

Chapter 7.04 MEDICAL MARIJUANA

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7.04.010 Legislative findings and statement of purpose.

A. The board of supervisors finds that the prohibitions on marijuana cultivation, marijuana processing and marijuana dispensaries are necessary for the preservation and protection of the public health, safety, and welfare for the county and its community. The county's prohibition of such activities is within the authority under state law.

B. On October 9, 2015, the Governor signed the "Medical Marijuana Regulation and Safety Act" ("Act") into law. The Act becomes effective January 1, 2016, and contains new statutory provisions that:

1. Allow local governments to enact ordinances expressing their intent to prohibit the cultivation of marijuana and their intent not to administer a conditional permit program pursuant to Health and Safety Code Section 11362.777 for the cultivation of marijuana (Health and Safety Code Section 11362.777(c)(4));
2. Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances, or enforcement of local permit or licensing requirements regarding marijuana (Business and Professions Code Section 19315(a));
3. Expressly provide that the Act does not limit the authority or remedies of a local government under any provision of law regarding marijuana, including but not limited to a local government's right to make and enforce within its limits all police regulations not in conflict with general laws (Business and Professions Code Section 19316(c)); and
4. Require a local government that wishes to prevent marijuana delivery activity, as defined in Business and Professions Code Section 19300.5(m) of the Act, from operating within the local government's boundaries to enact an ordinance affirmatively banning such delivery activity (Business and Professions Code Section 19340(a)).

C. The board of supervisors finds that this chapter: (1) expresses its intent to prohibit the cultivation of marijuana in the county and to not administer a conditional permit program pursuant to Health and Safety Code Section 11362.777 for the cultivation of marijuana in the county; (2) exercises its local authority to enact and enforce local regulations and ordinances, including those regarding the permitting, licensing, or other entitlement of the activities prohibited by this chapter; (3) exercises its police power to enact and enforce regulations for the public benefit, safety, and welfare of the county

and its community; and (4) expressly prohibits the cultivation, sale, dispensing of medical marijuana in the county. (Ord. 716 § 2 (part), 2016)

7.04.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

A. "Marijuana" means any or all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin or separated 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, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana. The term "marijuana" shall also include "medical marijuana" as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

B. "Commercial cannabis cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

C. "Marijuana processing" means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

D. "Marijuana dispensary" or "marijuana dispensaries" means any business, office, store, facility, location, retail storefront or wholesale component of any establishment, cooperative or collective that delivers (as defined in Business and Professions Code Section 19300.5(m) or any successor statute thereto) whether mobile or otherwise, dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California, or for the purposes set forth in California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

E. "Medical marijuana collective" or "cooperative or collective" means any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act). (Ord. 716 § 2 (part), 2016)

7.04.030 Prohibited activities.

Commercial marijuana cultivation, marijuana processing and marijuana dispensaries shall be prohibited activities in the county, except where the county is preempted by federal or state law from enacting a prohibition on any such activity. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation, marijuana processing, marijuana delivery, or the establishment or operation of a marijuana dispensary in the county, and no person shall otherwise establish or conduct such activities in the county, except where the county is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought. (Ord. 716 § 2 (part), 2016)

7.04.040 Public nuisance.

Any violation of this chapter is hereby declared to be a public nuisance. (Ord. 716 § 2 (part), 2016)

7.04.050 Violations.

Any violation of this chapter shall be punishable as provided in Section 1.16.010 of this code or any successor section thereto. (Ord. 716 § 2 (part), 2016)

7.04.060 Constitutionality/ severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The board of supervisors hereby declares that it would have adopted the ordinance and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid. (Ord. 716 § 2 (part), 2016)

**The Alpine County Code is current through Ordinance 722,
passed March 7, 2016.**

Disclaimer: The Clerk of the Board's Office has the official version of the Alpine County Code. Users should contact the Clerk of the Board's Office for ordinances passed subsequent to the ordinance cited above.

