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2 **AN ORDINANCE OF THE COUNTY OF BUTTE AMENDING SECTIONS 34A-1,**  
3 **34A-2, 34A-3 AND 34A-4 OF CHAPTER 34A OF THE BUTTE COUNTY CODE.**

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

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

7 **34A-1 Authority and Title.** Pursuant to the authority granted by Article  
8 XI, section 7 of the California Constitution, Health and Safety Code  
9 sections 11362.83 and 11362.768(f), and Government Code section 25845,  
10 the Board of Supervisors does enact this Chapter, which shall be known  
11 and may be cited as the "Butte County Medical Marijuana Ordinance."

12 Section 2. Section 34A-2 is amended as follows:

13 **34A-2 Findings and Purpose.**

14 (t) Following the passage of the Medical Marijuana Regulation and  
15 Safety Act, an increasing number of individuals and businesses began  
16 offering mobile delivery of marijuana to customers in the unincorporated  
17 areas of Butte County, as evidenced by advertisements online and in local  
18 publications, such as the Chico News & Review.

19 (u) On November 8, 2016 Californians voted to legalize the non-  
20 medical use of marijuana via Proposition 64, the Control, Regulate, and  
21 Tax Adult Use of Marijuana Act ("AUMA"). AUMA creates a state regulatory  
22 and licensing system that governs the commercial cultivation, testing  
23 and distribution of non-medical marijuana, and the manufacturing of non-  
24 medical marijuana products. However, AUMA authorizes local  
25 jurisdictions to completely prohibit the establishment or operation of  
any non-medical marijuana business within its jurisdiction.

1 (v) On June 27, 2017 Governor Brown signed into law Senate Bill  
2 94, which provides a single regulatory structure for commercial  
3 activities involving both medical and non-medical marijuana. The unified  
4 structure repeals the collective/cooperative model, and establishes a  
5 strict licensing scheme, whereby all commercial marijuana activities,  
6 including retail sales and deliveries, are required to be conducted  
7 between licensees.

8 (w) In January of 2018 the State of California will begin issuing  
9 licenses for various commercial activities, including cultivation,  
10 nurseries, manufacturing, testing, and retail sales and deliveries.  
11 However, SB 94 allows local jurisdictions to adopt and enforce ordinances  
12 that either regulate those commercial businesses to be licensed by the  
13 state, or completely prohibit the establishment or operation of any or  
14 all commercial activities within their local jurisdictions.

15 (x) It is also the purpose and intent of this Chapter to regulate  
16 commercial activities involving medical marijuana in a manner that is  
17 consistent with state law, and that promotes the health, safety, and  
18 general welfare of the residents and businesses located within the  
19 unincorporated areas of Butte County.

20 Section 3. Section 34A-3 is amended as follows:

21 **34A-3 Definitions.**

22 (d) "Commercial activity" means any enterprise or activity, whether  
23 or not for profit, concerning the cultivation, production, storage,  
24 processing, manufacture, dispensing, delivery, distribution, laboratory  
25 testing, labeling, transportation, provision, or sale of marijuana or  
marijuana products.

1 (e) "Cultivation" means the planting and growing of one (1) or more  
2 marijuana plants or any part thereof in any location, indoor or outdoor,  
3 including from within a fully enclosed and secure building.

4 (f) "Delivery" means the commercial transfer of marijuana or  
5 marijuana products to a customer 21 years of age or older.

6 (g) "Distribution" means the procurement, sale, and transport of  
7 marijuana and marijuana products between licensed entities.  
8 Distribution does not include such transactions if done directly to an  
9 individual end-user.

10 (h) "Enforcing Officer" means the Code Enforcement Officer or his  
11 or her authorized deputies or designees, each of whom is independently  
12 authorized to enforce this Chapter.

13 (i) "Fence" means a wall or a barrier connected by boards, masonry,  
14 rails, panels, wire or any other materials approved by the Department  
15 of Development Services for the purpose of enclosing space or separating  
16 parcels of land. The term "fence" does not include retaining walls.

17 (j) "Harvest" means the drying, processing, or storage of marijuana  
18 which may only occur in a fully enclosed and secure building.

19 (k) "Indoors" means within one (1) fully enclosed and secure  
20 detached structure that complies with the California Building Standards  
21 Code (Title 24 California Code of Regulations), as adopted by the County  
22 of Butte. The detached structure must be secure against unauthorized  
23 entry, accessible only through one (1) or more lockable doors and may  
24 be constructed of any approved building materials, including glass, as  
25 long as the marijuana being cultivated cannot be seen from any public  
right-of-way. Any detached, fully-enclosed and secure structure used for  
the cultivation of marijuana must have a ventilation and filtration

1 system installed that shall prevent marijuana plant odors from exiting  
2 the interior of the structure. Such structure shall be located in the  
3 rear yard area of a legal parcel or premises, maintain the setbacks set  
4 forth in section 34A-8 and the area surrounding the structure or back  
5 yard must be enclosed by a solid fence at least six (6) feet in height.  
6 When this Chapter requires that cultivation of marijuana occur indoors,  
7 the harvest of such marijuana shall also be accomplished indoors.

