occur only between the hours of 9:00 a.m. and 5:00 p.m.
- h. No permittee shall transport or cause to be transported cannabis more than the limits established by the State Bureau of Medical Cannabis during the course of delivering cannabis; until the State Bureau of Medical Cannabis establishes the limit, the limit is eight (8) ounces of dried cannabis or its cannabis product equivalent per patient within the County.
- i. All orders to be delivered shall be packaged by the names of the qualified patient or qualified patient and primary caregiver, if delivery is made to the primary caregiver, with a copy of the request for delivery with each package.
- j. Maintain at all times Commercial General Liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Comprehensive Automobile Liability (owned, non-owned, hired) providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000). The Commercial General Liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the County shall be primary, and shall name the County, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for suspension of the permit immediately, and ultimately, revocation.
- k. By accepting the permit, each permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law, the County, its officers, agents and employees from and against any all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with permittee's operations, except such liability causes by the active negligence, sole negligence of willful misconduct of County, its officers, agents and employees.
- l. Maintain for a minimum of three (3) years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including

any in-kind contributions) as well as records of all operational expenditures and costs incurred by the permittee in accordance with generally accepted accounting practices and standards typically applicable to business records, which shall be made available to the County during business hours for inspection upon reasonable notice by the Planning Director.

10. Fees. Applicants and permittees shall pay all applicable fees as set forth in the County's Master Fee Schedule adopted by resolution. Applicants and permittees also shall pay the amount as prescribed by the Department of Justice of the State of California for the processing of applicant's fingerprints. None of the above fees shall be prorated, or refunded in the event of a denial, suspension or revocation of the permit.
11. Term. All permits issued pursuant to this section shall be for a period of one (1) year from the date of issuance. Permit holders shall submit an application for renewal of the permit at least sixty (60) days prior to the expiration of the permit. The renewal of the permit shall be processed in the same manner as the initial application.
12. Planning Director or Designee. Any action required by the Planning Director under this Section may be fulfilled by the Planning Director's designee.

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

5-15.06 - Enforcement.

Enforcement shall be carried out under Title 1, Chapter 8 – Administrative Citations, as modified by the Board of Supervisors, to address cannabis activities.

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

5-15.07 — No Criminal Penalty.

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

SECTION 8. This ordinance shall take effect thirty (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published at least one time in the Plumas County News, a newspaper of general circulation in Plumas County.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Plumas, State of California, at a regular meeting of the Board of Supervisors on the ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

Chairman of the Board

ATTEST:

Nancy L. De Forno
Clerk of the Board of Supervisors