

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

THE LAKE COUNTY MEDICAL MARIJUANA CULTIVATION ACT OF 2012

The People of the County of Lake do hereby ordain as follows:

AN ORDINANCE AMENDING CHAPTER 21 OF THE ORDINANCE CODE OF THE COUNTY OF LAKE ADDING ARTICLE 72A: REGULATIONS FOR THE CULTIVATION OF MEDICAL MARIJUANA

Section 1: This ordinance shall be known and may be cited as The Lake County Medical Marijuana Cultivation Act of 2012.

Section 2: Article 72A, passed on October 11, 2011 as Ordinance No. 2960, is hereby repealed in its entirety and replaced by this Ordinance. All other county ordinances relating specifically to the outdoor cultivation of medical marijuana are also hereby repealed.

Section 3: Article 72A below replaces the previous Article 72A, is hereby added to Chapter 21 of the Lake County Code and shall read as follows:

ARTICLE 72A

SEC.21-72A

REGULATIONS FOR THE CULTIVATION OF MEDICAL MARIJUANA

72A.1 Findings and Purpose

(a) In 1996, the voters of the State of California enacted Proposition 215, codified as California Health and Safety Code section 11362.5, and entitled The Compassionate Use Act of 1996. Proposition 215 decriminalized the possession, cultivation and medical use of marijuana by anyone with a recommendation to use marijuana from a licensed physician.

(b) In 2003, the State Legislature passed SB 420, codified as California Health and Safety Section 11362.7 *et. seq.*, and entitled The Medical Marijuana Program Act of 2003 (MMPA). Among other things, the MMPA added section 11362.775 to the Health and Safety Code, which provides that medical marijuana patients may “associate within the state in order to collectively or cooperatively” cultivate marijuana for medical purposes. One of the stated purposes of the Act was to enhance the access of patients and caregivers to medical marijuana through collective or cooperative cultivation projects.

(c) The purpose of this article is to regulate by land use provisions in the zoning ordinance the numbers of medical marijuana plants that can be grown outdoors in the various zoning districts for individual use, and also collectively, in accordance with California law. This article does not restrict or affect the right of qualified patients and their primary caregivers to cultivate medical marijuana indoors.

72A.2 Definitions

(a) Parcel: A specific plot of land in Lake County designated by the Lake County Assessor with an Assessor's Parcel Number, or APN.

(b) Zoning Districts: “A” is Agricultural District; “APZ” is Agricultural Preserve District; “R1” is Single Family Residential District; “R2” is Two-Family Residential District, “RL” is Rural Lands District; “RR” is Rural Residential District; “SR” is Suburban Reserve District; and “TPZ” is Timberland Preserve District.

(c) Agricultural Land: Those land areas specifically zoned as APZ, A, TPZ, RL and RR.

(d) Dispensary: Any storefront facility which distributes, transmits, gives, or otherwise provides medical marijuana to qualified patients or primary caregivers in

accordance with The Compassionate Use Act of 1996 and The Medical Marijuana Program Act of 2003.

(e) Collective: A group of qualified patients and primary caregivers that associate to collectively or cooperatively cultivate medical marijuana and that facilitates the collaborative efforts of patient and caregiver members in accordance with The Compassionate Use Act of 1996 and The Medical Marijuana Program Act of 2003.

(f) Physician: A medical doctor or osteopath, licensed by the State of California.

(g) Qualified patient: A person who either has a State of California Medical Marijuana Identification Card or a recommendation to use marijuana for medical purposes from a physician licensed by the State of California and who is entitled to the protections of the Compassionate Use Act of 1996 and the Medical Marijuana Program Act of 2003.

(h) Primary caregiver: The individual designated by a qualified patient to obtain, possess and/or cultivate medical marijuana for the qualified patient, and who has consistently assumed responsibility for the housing, health, or safety of that person.

(i) Female Marijuana Plant: A flowering female plant grown to produce medical marijuana, with pistillate female flowers visible to the naked eye.

(j) Any term not defined herein shall have the same meaning as in the Compassionate Use Act and Medical Marijuana Program Act if defined therein.

72A.3 Uses Permitted

1. Cultivation of medical marijuana is an allowed use outdoors on parcels within the R1, R2, SR, RR, RL, A, APZ and TPZ base zoning districts. Cultivation authorized by this Section is subject to the following criteria:

(a) All cultivation must comply with California law, including but not limited to The Compassionate Use Act of 1996 and the Medical Marijuana Program Act of 2003.

(b) All cultivation is subject to other Lake County ordinances not inconsistent with this Ordinance.

(c) All persons cultivating medical marijuana must possess documentation that they are authorized to cultivate either as a qualified patient, as a primary caregiver, for a collective, or for a dispensary.

(d) Outdoor cultivation shall be screened from view from adjacent parcels and adjacent public areas.

(e) Outdoor cultivation shall not be conducted within 600 feet of any public or private elementary, middle or high school.

2. Medical marijuana is an agricultural product and outdoor cultivation of medical marijuana in A, APZ, TPZ, RR, and RL zoning districts is subject to the Lake County Right to Farm Ordinance.

3. In R1 and R2 zoning districts, on parcels less than one-half acre or 21,780 square feet, no more than 12 female marijuana plants may be grown outdoors on any parcel.

In R1 and R2 zoning districts, on parcels one-half acre or more, no more than 24 female marijuana plants may be grown outdoors on any parcel.

4. In SR, RR, RL, A, APZ and TPZ zoning districts on parcels less than 5 acres, no more than 36 female marijuana plants may be grown outdoors.

5. In SR zoning districts on parcels 5 acres or more, and in RR, RL, A, APZ and TPZ zoning districts on parcels at least 5 acres but less than 7 acres, no more than 66 female marijuana plants may be grown outdoors.

6. In RR, RL, A, APZ and TPZ zoning districts, on parcels 7 acres or more, no more than 84 female marijuana plants may be grown outdoors.

72A.4 Nuisance Declared; Abatement Procedures

1. The outdoor cultivation of marijuana plants in excess of the amounts specified by this Article is hereby declared to be a public nuisance and the excess amounts may be abated by the Community Development Department in accordance with Chapter 13 of the Lake County Code.

2. Nothing in this Article shall be construed as a limitation on the Community Development Department's authority under Chapter 13 to abate any other nuisance which may exist from the cultivation of medical marijuana, subject to the Right to Farm Ordinance on agricultural land.

72A.5 Inspections and Fees; Scope of Ordinance

Due to constraints currently imposed by federal law, and the current state of flux of California law, the collection of taxes or fees is not practicable at this time. County regulation of outdoor medical marijuana cultivation is limited to this ordinance, except

that the County of Lake may pass an ordinance that provides for the payment of taxes or fees on outdoor cultivation in excess of 36 female plants, to pay for administration costs and for inspections by independent third parties to ensure that all county ordinances are complied with and that no unlawful chemicals, herbicides or pesticides are used; furthermore, any such ordinance shall be based on the needs and interests of Lake County citizens and medical marijuana farmers, including the farmers' need for privacy and their right to privacy under Article 1, Section 1 of the California Constitution.

72A.6 Conflicts with Other Provisions of Law

If this Article is found to be in conflict with any other County Codes, laws, ordinances or resolutions, the provisions of this Article shall prevail. All conflicting provisions are hereby repealed to the extent of such conflict except as provided above.

72A.7 Severability

If any section, subsection, sentence, clause, phrase or provision of this Ordinance is for any reason held to be invalid, or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other portions or provisions of this Article. It is specifically intended that all provisions of this Ordinance be severable.