

ORDINANCE NO. 2978

AN ORDINANCE EXTENDING THE INTERIM ORDINANCE PROHIBITING COMMERCIAL
MEDICAL MARIJUANA CULTIVATION AND CULTIVATION ON VACANT PROPERTIES,
AND LIMITING OUTDOOR CULTIVATION AMOUNTS IN THE COUNTY OF LAKE, AND
DECLARING THE URGENCY THEREOF

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, "the
Compassionate Use Act", which was intended to enable persons in need of medical marijuana to
obtain, use, and cultivate marijuana for medical purposes upon recommendation by a licensed
physician and to encourage the state government to implement a plan to provide for the safe and
affordable distribution of medical marijuana, and

WHEREAS, on January 1, 2004, Senate Bill 420 became effective to clarify the scope of the
Compassionate Use Act and to allow cities and counties to adopt and enforce rules and regulations
consistent with Senate Bill 420 and the Compassionate Use Act; and

WHEREAS, while the Lake County Zoning Ordinance does not presently allow the cultivation
of medical marijuana, such cultivation is occurring at rapidly increasing frequency and in large
quantities throughout the County, particularly on vacant properties and residential zones in the
unincorporated areas of the County; and

WHEREAS, medical marijuana cultivation raises issues of first impression for the County
because the County Zoning Ordinance does not presently address or regulate it in any manner,
including but not limited to the quantity of cultivation and identification of which zoning such a land
use is allowed; and

WHEREAS, if medical marijuana cultivation were allowed to continue without restriction it is
likely to continue to proliferate in large quantities in residential neighborhoods and undeveloped

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1 properties, creating increasingly frequent conflicts with the requirements of the General Plan as well as
2 other land use conflicts, thereby creating detrimental impacts to the public health, safety and welfare;
3 and if such uses were allowed to proceed as allowed under the current zoning without limitation, such
4 uses could conflict with and defeat the purpose of adopting new regulations regarding medical
5 marijuana cultivation; and
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7 WHEREAS, medical marijuana plants produce strong odors which are offensive to many
8 residents in Lake County, and cultivation of medical marijuana in large amounts is occurring within
9 community areas throughout Lake County thereby impacting countless residents; and
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11 WHEREAS, medical marijuana plants grown outdoors reach large proportions of up to six (6)
12 or seven (7) feet in diameter and produce on average one (1) to four (4) pounds of processed bud each,
13 and therefore attract criminal activity due to their high value; and
14

15 WHEREAS, because of the high monetary value of marijuana, those cultivating marijuana on
16 vacant properties generally take up residence on those sites to protect it which often results in
17 unpermitted camping on vacant properties with no sanitation facilities or on-site water supply, by
18 individuals who brandish firearms, poach wildlife and cause significant environmental damage while
19 threatening adjacent residents; and
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21 WHEREAS, large medical marijuana cultivation practices results in excessive use of fertilizers
22 and importation of nutrient rich topsoils and often is being conducted on undeveloped and small
23 residential properties not conducive to such practices due to steep terrain and the presence of natural
24 drainage features on lands not designated for agricultural practices; and
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26 WHEREAS, the practices of those cultivating on undeveloped, vacant properties often
27 includes the use of open fire pits that increases the chances of wildland fires, and storage of trash that
28 is often left behind once the sites are vacated; and

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1 WHEREAS, the Board of Supervisors has initiated efforts to draft an ordinance which
2 addresses a patient's legitimate right to access to medical marijuana which is also responsive to the
3 community's need that any impacts to public health, safety, and welfare be addressed; and
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5 WHEREAS, more time is needed to study and analyze how and in what manner the County can
6 reasonably accommodate both the needs of medical marijuana patients while addressing the concerns
7 relating to environmental and health and safety impacts upon the community; and
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9 WHEREAS, since the time the Board of Supervisors has acted to initiate said efforts, the
10 County has seen a significant increase in the establishment of large medical marijuana cultivation sites
11 which has raised concerns in the unincorporated areas of the County relating to environmental impacts
12 and health and safety impacts to nearby residents; and
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14 WHEREAS, there is no feasible alternative to satisfactorily study the impacts identified above
15 as well or better with a less burdensome or restrictive effort than the adoption of this interim urgency
16 ordinance; and
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18 WHEREAS, based on the foregoing it is in the best interest of public health, safety, and welfare
19 to adopt an interim ordinance and ban commercial medical marijuana cultivation and cultivation on
20 vacant properties, while limiting outdoor cultivation amounts on developed properties consistent with
21 the authority granted by Government Code Section 65858; and
22

