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2 **AN ORDINANCE OF THE COUNTY OF BUTTE AMENDING SECTIONS 34C-2,**
3 **34C-3, AND 34C-4 OF CHAPTER 34C OF THE BUTTE COUNTY CODE.**

4 The Board of Supervisors of the County of Butte ordains as
5 follows:

6 Section 1. Section 34C-2 of the Butte County Code is amended as
7 follows:

8 **34C-2 Findings and Purpose.**

9 (n) In 2015, the California legislature enacted the Medical
10 Marijuana Regulation and Safety Act ("MMRSA"), which set forth a
11 new structure for licensing and enforcement of medical marijuana
12 cultivation, product manufacturing, testing, transportation, and
13 distribution. Following the passage of the MMRSA, an increasing
14 number of individuals and businesses began offering mobile
15 delivery of marijuana to customers in the unincorporated areas of
16 Butte County, as evidenced by advertisements online and in local
17 publications, such as the Chico News & Review.

18 (o) On June 27, 2017 Governor Brown signed into law Senate
19 Bill 94, which provides a single regulatory structure for
20 commercial activities involving both medical and non-medical
21 marijuana. The unified structure establishes a strict licensing
22 scheme whereby all commercial marijuana activities, including
23 retail sales and deliveries, are required to be conducted by
24 licensees.

1 (p) In January of 2018 the State of California will begin
2 issuing licenses for various commercial activities, including
3 cultivation, nurseries, manufacturing, testing, and retail sales
4 and deliveries. However, SB 94 allows local jurisdictions to adopt
5 and enforce ordinances that either regulate those commercial
6 businesses to be licensed by the state, or completely prohibit the
7 establishment or operation of any or all commercial activities
8 within their local jurisdictions.

9 (q) It is also the purpose and intent of this Chapter to
10 regulate commercial activities involving nonmedical marijuana in
11 a manner that is consistent with state law, and that promotes the
12 health, safety, and general welfare of the residents and businesses
13 located within the unincorporated areas of Butte County.

14 Section 2. Section 34C-3 is amended as follows:

15 **34C-3 Definitions.**

16 (e) "Commercial activity" means any enterprise or activity,
17 whether or not for profit, concerning the cultivation, production,
18 storage, processing, manufacture, dispensing, delivery,
19 distribution, laboratory testing, labeling, transportation,
20 provision, or sale of marijuana or marijuana products.

21 (f) "Cultivation" means any activity involving the planting,
22 growing, harvesting, drying, curing, grading, or trimming of
23 marijuana.

24 (g) "Delivery" means the commercial transfer of marijuana or
25 marijuana products to a customer 21 years of age or older.

1 (h) "Distribution" means the procurement, sale, and transport
2 of marijuana and marijuana products between licensed entities.
3 Distribution does not include such transactions if done directly
4 to an individual end-user.

5 (i) "Enforcing Officer" means the Code Enforcement Officer or
6 his or her authorized deputies or designees, each of whom is
7 independently authorized to enforce this Chapter.

8 (j) "Fence" means a wall or a barrier connected by boards,
9 masonry, rails, panels, wire or any other materials approved by
10 the Department of Development Services for the purpose of enclosing
11 space or separating parcels of land. The term "fence" does not
12 include retaining walls.

13 (k) "Indoors" means entirely within a "private residence" or
14 "accessory structure" as defined herein.

15 (l) "Legal parcel" means any parcel of real property that may
16 be separately sold in compliance with the Subdivision Map Act
17 (Division 2 (commencing with Section 66410) of Title 7 of the
18 Government Code).

19 (m) "Manufacture" means to compound, blend, extract, infuse,
20 or otherwise make or prepare a marijuana product.

21 (n) "Marijuana" has the same meaning as in Section 11018 of
22 the California Health & Safety Code.

23 (o) "Outdoors" means any location that is not "indoors" as
24 defined herein.

25 (p) "Parcel" means a "legal parcel" as defined herein.

1 (q) "Premises" means a single, legal parcel of property that
2 includes an occupied legal residence that is a dwelling in
3 compliance with Chapter 26 of the Butte County Code and has also
4 met the requirements of Sections 34C-6 and 34C-7.

5 (r) "Private residence" means a house, apartment unit, mobile
6 home, or other similar dwelling.

7 (s) "Residential treatment facility" means a facility
8 providing for treatment of drug and alcohol dependency, including
9 any "sober living facility" run by treatment providers for the
10 benefit of transitional living.

