

# Before the Board of Supervisors County of Placer, State of California

**In the matter of:**

AN ORDINANCE AMENDING PLACER  
COUNTY CODE CHAPTER 8, HEALTH AND  
SANITATION, BY ADDING ARTICLE 8.10  
MEDICAL MARIJUANA REGULATIONS

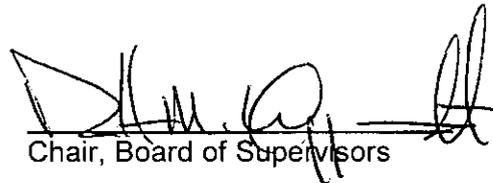
Ordinance No.: 5806-B

First Reading: January 5, 2016

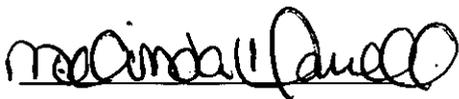
The following **ORDINANCE** was duly passed by Board of Supervisors of the County of Placer at a regular meeting held January 26, 2016, by the following vote on roll call:

Ayes: DURAN, HOLMES, UHLER, MONTGOMERY, WEYGANDT  
Noes: NONE  
Absent: NONE

Signed and approved by me after its passage.

  
Chair, Board of Supervisors

Attest:  
Clerk of said Board



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THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA  
HEREBY FINDS AND DECLARES THE FOLLOWING:

**WHEREAS**, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5, and entitled "The Compassionate Use Act of 1996"); and

**WHEREAS**, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or

to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere”; and

**WHEREAS**, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code sections 11362.7 *et seq.*) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes; and

**WHEREAS**, Health and Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420; and

**WHEREAS**, the County’s geography and climate, which includes dense vegetated areas that are remote and sparsely populated, provide conditions that are favorable to outdoor marijuana cultivation. Additionally, the County’s remote rural areas and hillsides provide ideal locations to conceal illegal cultivation operations; and

**WHEREAS**, unregulated marijuana cultivation in the unincorporated areas of Placer County can adversely affect the health, safety and well-being of the County, its residents and environment. The regulating of the cultivation of marijuana is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, offensive odor, and fire hazards that may result from unregulated medicinal marijuana cultivation.

**WHEREAS**, Placer County and other public agencies have reported adverse impacts from cultivation, including, but not limited to, disagreeable odors; negative effects on the environment; unsanitary conditions; negative effects on physical, mental and community health; violation of building codes and other land development codes; increased risk of burglary and other property crimes; and acts of violence in connection with the commission of such crimes or occupants’ attempts to prevent such crimes.

**WHEREAS**, on October 9, 2015 Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA is a package of three separate bills (AB 243, AB 266 and SB 643), enacted by the legislature on September 11, 2015 that established a comprehensive regulatory framework for the cultivation, production, transportation, testing, sale and taxation of medical marijuana in California; and

**WHEREAS**, AB 243, Section 6, adds Section 11362.777 to the Health and Safety Code which includes the provision in subsection (c)(4) that provides:

“(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county”; and

**WHEREAS**, it is the purpose and intent of this Article to assert and preserve the County's local regulatory authority over the cultivation of medicinal marijuana by choosing to administer a conditional permit program pursuant to Health and Safety Code § 11362.777 (c)(4) prior to March 1, 2016; and

**WHEREAS**, it is further the purpose and intent of this Article to implement State law by providing a means for regulating the cultivation of medicinal marijuana that is consistent with State Law and which balances the needs of medical patients and their caregivers and promotes the health, safety, and welfare of the residents and businesses within the unincorporated area of Placer County. This Article is intended to prohibit the cultivation of marijuana by anyone for any purpose other than allowed within the strict compliance with local ordinances and applicable State law. This Article is not intended to prohibit persons from exercising any right otherwise granted by State law, including Proposition 215 and Senate Bill 420. Rather, the intent and purpose of this Article is to establish reasonable regulations upon the manner in which marijuana for medicinal purposes may be cultivated, including restrictions on the amount of marijuana that may be cultivated in any location or premises, in order to protect the public health, safety and environment in Placer County; and

**WHEREAS**, the rights or qualified patients, primary caregivers, and licensees under State law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this Article, the County will achieve a significant reduction in the aforementioned harms caused or threatened by unregulated cultivation of marijuana in the unincorporated area of Placer County; and

**WHEREAS**, nothing in this Article shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal.

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

**Section 1.** Chapter 8 Health and Sanitation of the Placer County Code is hereby amended to add Article 8.10, which shall read as follows:

**Article 8.10  
MEDICAL MARIJUANA REGULATIONS**

**SEC. 8.10.010 Retention of Local Authority.**

By this ordinance, the County of Placer chooses to administer a conditional permit program pursuant to Health & Safety Code §§ 11362.777 (c)(4). All local authority established by the California Constitution, general laws, local charter and case law that is vested with the County of Placer to regulate all activity related to the cultivating, possessing, selling, distributing, dispensing, or offering to sell, distribute, or dispense Medical Cannabis or a Medical Cannabis Infused Product is hereby claimed by the County of Placer.

**SEC. 8.10.020 Agricultural Commissioner.**

The Agricultural Commissioner is authorized to administer the conditional permit program for the commercial cultivation of cannabis for medical use and all other commercial cannabis activity. The Agricultural Commissioner shall have the authority for the issuance, renewal, revocation or reinstatement of the local license or permit for the commercial cultivation of cannabis for medical use and all other commercial cannabis activity.

