

ORDINANCE NO. SCC 2017-07

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

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

SECTION I.

Section 17.88.315 of the Shasta County Code, entitled "Medical Cannabis Deliveries," is hereby repealed.

SECTION II.

Section 17.88.325 is added to the Shasta County Code as follows:

17.88.325 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 The MAUCRSA repealed the MCRSA and included certain provisions of the MCRSA in the licensing provisions of the AUMA.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. 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.
9. 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.
10. The board of supervisors enacts this section to regulate commercial cannabis activity in furtherance of the public necessity, health, safety, convenience, and general welfare.

B. Intent.

It is the intent of the Board of Supervisors to prohibit commercial cannabis activity in the unincorporated area of the County of Shasta.

C. Definitions.

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

“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 concentrate,” “cannabis products,” “edible cannabis products,” “medicinal cannabis,” and “medicinal cannabis product,” as set forth in Business & Professions Code § 26001.

“Customer” shall have the same definition as set forth in Business & Professions Code section 26001.

“Delivery” shall have the same definition as set forth in Business & Professions Code section 26001.

“Primary caregiver” shall have the same definition as set forth in Health & Safety Code section 11362.7(d).

“Qualified patient” shall have the same definition as set forth in Health & Safety Code section 11362.7(c) and (f).

“Transfer” means to make available, sell, transmit, give, distribute, or otherwise provide.

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

D. Prohibition.

1. Commercial cannabis activity is prohibited in all zones of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor. This prohibition applies regardless of whether the commercial cannabis activity is for medical purposes or nonmedical purposes.
2. The delivery of cannabis to a customer in the unincorporated area of the County of Shasta is prohibited and no permit or approval of any type shall be issued therefor. This prohibition applies regardless of whether the delivery is for medical purposes or nonmedical purposes
3. Temporary events involving the onsite sale or consumption of cannabis are hereby prohibited in all zones of the unincorporated area of the County of Shasta and no permit or approval of any type shall be issued therefor. This prohibition applies regardless of whether the temporary event is for medical purposes or nonmedical purposes.
4. This section shall not prohibit the transfer of medicinal cannabis or medicinal cannabis products by primary caregivers to their qualified patients for compensation in accordance with Health & Safety Code section 11362.765(c), when both of the following requirements are satisfied:

- a. The transfer of medicinal cannabis or medicinal cannabis products is authorized under Shasta County Code section 17.88.310; and
- b. The primary caregivers and qualified patients are exempt from the licensure requirements of Division 10 of the Business & Professions Code (commencing at Business & Professions Code section 26000), pursuant to Business & Professions Code section 26033.

E. Enforcement.

Any violation of Subsection (D) of this Section 17.88.325 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. 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 17.88.325 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.

F. 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.

G. 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.

H. 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 17.88.325 of the Shasta County Code shall be guilty of a misdemeanor.

SECTION III.

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). In addition to the foregoing general exemptions, the following categorical exemptions apply: sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment), 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including, but not limited to, by direct referral to the County Counsel as appropriate for judicial enforcement), and 15303 (new construction or conversion of small structures, e.g., a residential accessory building). There are no unusual circumstances under CEQA Guideline 15300.2(c). Each exemption stands as a separate and independent basis for determining that this ordinance is not subject to CEQA.

The County further finds that this ordinance is consistent with the County General Plan on the basis that the ordinance discourages excess grading and safeguards against disturbance and development on unstable slopes (General Plan Sections 5.1, 6.1), protects against degradation and misappropriation of water resources (General Plan Sections 5.1, 6.6), reduces exposure of the general public to hazardous materials (General Plan Section 5.6), protects agricultural, timber, recreation and other resource lands for their intended lawful purposes including habitat and production of food and fiber, guards against encroachment of large scale or illegal outdoor cultivation onto these lands (General Plan Sections 6.1 through 6.10), and is in furtherance of the public necessity, health, safety, convenience, and general welfare.

SECTION IV.

If any provision of this ordinance or its application to any person or circumstance is held invalid, 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.

SECTION V.

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

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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 VI.

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.

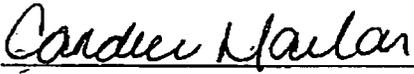
DULY PASSED AND ADOPTED this 14th day of November, 2017 by the Board of Supervisors of the County of Shasta by the following vote:

AYES: Supervisors Rickert, Baugh, Kehoe, and Moty
NOES: Supervisor Morgan
ABSENT: None
ABSTAIN: None
RECUSE: None


DAVID A. KEHOE, CHAIRMAN
Board of Supervisors
County of Shasta
State of California

ATTEST:

LAWRENCE G. LEES
Clerk of the Board of Supervisors

By: 
Deputy

THIS INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE

ATTEST NOV 15 2017

CLERK OF THE BOARD
Supervisors of the County of Shasta, State of California
BY: 