

ORDINANCE NO. 1262

AN ORDINANCE TO EXTEND INTERIM URGENCY ORDINANCE NO 1261 PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858, AMENDING TITLE 10 AND 15 OF THE GLENN COUNTY CODE TO TEMPORARILY PROHIBIT THE CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, DELIVERY, TESTING AND SALE OF MARIJUANA AND MARIJUANA PRODUCTS WITHIN THE COUNTY OF GLENN TO THE FULLEST EXTENT PERMITTED BY LAW

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, entitled "The Compassionate Use Act of 1996" ("Compassionate Use Act") (Health and Safety Code Sections 11362.5 *et seq.*); and

WHEREAS, in 2004, the State enacted Senate Bill 420 entitled the "Medical Marijuana Program" (Health and Safety Code Sections 11362.7 *et seq.*) to clarify the scope of the Compassionate Use Act and to allow public entities to adopt and enforce rules and regulations consistent with Senate Bill 420; and

WHEREAS, in 2011, Assembly Bill 2650 (Health and Safety Code Section 11362.768) was enacted. This law affirms that counties may adopt policies and ordinances that restrict the location and establishment of medical marijuana collectives and cooperatives; and

WHEREAS, in 2015, the State enacted the Medical Cannabis Regulation and Safety Act ("MCRSA") (Business and Professions Code Sections 19300 *et seq.*). MCRSA consisted of three bills: Assembly Bill 243, Assembly Bill 266 and Senate Bill 643. The purpose of MCRSA is to regulate the cultivation, dispensing, manufacturing, delivery and transportation of medical marijuana; and

WHEREAS, California's medical marijuana laws do not limit or supersede existing local authority, including the authority to prohibit the cultivation, dispensing, manufacturing, distribution, and transportation of medical marijuana within the County; and

WHEREAS, in 2016, the voters of the State of California approved Proposition 64 enacting the Control, Regulate, and Tax Adult Use of Marijuana Act ("the AUMA") (Health and Safety Code Sections 11362.1 *et seq.* and Business and Professions Code Sections 26000 *et seq.*). The AUMA legalizes and regulates nonmedical marijuana under California law; and

WHEREAS, since the enactment of AUMA, Glenn County has received inquiries from parties seeking to cultivate nonmedical marijuana and open nonmedical marijuana businesses; and

WHEREAS, like California's medical marijuana laws, the AUMA recognizes and preserves the authority of counties to enact and enforce reasonable regulations, including prohibiting the outdoor cultivation of marijuana for personal use, regulating indoor cultivation of marijuana for personal use, and prohibiting all nonmedical businesses from locating and operating within the county. While no such business can operate in the County without a state issued license, express County regulations regarding nonmedical marijuana uses and commercial operations and activities are necessary to provide immediate and clear guidance regarding the scope of prohibited conduct. Express County regulations are also necessary to provide immediate and clear guidance regarding the scope of permissible cultivation of marijuana for personal use; and

WHEREAS, without sufficient regulations that are enforceable through an adopted ordinance, there is a current and immediate threat to the public health, safety, and welfare from unregulated medical and nonmedical cultivation, manufacturing, distribution and deliveries; and

WHEREAS, several California cities and counties have experienced serious adverse impacts associated with and resulting from marijuana businesses, including dispensaries, delivery services and cultivation sites. Harmful effects include burglaries, robberies, illegal sales and illegal distribution of marijuana, use or possession of marijuana by unauthorized persons, attacks on persons entering or leaving premises, loitering, smoking marijuana in public places, and offensive odors; and

WHEREAS, the unregulated cultivation of marijuana outdoors, where it is often readily observable by neighbors and the general public, increases the risk of trespassing and burglary, and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes. Cultivation of marijuana outdoors without adequate regulation increases the likelihood of offensive odors traveling off the premises. Additionally, experience in Glenn County and elsewhere demonstrates that outdoor cultivation of marijuana without sufficient regulation is often associated with violations of local, state, and federal environmental laws and pesticide regulations, threatening harm to local waterways and groundwater quality, and endangering the public health, safety, and welfare. Until adequate regulations are carefully considered and adopted, it is proper and necessary to prohibit the outdoor cultivation of marijuana to protect the public health, safety and welfare within the unincorporated area of Glenn County; and

WHEREAS, the unregulated indoor cultivation of marijuana has potential adverse effects to the structural integrity of a building, and the use of high wattage grow lights and excessive use of electricity increase the risk of fire, which presents a clear danger to the building and its occupants; and

WHEREAS, the California Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Marijuana Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, on June 27, 2017, the Board of Supervisors, in accordance with Government Code 65858, adopted Urgency Ordinance 1261, amending Title 10 and 15 of the Glenn County Code to temporarily prohibit the cultivation, processing, manufacturing distribution, delivery, testing and sale of marijuana and marijuana products, which will expire on August 11, 2017, unless further extended as provided by law; and

WHEREAS, the County is actively engaged in the consideration and study of possible means of regulating or prohibiting the cultivation, processing, manufacturing distribution, delivery, testing and sale of marijuana and marijuana products, including zoning regulations and other regulations, and by this Ordinance direct the diligent continuation of such consideration and study; and