23 WHEREAS, On July 9, 2012, the Lake County Board of Supervisors adopted Interim
24 Ordinance No. 2977 establishing an interim ordinance prohibiting commercial medical marijuana
25 cultivation and cultivation of medical marijuana on vacant properties, and
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27 WHEREAS, the Board of Supervisors finds that an interim ordinance continues to be necessary
28 and appropriate to protect the public health, safety, and welfare.

 NOW THEREFORE, the Board of Supervisors of the County of Lake ordains as follows:

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1 SECTION ONE. Findings

2 The Board of Supervisors hereby incorporates by reference herein the Recitals hereinabove and
3 additionally finds and declares the following:
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5 A. The existing commercial and medical marijuana cultivation sites on vacant properties and
6 within community areas and other unincorporated areas of Lake County, along with the potential
7 establishment of additional such cultivation sites and excessive cultivation amounts by individuals
8 poses a current and immediate threat to public health, safety or welfare. If medical marijuana
9 cultivation, in significant quantities, is allowed to proceed without appropriate review of location and
10 operational criteria and standards, the cultivation could continue to result in ever increasing adverse
11 secondary effects on neighborhoods and the County that present a clear and immediate danger to the
12 public health, safety, and welfare, and to the natural environment.
13

14 B. If the establishment of additional cultivation sites on undeveloped properties were allowed
15 to proceed, or if existing cultivation in large numbers within community areas and other
16 unincorporated areas of the County were allowed to continue while the County is studying zoning
17 proposals and regulations for this use, it would defeat the purpose of studying and considering zoning
18 proposals to regulate and/or prohibit said use.
19

20 C. The failure to adopt this ordinance, therefore, may result in significant irreversible change in
21 the character of the community and the neighborhood surrounding any commercial and/or large
22 marijuana cultivation site or cultivation on vacant properties and in residential zones; may result in
23 further environmental damage related to stormwater pollution, groundwater contamination and loss of
24 wildlife habitat; may increase the potential for catastrophic wildland fires due to the practices of
25 growers on undeveloped properties, and; may contribute to blight and further decrease of property
26 values for nearby residents, and; may result in increased criminal activity endangering the citizens of
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1 Lake County.

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3 SECTION TWO. Prohibition

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5 In accordance with Government Code Section 65858, an interim ordinance prohibiting
6 commercial medical marijuana cultivation and cultivation of medical marijuana on vacant properties in
7 any unincorporated area of the County of Lake is hereby adopted for 22 months and fifteen (15) days
8 pending further study by County staff and the development of appropriate draft regulations by the
9 Medical Marijuana Advisory Committee. Cultivation of medical marijuana in excess of the following
10 amounts is prohibited during the term of this ordinance:
11

- 12 1. Any cultivation of medical marijuana on vacant lots or parcels with no approved residential use
13 is prohibited.
- 14 2. Any outdoor cultivation within 600 feet of a public or private school as measured from the
15 property line of the cultivation site to the property line of the school is prohibited.
- 16 3. Outdoor cultivation of more than 6 marijuana plants accessory to an approved residential use is
17 prohibited on any parcel smaller than 1/2 acre (21,780 square feet).
- 18 4. Outdoor cultivation of more than 12 marijuana plants accessory to an approved residential use
19 is prohibited on parcels greater than 1/2 acre (21,780 square feet) but less than 1-acre. The edge
20 of the cultivation area shall be located no closer than 75 feet from any off-site residence.
- 21 5. Outdoor cultivation of more than 18 marijuana plants accessory to an approved residential use
22 is prohibited on parcels a minimum of one-acre but less than 5-acres. The edge of the
23 cultivation area shall be located no closer than 150 feet from any off-site residence.
- 24 6. Outdoor cultivation of more than 36 marijuana plants accessory to an approved residential use
25 is prohibited on parcels a minimum of 5-acres but less than 40-acres. The edge of the
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1 cultivation area shall be located no closer than 150 feet from any off-site residence.