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

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

13 (n) "Marijuana plant" means any mature or immature marijuana plant,  
14 or any marijuana seedling, unless otherwise specifically provided  
15 herein. A "mature" marijuana plant is one whose sex can be determined  
16 by visual inspection.

17 (o) "Medical marijuana collective" means qualified patients,  
18 persons with valid identification cards, and the designated primary  
19 caregivers of qualified patients who associate by agreement, or form a  
20 cooperative in accordance with Section 12300 of the Corporations Code  
21 within the unincorporated area of the County in order to collectively  
22 or cooperatively cultivate marijuana for medical purposes, as provided  
23 in Health and Safety Code Section 11362.775. The term collective shall  
24 include "cooperative" unless the context clearly indicates otherwise.

25 (p) "Outdoors" means any location that is not "indoors" within a  
fully enclosed and secure structure as defined herein.

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

1 (r) "Premises" means a single, legal parcel of property that  
2 includes an occupied legal residence that is a dwelling in compliance  
3 with Chapter 26 of the Butte County Code and has also met the requirements  
4 of Sections 34A-6 and 34A-7. Where contiguous legal parcels are under  
5 common control or ownership, such contiguous legal parcels shall be  
6 counted as a single "premises" for purposes of this Chapter.

7 (s) "Primary caregiver" means a "primary caregiver" as defined in  
8 Health and Safety Code Section 11362.7(d).

9 (t) "Qualified patient" means a "qualified patient" as defined in  
10 Health and Safety Code Section 11362.7(f).

11 (u) "Recommendation" means a written current recommendation signed  
12 by a licensed California physician pursuant to Health and Safety Code  
13 sections 11362.5 and 11352.7.

14 (v) "Retailer" means a person or business who obtains a state  
15 license for the retail sale and delivery of marijuana or marijuana  
16 products to customers.

17 (w) "Residential treatment facility" means a facility providing  
18 for treatment of drug and alcohol dependency, including any "sober living  
19 facility" run by treatment providers for the benefit of transitional  
20 living.

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

1 junior college, college or university.

2 (y) "School Bus Stop" means any location designated in accordance  
3 with California Code of Regulations, Title 13, section 1238, to receive  
4 school buses, as defined in California Vehicle Code section 233, or  
5 school pupil activity buses, as defined in Vehicle Code section 546.

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

11 (aa) "Testing Laboratory" means a facility, entity, or site that  
12 offers or performs tests or marijuana or marijuana products.

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

20 Section 4. Section 34A-4 is amended as follows:

21 **34A-4 Nuisance Declared; Restrictions on Personal Cultivation and**  
22 **Commercial Activities.**

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

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

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

7 Section 5. (CEQA). The County finds that this Chapter is not subject to  
8 the California Environmental Quality Act (CEQA) pursuant to Sections  
9 15060(c)(2) (the activity will result in a direct or reasonably  
10 foreseeable indirect physical change in the environment) and 15061(b)(3)  
11 (there is no possibility the activity in question may have a significant  
12 effect on the environment). In addition to the foregoing general  
13 exemptions, the following categorical exemptions apply: Sections 15308  
14 (actions taken as authorized by local ordinance to assure protection of  
15 the environment) and 15321 (action by agency for enforcement of a law,  
16 general rule, standard or objective administered or adopted by the  
17 agency, including by direct referral to the County Counsel as appropriate  
18 for judicial enforcement).

19 Section 6. Severability. If any provision of this Chapter or the  
20 application thereof to any person or circumstance is held invalid, the  
21 remainder of this Chapter, including the application of such party or  
22 provision to other circumstances shall not be affected thereby and shall  
23 continue in full force and effect. To this end, provisions of this  
24 Chapter are severable. The Board of Supervisors hereby declares that  
25 it would have passed each section, subsections, subdivisions,  
paragraphs, sentences, clauses or phrases be held unconstitutional,  
invalid or unenforceable.

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

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10 **PASSED AND ADOPTED** by the Board of Supervisors of the County of Butte,  
11 State of California, on the 24<sup>th</sup> day of October, 2017, by the following  
12 vote:

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

14 **NOES:** None

15 **ABSENT:** None

16 **NOT VOTING:** None

17   
18 BILL CONNELLY, Chair  
19 Butte County Board of Supervisors

20 **ATTEST:**

21 **PAUL HAHN**, Chief Administrative Officer  
22 and Clerk of the Board of Supervisors

23 By:   
24 Deputy