**SEC. 8.10.030 General Provisions.**

No person shall engage in the business or activity of cultivating, possessing, selling, distributing, dispensing, or offering to sell, distribute, or dispense Medical Cannabis or a Medical Cannabis Infused Product unless such person fully complies with the provisions of this Article, has received all permits required in this Article and Code, and operates solely at a location approved by the County, subject to all requirements and conditions of approval attendant to the issuance of such permits and approval of such location.

**SEC. 8.10.040 Applicability.**

Commercial cultivation of cannabis for medical use and all other commercial cannabis activity is permitted only in those zone districts identified in Chapter 17 of this Code. The Agricultural Commissioner's authority under this Article shall become effective on the date said zone districts are established by separate ordinance.

**SEC. 8.10.050 Prior Cultivation.**

The commercial cultivation of cannabis for medical use within the jurisdiction of the County of Placer shall be controlled by the provisions of this Article, regardless of whether the cultivation existed or occurred prior to the adoption of this Article.

**SEC. 8.10.060 Other County and State Regulations.**

Nothing in this Article is intended, nor shall it be construed, to exempt the commercial cultivation of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water use, water rights, pesticide permitting and use, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements, as well as other applicable provisions of the County Code, or compliance with any applicable state laws.

**SEC. 8.10.070 Development and Use Regulations.**

Commercial cultivation of cannabis for medical use and all other commercial cannabis activity shall be subject to development and use regulations, which regulations will be established and incorporated in this section by separate ordinance. The Agricultural Commissioner's authority under this Article shall become effective on the date said regulations are effective.

**SEC. 8.10.080 Private Property.**

Nothing in this Article is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation of cannabis for medical use.

**SEC. 8.10.090 Severability.**

If any provision of this Article, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Article that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Article are severable.

**SEC. 8.10.100 Definitions.**

The definitions in this Section are intended to apply solely to the regulations in this Article. Applicable definitions in other parts of the Placer County Code may also apply to this Article. The following definitions shall apply to this Article:

- (a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.
- (b) "Applicant," means the following:
  - (1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used for the facility, or cultivation site.
  - (2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.
  - (3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- (c) "Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.
- (d) "Bureau" means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.
- (e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.
- (f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not; including the seeds thereof; the 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. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (g) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the

product's potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(h) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

(i) "Certificate of accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

(j) "Chief" means Chief of the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(k) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

(l) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under the MMRSA, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) "Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to the MMRSA.

(q) "Distributor" means a person licensed under the MMRSA to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(t) "Fund" means the Medical Marijuana Regulation and Safety Act Fund established pursuant to Section 19351.

(u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by the MMRSA.

(v) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona

bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(w) "Licensing authority" means all of the following depending on the context: the state agency responsible for the issuance, renewal, or reinstatement of the state license, the state agency authorized to take disciplinary action against the license or licensee, the local County of Placer agency responsible for the issuance, renewal, or reinstatement of the local license or permit, or the local County of Placer agency authorized to take disciplinary action against the license or licensee.

(x) "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid permit, local license, or local permit issued by the County of Placer and a valid state license pursuant to the MMRSA.

(y) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or re-labels its container, that holds a valid state license pursuant to the MMRSA, and that holds a valid local license or permit from the County of Placer.

(z) "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.

(2) Registered with the State Department of Public Health.

(aa) "Transporter" means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

(ab) "Licensee" means a person issued a state license under the MMRSA to engage in commercial cannabis activity.

(ac) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ad) "Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

(ae) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(af) "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ag) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold 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. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(ah) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis. "Nursery" does not mean "Plant Nurseries" or "Plant Production Nurseries" as such are defined in Chapter 17.

(ai) "Permit," "local license," or "local permit" means an official document granted by the County of Placer that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(aj) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ak) "State license," "license," or "registration" means a state license issued pursuant to the MMRSA.

(al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to the MMRSA.

(an) "MMRSA" means the Medical Marijuana Regulation Safety Act.

(ao) "Outdoor Cultivation" means the cultivation of medical marijuana which is performed outdoors, or in temporary or permanent structures without the use of artificial light.

(ap) "Mixed Light Cultivation" means the cultivation of medical marijuana in temporary or permanent structures while utilizing both natural sunlight and artificial light sources.

(aq) "Indoor Cultivation" means the cultivation of medical marijuana in permanent structures while utilizing only artificial light sources.

(ar) "Inspector" means an employee of the County of Placer working in their official capacity.

(as) "Medical Marijuana-Infused Product" means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including, but not limited to edible products, ointments, and tinctures.

## **SEC. 8.10.110 Local License or Permit Classifications.**

License classifications pursuant to this chapter are as follows:

- (a) Type 1 = Cultivation; Specialty outdoor; Small.
- (b) Type 1A = Cultivation; Specialty indoor; Small.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small.
- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.
- (g) Type 3 = Cultivation; Outdoor; Medium.

- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing.
- (n) Type 10 = Dispensary; General.
- (o) Type 10A = Dispensary; No more than three retail sites.
- (p) Type 11 = Distribution.
- (q) Type 12 = Transporter.

**SEC. 8.10.120 Penalties and Enforcement.**

All of the remedies provided for in this Article shall be cumulative and not exclusive of remedies available for violations under any other section of the County Code.

Any violation of this Article, including, but not limited to failure to obtain and maintain in good standing any required license, permit, clearance certificate specified in this Article, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the County.

**Section 2.** This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with government code section 25124.