WHEREAS, pursuant to Government Code Section 65858, subdivision (d), ten days prior to the expiration or extension of Ordinance 1261, the County issued a written report describing the measures taken to alleviate the condition which led to the adoption of the Ordinance; and

WHEREAS, the Marijuana Ad Hoc Committee and staff indicate that more time is needed to fully study and consider the possible means of regulating or prohibiting the cultivation, processing, manufacturing distribution, delivery, testing and sale of marijuana and marijuana products and to prepare proposed regulations for the Board's consideration and adoption; and

WHEREAS, in order to protect the public health, safety, and welfare, the Board desires to adopt this Ordinance extending Urgency Ordinance 1261 pursuant to Government Code Section 65858 to allow the County sufficient time to develop a permanent ordinance expressly regulating or prohibiting the cultivation, processing, manufacturing distribution, delivery, testing and sale of marijuana and marijuana products; and

WHEREAS, on August 1, 2017, at a regular meeting, the Board of Supervisors held a public hearing, heard and considered public comment, oral and written, on the proposed extension of Ordinance 1261.

**NOW THEREFORE, THE BOARD OF SUPERVISORS FOR THE COUNTY OF GLENN
ORDAINS AS FOLLOWS:**

SECTION 1: The Board of Supervisors finds that all the facts, findings, and conclusions set forth above in this Ordinance extending Interim Urgency Ordinance 1261 are true and correct and incorporated herein by this reference.

SECTION 2: In order to protect the public health, safety, and welfare of the residents of Glenn County from a current and immediate threat, Ordinance 1261 is hereby extended for an additional 10 months and 15 days, in accordance with Government Code Section 65858, subdivision (a).

SECTION 3: Effective until June 26, 2018, , the Glenn County Code, as it read prior to the adoption of Ordinance No. 1261, is amended to read:

ZONING REGULATIONS AND LAND USE

Chapter 15.797, Title, "MEDICAL MARIJUANA," of the Glenn County Code is hereby deleted and hereby amended to read: "MARIJUANA."

Chapters 10.46 is hereby repealed.

Section 15.020.020, subsection (M)(6) of the Glenn County Code is hereby repealed.

Section 15.020.020, subsection (M)(6) is hereby added to the Glenn County Code to read:

6. "Marijuana" shall have the same meaning as that set forth in Health and Safety Code section 11018, "marijuana products," as defined in Health and Safety Code section 11018.1 and "industrial hemp," as defined in Health and Safety Code section 11018.5(a). Except where the context otherwise requires, the following definitions shall govern Chapter 797, of this Title:
 - a. "Collective" means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate in any manner within the unincorporated area of the County in order to collectively or cooperatively cultivate, store, and/or dispense marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include "cooperative," whether formed in

accordance with the Corporations Code or otherwise unless the context clearly indicates otherwise.

- b. "Cultivation" means the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including from within a fully enclosed and secure building.
- c. "Delivery" has both the meaning set forth in Business and Professions Code section 19300.5, subdivision (m), and the meaning set forth in Business and Professions Code section 26001, subdivision (h).
- d. "Dispensary" or "Medical Marijuana Dispensary" or "Retailer" means any facility or location, whether fixed or mobile, and any delivery service, where marijuana for medical or non-medical purposes is made available to and/or distributed, with or without consideration, to any person or persons, including without limitation a primary caregiver, a qualified patient, or patient with an identification card, as those terms are defined in California Health and Safety Code section 11362.5 et seq. "Marijuana Dispensary" includes medicinal marijuana "cooperative" and collectives" (i.e., facilities or undertakings where an person(s) provides marijuana to any one or more other persons, or where persons meet or congregate to distribute or provide marijuana for medicinal or other purposes).
- e. "Residence" has the same meaning as "private residence" set forth in Health and Safety Code Section 11362.2(b)(5).
- f. "Sheriff" or "Sheriff's Department" means the Sheriff's Office of the County of Glenn or the authorized representatives thereof.

Section 15.797.010 of the Glenn County Code is hereby repealed.

Section 15.797.010 is hereby added to the Glenn County Code to read:

15.797.010 PURPOSE

It is the intent and purpose of this Chapter to implement State law by providing a means for regulating the cultivation, selling, distributing, dispensing, manufacturing or testing of marijuana in a manner consistent with State law and which balances the health, safety, and welfare of the residents and businesses within the unincorporated territory of the County of Glenn. This Chapter is intended to be consistent with California's medical marijuana laws and the Adult Use of Marijuana Act, and represents an exercise of the local authority retained by the County of Glenn under those laws.

Section 15.797.020 of the Glenn County Code is hereby repealed.

Section 15.797.020 is hereby added to the Glenn County Code to read:

15.797.020 PROHIBITED USES

- A. Subject only to the exemptions in this ordinance and to the fullest extent allowed by state law, the following uses are prohibited in all zoning districts of the County:
 - 1. The cultivation of marijuana.
 - 2. The delivery of marijuana.
 - 3. The establishment or operation of a location, facility, or business, that sells, distributes, dispenses, manufacturers, or tests marijuana.

