

ORDINANCE NO. SCC 2021-07

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SHASTA
REGULATING THE ADVERTISING OF COMMERCIAL CANNABIS ACTIVITY**

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

SECTION I.

Section 17.88.327 is added to the Shasta County Code as follows:

17.88.327 ADVERTISING COMMERCIAL CANNABIS ACTIVITY

A. Legislative Findings.

The Board of Supervisors finds as follows:

1. On January 1, 2016, the “Medical Marijuana Regulation & Safety Act” (MMRSA) became effective, to establish a state regulatory structure concerning, among other things, the issuance of state licenses for commercial cannabis activity, as defined in Business & Professions Code section 19300.5, for medical purposes. On June 27, 2016, the “Medical Marijuana Regulation & Safety Act” was renamed as the “Medical Cannabis Regulation & Safety Act (MCRSA).
2. On November 8, 2016, the California electorate approved Proposition 64, known as the “Adult Use of Marijuana Act” or “AUMA.” The AUMA’s purpose is to establish a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana.
3. On June 27, 2017, the California Legislature adopted the “Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA).” The MAUCRSA repealed the MCRSA and included certain provisions of the MCRSA in the licensing provisions of the AUMA. The MAUCRSA also revised references to “marijuana” or “medical cannabis” in existing law to instead refer to “cannabis” or “medicinal cannabis.”
4. The AUMA, as amended by the MAUCRSA, established a process for the state licensing of “commercial cannabis activity,” as defined at Business & Professions Code section 26001, for both medical and nonmedical purposes.
5. The AUMA, as amended by the MAUCRSA, at Business & Professions Code § 26200(a), provides that its provisions relating to the state licensing of commercial cannabis activity shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under the AUMA, as amended by the MAUCRSA, including, but not

limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under the AUMA, as amended by the MAUCRSA, within the local jurisdiction.

6. The AUMA, as amended by the MAUCRSA, at Business & Professions Code § 26200(f), provides that its provisions relating to the state licensing of commercial cannabis activity shall not be deemed to limit the authorities or remedies of a county under any provision of law, including, but not limited to, section 7 of Article XI of the California Constitution.
7. The County of Shasta may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
8. The Outdoor Advertising Act, at Business & Professions Code section 5227, authorizes the County of Shasta to adopt reasonable land use or zoning regulations affecting the placing of advertising displays in accordance with the provisions of the State Planning Law.
9. Adverse impacts have been reported related to the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery, and sale of cannabis, 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, increased risk of burglary and other property crimes, and acts of violence in connection with the commission of such crimes or attempts to prevent such crimes.
10. Regulations are needed to protect the public health, safety, and welfare of residents, children, and businesses from harmful secondary effects of the aforementioned cannabis activity.
11. The Board of Supervisors has adopted Shasta County Code section 17.88.325, which prohibits all commercial cannabis activity in the unincorporated area of the County.
12. The Board of Supervisors enacts this section to regulate the advertising of commercial cannabis activity consistent with the prohibitions in Shasta County Code section 17.88.325 and in furtherance of the public necessity, health, safety, convenience, and general welfare.

B. Definitions.

For purposes of this section only, the following definitions shall be applicable:

“Advertise” or “Advertising” means the publication or dissemination of any statement, illustration, or depiction which is calculated to induce commercial cannabis activity or sales of cannabis.

“Commercial cannabis activity” shall have the same definition as set forth in Business & Professions Code section 26001. For purposes of this section, it shall also include “delivery” as set forth in Business & Professions Code section 26001, and “operation,” as set forth in Business & Professions Code § 26001.

“Cannabis” shall have the same meaning as set forth in Health and Safety Code Section 11018 and Business & Professions Code section 26001. It shall also include “cannabis accessories,” “cannabis concentrate,” “cannabis products,” “edible cannabis products,” “medicinal cannabis,” and “medicinal cannabis product,” as set forth in Business & Professions Code § 26001.

All references to statutes and ordinances in this section refer to statutes and ordinances as they currently exist and as they may be amended.

C. Prohibition.

1. It is unlawful to advertise on an outdoor advertising sign as defined in Section 17.02.545, which is visible and legible from any public street, public road, or public highway, any aspect of commercial cannabis activity, including but not limited to, pricing of cannabis, details regarding specific cannabis products, or cannabis photography or graphics related to the cannabis plant, cannabis products, or cannabis accessories.
2. The foregoing restrictions shall apply only to outdoor advertising signs as defined in Section 17.02.545 that are located within the unincorporated area of the County of Shasta.

D. Enforcement.

1. Any violation of Subsection C of this Section 17.88.327 of the County Code is hereby declared to be a public nuisance and may be abated in accordance with Chapter 8.28 (Nuisances) of the Shasta County Code and Shasta County Code Chapter 17.94 and by any other means available by law. The provisions of Chapter 17.90 (Nonconforming Uses) of the Shasta County Code shall not apply to the conduct hereby declared to be a public nuisance.
2. Furthermore, in the performance of his or her functions, the enforcing officer is authorized to enter upon and inspect private properties to ensure compliance with the provisions of this Section 17.88.327 of the Shasta County Code. Any such entry and inspection remains subject to all requirements established by the United States Constitution, the California Constitution, and any other applicable state and federal law.

E. Non-Exclusive Remedy.

This section is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances or to enforce the provisions of the Shasta County Code.

F. Liability.

The provisions of this section shall not be construed to protect qualified patients, primary caregivers, or any other person from prosecution pursuant to any laws that may prohibit the cultivation, sale, distribution, possession, and/or use of controlled substances, or to authorize conduct that is unlawful under state or federal law. Moreover, cultivation, sale, possession, distribution, and use of cannabis remain violations of federal law as of the date of adoption of the ordinance creating this section and this section is not intended to, and does not authorize conduct or acts that violate federal law, does not serve in any manner as an obstacle to enforcement of federal law, and does not protect any of the above-described persons from arrest or prosecution under those federal laws. Qualified patients, primary caregivers, and any other persons assume any and all risk and any and all liability that may arise or result under state and federal laws from the cultivation, sale, possession, distribution, and/or use of cannabis. Further, to the fullest extent permitted by law, any actions taken under the provisions of this section by any public officer or employee of the county of Shasta or Shasta County itself shall not become a personal liability of such person or a liability of the county.

G. Misdemeanor Penalty.

As authorized by Government Code section 25132, and except as otherwise provided by state statute, any person or entity violating any provision of this Section 17.88.327 of the Shasta County Code shall be guilty of a misdemeanor.

SECTION II.

The County finds that 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 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment).

SECTION III.

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance or its application to any person or circumstance is held invalid for any reason, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause, phrase, or provision thereof irrespective of the fact that any one or

more sections, subsections, sentences, clauses, phrases, or provisions be declared unconstitutional or invalid.

SECTION IV.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this Ordinance are hereby superseded by this Ordinance. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION V.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED this 16th day of November, 2021, by the Board of Supervisors, County of Shasta, State of California, by the following vote:


- AYES: Supervisors Rickert, Jones, Baugh, Chimenti, and Moty
- NOES: None
- ABSENT: None
- ABSTAIN: None
- RECUSE: None



JOE CHIMENTI, CHAIR
Board of Supervisors
County of Shasta
State of California

ATTEST:

MATTHEW P. PONTES
Clerk of the Board of Supervisors

By  Deputy