

# ATTACHMENT A

## DRAFT COUNTY ORDINANCE PROPOSAL A Submitted to PC Sep. 2024

### SECTION 1

Chapter 17.09 of the Tehama County Code is hereby repealed.

### SECTION 2

Chapter 17.09 of the Tehama County Code is hereby added to read:

#### **17.09.010 Authority and title.**

Pursuant to the authority granted by Article XI, section 7 of the California Constitution, Health and Safety Code sections 11362.768 and 11362.83, Government Code sections 65800 et seq., and Business and Professions Code section 26322, the board of supervisors does enact this chapter, which shall be known and may be cited as the "Tehama County Cannabis Dispensary Ordinance."

#### **17.09.020 Findings and purpose.**

The Board of Supervisors of the County of Tehama hereby finds and declares the following:

- A. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996").
- B. In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 et seq.) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate cannabis for medical purposes with a limited defense to certain specified state criminal statutes.
- C. Proposition 215 and Senate Bill 420 provide qualifying patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Neither Proposition 215 nor Senate Bill 420, nor the Attorney General's August

2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use adopted pursuant to Senate Bill 420, provides comprehensive land use regulation of facilities and premises at which cannabis is dispensed.

D. Facilities and premises at which cannabis is dispensed have the potential to cause serious harmful effects on the neighborhoods in which they are located, to owners of property in such neighborhoods, and to citizens living, visiting, shopping, conducting business or otherwise present in the area, as reported by several other California counties and cities. Such effects are due to such factors as the illegal nature of the activity under federal law, the presence of large quantities of cannabis at the dispensaries, the presence of large amounts of cash, the presence of weapons, and other factors. Harmful effects at the dispensaries and the surrounding areas have included an increase in burglaries, robberies, illegal sales of drugs, use or possession of cannabis by unauthorized persons, attacks on persons entering or leaving the premises, loitering, smoking cannabis in public places, and driving while under the influence of cannabis. These harmful "secondary effects" are further detailed in the White Paper on Marijuana Dispensaries by California Police Chief's Association Task Force on Marijuana Dispensaries dated April 22, 2009. The violent January 2009 home invasion burglary and homicide in Los Molinos, targeting the substantial amounts of cannabis possessed by the home's occupant ostensibly for medical purposes, is one recent local example of the "secondary effects" of concentrating substantial amounts of cannabis in one place.

E. The County of Tehama has a compelling interest in establishing comprehensive land use regulation of facilities and premises at which cannabis is dispensed, in order to mitigate and avoid the secondary effects described above and protect the public health, safety and welfare of its residents and businesses.

F. Proposition 215 and Senate Bill 420 do not preempt local zoning or nuisance regulations affecting cannabis-related land uses; rather, Senate Bill 420 expressly authorizes cities and counties to regulate the "location and establishment" of marijuana dispensaries (Health & Saf. Code, § 11362.768, subd. (f)), and to adopt and enforce ordinances that are consistent with Senate Bill 420. (Health & Saf. Code, § 11362.83.) Local regulatory authority over such land uses has been recognized and affirmed in such cases as County of Claremont v. Kruse (2009) 177 Cal.App.4th 1153 and County of Los Angeles v. Hill (2011) 192 Cal.App.4th 861. Business and Professions Code section 26322 likewise recognizes that cities and counties may regulate cannabis-related land uses consistent with the provisions of that statute.

H. No provision of this chapter shall be construed to authorize, legalize, allow, approve, or condone any activity that violates any provision of state or federal law or this Code. Nothing in this ordinance shall be construed to allow the use of cannabis for non-medical 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 deemed a defense or immunity to any action brought against any person by the Tehama County District Attorney, the Attorney General of the State of California, or the United States of America.

### **17.09.030 Definitions.**

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

- A. "Accessory structure" means a completely enclosed and secure structure and, where required by law, must be constructed pursuant to a building permit issued by the County.
- B. "Cannabis" has the meaning set forth in Business and Professions Code section 26001(f) and includes all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- C. "Commercial cannabis activity" has the meaning set forth in Business and Professions Code section 26001(m), and includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or cannabis products as provided under MAUCRSA.
- D. "Commercial cannabis facility" means any building, facility, use, establishment, property, or location where any person or entity establishes, commences,

engages in, conducts, or carries on, or permits another person or entity to establish, commence, engage in, conduct, or carry on, any commercial cannabis activity that requires a state license or nonprofit license under Business and Professions Code sections 26000 and following, including but not limited

to cannabis cultivation, cannabis distribution, cannabis transportation, cannabis storage, manufacturing of cannabis products, cannabis processing, the sale of any cannabis or cannabis products, and the operation of a cannabis microbusiness. Commercial cannabis facility also includes any building, facility, use, establishment, property, or location where cannabis and/or cannabis products are sold or distributed in exchange for compensation in any form for medicinal purposes under Health and Safety Code sections 11362.5 and 11362.7 and following.

- E. "Cultivation" has the meaning set forth in Business and Professions Code section 26001(n) and includes any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- F. "Medical cannabis", "medicinal cannabis", or "medicinal cannabis product" has the meaning set forth in Business and Professions Code section 26001(al) and is cannabis used for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of cannabis in the treatment of acquired immune deficiency syndrome ("AIDS"), anorexia, arthritis, cancer, chronic pain, glaucoma, migraine, spasticity, or any other serious medical condition for which cannabis is deemed to provide relief as defined in subsection (h) of Health and Safety Code § 11362.7.
- G. "Primary caregiver" shall have the meaning set forth in Health and Safety Code sections 11362.5(e) and 11362.7(d).
- H. "Private residence" means, as provided in Health and Safety Code § 11362.2(b)(5), a house, an apartment unit, a mobile home, or other similar dwelling.
- I. "Qualified patient" shall have the meaning set forth in Health and Safety Code section 11362.7(f).

#### **17.09.040 Prohibition of Cannabis dispensaries.**

A. Unless otherwise provided by California law, commercial cannabis facilities are prohibited in all zones in the County, except that a delivery-only

medicinal cannabis retailer (Type 9 retail license from the State's Department of Cannabis Control with an M-license designation) may be conditionally permitted in PD, M-1, and M-2 Zoning Districts. Except as otherwise stated in this title, no person or entity may establish or operate a commercial cannabis facility within the unincorporated portion of the County and a property owner may not allow its property to be used by any person or entity as a commercial cannabis facility.

B. Unless otherwise provided by California law, the delivery of cannabis to any person within the unincorporated portion of the County is prohibited. Where permitted by State law, all businesses delivering cannabis within the unincorporated portion of the County must obtain a County business license pursuant to Chapter 6.16 of the Tehama County Code. All deliveries must be conducted through the use of unmarked vehicle(s) and in compliance with Division 10 of the Business and Professions Code and Title 4, Division 19 of the California Code of Regulations .

#### **17.09.050 Violation and Penalties**

Violation of any provision of this chapter is subject to the nuisance abatement process and penalties set forth in Chapter 9.06 of the Tehama County Code.

#### **17.09.060 Severability.**

If any section, subsection, sentence, clause, portion, or phrase of this chapter 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 hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.