11 (t) "Retailer" means a person or business who obtains a state
12 license for the retail sale and delivery of marijuana or marijuana
13 products to customers.

14 (u) "School" means an institution of learning for minors,
15 whether public or private, offering a regular course of instruction
16 required by the California Education Code, or any child or day
17 care facility. This definition includes a nursery school,
18 kindergarten, elementary school, middle or junior high school,
19 senior high school, or any special institution of education, but
20 it does not include a vocational or professional institution of
21 higher education, including a community or junior college, college
22 or university.

23 (v) "School Bus Stop" means any location designated in
24 accordance with California Code of Regulations, Title 13, section
25 1238, to receive school buses, as defined in California Vehicle

1 Code section 233, or school pupil activity buses, as defined in
2 Vehicle Code section 546.

3 (w) "School Evacuation Site" means any location designated by
4 formal action of the governing body, Superintendent, or principal
5 of any school as a location to which juveniles are to be evacuated
6 to, or are to assemble at, in the event of an emergency or other
7 incident at the school.

8 (x) "Testing Laboratory" means a facility, entity, or site
9 that offers or performs tests or marijuana or marijuana products.

10 (y) "Youth-oriented facility" means elementary school, middle
11 school, junior high school, high school, public park, and any
12 establishment that advertises in a manner that identifies the
13 establishment as catering to or providing services primarily
14 intended for minors, or the individuals who regularly patronize,
15 congregate or assemble at the establishment are predominantly
16 minors. This shall not include a day care or preschool facility.

17 Section 3. Section 34C-4 is amended as follows:

18 **34C-4 Nuisance Declared; Restrictions on Personal Cultivation**
19 **and Commercial Activities.**

20 (d) Except as otherwise authorized in this Chapter, any
21 commercial activity, including but not limited to the cultivation,
22 production, storage, processing, manufacturing, dispensing,
23 distributing, laboratory testing, labeling, transportation,
24 provision or sale of nonmedical marijuana or nonmedical marijuana
25

1 products is prohibited in the unincorporated areas of the County
2 of Butte.

3 (e) Notwithstanding subsection (d), the mobile delivery of
4 nonmedical marijuana or nonmedical marijuana products originating
5 from a licensed retailer, to a customer located in an
6 unincorporated area of Butte County, is not prohibited.

7 Section 4. (CEQA). The County finds that this Chapter is not
8 subject to the California Environmental Quality Act (CEQA)
9 pursuant to Sections 15060(c)(2) (the activity will result in a
10 direct or reasonably foreseeable indirect physical change in the
11 environment) and 15061(b)(3) (there is no possibility the activity
12 in question may have a significant effect on the environment). In
13 addition to the foregoing general exemptions, the following
14 categorical exemptions apply: Sections 15308 (actions taken as
15 authorized by local ordinance to assure protection of the
16 environment) and 15321 (action by agency for enforcement of a law,
17 general rule, standard or objective administered or adopted by the
18 agency, including by direct referral to the County Counsel as
19 appropriate for judicial enforcement).

20 Section 5. Severability. If any provision of this Chapter or the
21 application thereof to any person or circumstance is held invalid,
22 the remainder of this Chapter, including the application of such
23 party or provision to other circumstances shall not be affected
24 thereby and shall continue in full force and effect. To this end,
25 provisions of this Chapter are severable. The Board of Supervisors

1 hereby declares that it would have passed each section,
2 subsections, subdivisions, paragraphs, sentences, clauses or
3 phrases be held unconstitutional, invalid or unenforceable.

4 Section 6. Effective Date and Publication. The Clerk of the Board
5 will publish the Ordinance codified in this Chapter as required by
6 law. The Ordinance codified in this Chapter shall take effect
7 thirty (30) days after final passage.

8 **PASSED AND ADOPTED** by the Board of Supervisors of the County of
9 Butte, State of California, on the 24th day of October, 2017, by
10 the following vote:

11 **AYES:** Supervisors Wahl, Kirk, Lambert, Teeter, and Chair Connelly

12 **NOES:** None

13 **ABSENT:** None

14 **NOT VOTING:** None

Bill Connelly

BILL CONNELLY, Chair

Butte County Board of Supervisors

15
16 **ATTEST:**

17 **PAUL HAHN**, Chief Administrative Officer
18 and Clerk of the Board of Supervisors

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By: *Celia Chua*

Deputy