4. The establishment, development, construction, maintenance, operation, or enlargement of any marijuana dispensary or retailer for medical or non-medical purposes or any collective and/or cooperative, as these terms are defined herein.

Section 15.797.030 is hereby repealed.

Section 15.797.030 is hereby added to the Glenn County Code to read:

15.797.030 EXEMPTIONS

- A. Six or fewer marijuana plants may be cultivated indoors at a residence if all of the following conditions are met:
 1. The residence, and all lighting, plumbing, and electrical components used for cultivation, must comply with all applicable zoning, building, electrical, and plumbing codes and permitting requirements.
 2. All living marijuana plants, and all marijuana in excess of 28.5 grams produced by those plants, must be kept in a locked room and may not be visible from an adjacent property, right-of-way, street, sidewalk, or other place accessible to the public.
 3. The residence must be lawfully occupied. If the residence is not owner-occupied, written permission from the owner of the residence must be obtained before marijuana may be cultivated.
 4. No marijuana plants may be cultivated outdoors.
 5. The marijuana plants, and all marijuana produced by the plants, shall be for the personal use of the cultivator only, and not for sale, provided that such marijuana and marijuana plants may be given away to persons 21 years of age or older without any compensation whatsoever in accordance with Health and Safety Code section 11362.1, subdivision (a)(2)
- B. It is not a violation of this ordinance for any person employed by a licensed marijuana delivery service to travel on a public road within the unincorporated area of the County for the purposes of delivering marijuana to persons located in a city or county where the delivery of marijuana is not prohibited.
- C. Section 15.797.020 shall not apply to the following marijuana cultivation until December 1, 2017:
 1. Marijuana cultivation commenced in full compliance with the provisions of Chapter 15.797 of the Glenn County Code as it read on the day prior to the adoption of this Ordinance. Marijuana cultivation described in this subdivision shall be required to comply with all provisions of Section 15.020.020(M)(6) and Chapter 15.797 of the Glenn County Code as those provisions read on the day prior to the adoption of this Ordinance until November 30, 2017.

Section 15.797.060 is hereby repealed.

SECTION 4: If any section, subsection, sentence, clause, portion or phrase of this Ordinance 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 portion thereof. The Board of Supervisors 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.

SECTION 5: This Ordinance extending an interim urgency ordinance is not subject to review under the California Environmental Quality Act ("CEQA") pursuant to CEQA guidelines sections 15060, subdivision (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15601, subdivision (b)(3) (there is no possibility the activity in question may have a significant impact on the environment). In addition to the forgoing general exemptions, the Board of Supervisors further finds that the Ordinance is categorically exempt from review under CEQA under the Class 8 Categorical Exemption (regulatory activity to assure the protection of the environment).

SECTION 6: This Ordinance is an urgency ordinance necessary for the immediate preservation of the public peace, health and safety or welfare while considering revisions to the development and zoning regulations, and other regulations as needed, related to the regulation of cultivation, processing, manufacturing, distribution, testing and sale of marijuana.

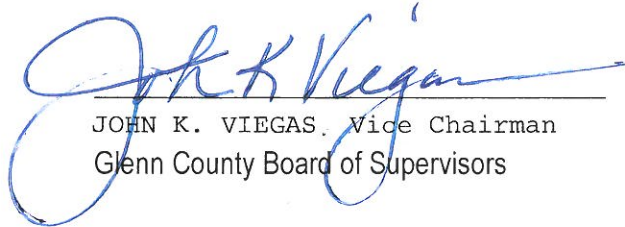
SECTION 7: This Ordinance is adopted by the Board of Supervisors pursuant to Government Code Section 65858 by a four-fifths or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately. This Ordinance shall expire and be of no further force or effect 10 months and 15 days after August 11, 2017, unless it is extended pursuant to said section 65858. Before the expiration of 15 days after the adoption of this Ordinance, the Clerk shall cause this Ordinance to be published once, with the names of the members of this Board voting for or against the same, in a newspaper of general circulation published in the County of Glenn.

PASSED AND ADOPTED by the Board of Supervisors of Glenn County this 1st day of August, 2017 by the following vote:

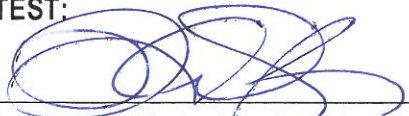
AYES: Supervisors Foltz, McDaniel, Minto, and Viegas (Vice Chairman)

NOES: None

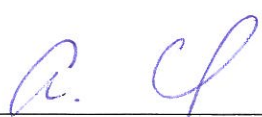
ABSENT OR ABSTAIN: Supervisor Corum (Absent)


JOHN K. VIEGAS, Vice Chairman
Glenn County Board of Supervisors

ATTEST:


Di Aulabaugh, Clerk of the Board
County of Glenn, California

APPROVED AS TO FORM:


Alicia Ekland, County Counsel
County of Glenn, California