2 7. Outdoor cultivation of more than 48 marijuana plants accessory to an approved residential use
3 is prohibited on parcels a minimum of 40-acres and larger. The edge of the cultivation area
4 shall be located no closer than 150 feet from any off-site residence.
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7 Outdoor cultivation of medical marijuana, including that which is conducted by collective or
8 cooperative organizations shall be operated in full compliance with California Health and Safety Code
9 Section 1362.7 et. seq. Collectives or cooperatives consisting entirely of qualifying patients and/or
10 primary caregivers as defined by Proposition 215, may cultivate on parcels in the amounts specified by
11 subsections 5 through 7, above.
12

13 All outdoor cultivation areas shall be screened from public view with solid wood or bamboo
14 fencing or green fabric mesh.
15

16 For collective or cooperative cultivation sites, evidence that the collective or cooperative is
17 organized consistent with Health and Safety Code Section 1362.7 et. seq. and the State Attorney
18 General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use shall
19 be maintained and made available to law enforcement officials upon request.
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21 As to any existing medical marijuana cultivation sites located within the unincorporated area of
22 the County of Lake which are operating contrary to or in excess of the above limits, they are hereby
23 declared to be a public nuisance under Chapter 13 of the Lake County Code, and a violation of the
24 provisions of this interim ordinance is declared, punishable as a misdemeanor by a fine of not more
25 than five hundred dollars (\$500) or by imprisonment in the County Jail for a period of not more than
26 six (6) months, or by both such fine and imprisonment.
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1 SECTION THREE. Definitions

2 As used herein the term “Commercial Medical Marijuana Cultivation” means cultivation by
3 anyone other than a qualified patient with a medical marijuana recommendation by a licensed
4 physician or a primary caregiver for a qualified patient with said recommendation, (in accordance with
5 California Health and Safety Code Section 11362.5 through Section 11362.83, inclusive, commonly
6 referred to as the Compassionate Use Act of 1996 and the Medical Marijuana Program), in cultivation
7 amounts exceeding the amounts delineated in SECTION TWO, above.
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11 SECTION FOUR. This ordinance is an interim urgency ordinance adopted pursuant to the authority
12 granted to the County of Lake by Government Code Section 65858 and based upon those findings
13 enumerated in Section One hereinabove. This ordinance is necessary for the immediate preservation
14 of the public health, safety, and welfare, to reduce environmental impacts related to camping and
15 recreational vehicle occupancy on undeveloped lands, and to reduce stormwater runoff, groundwater
16 impacts, violent criminal activity and offensive odors. The Board of Supervisors hereby finds and
17 declares that there is a need to enact an urgency interim ordinance establishing restrictions on medical
18 marijuana cultivation, based upon the findings in Section One hereinabove.
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22 SECTION FIVE. Compliance with California Environmental Quality Act

23 The Board of Supervisors finds that this ordinance is not subject to the California
24 Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a
25 direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the
26 activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of
27 Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the
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1 environment, directly or indirectly; it prevents changes in the environment pending the completion of
2 the contemplated Zoning Ordinance review.

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5 SECTION SIX. Severability

6 If any provision of this ordinance or the application thereof to any person or circumstance is
7 held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can
8 be given effect without the invalid provision or application, and to this end the provisions of this
9 ordinance are severable. The Board of Supervisors hereby declares that it would have adopted this
10 ordinance irrespective of the invalidity of any particular portion thereof.
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13 SECTION SEVEN. Effective Date

14 This ordinance shall take effect immediately, and shall be in effect for 22 months and fifteen
15 (15) days from the date of adoption unless otherwise repealed or extended.
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17 Within fifteen (15) days after adoption of the ordinance, the Clerk to the Board of Supervisors
18 shall publish a summary of the Ordinance with the names of those supervisors voting for and against
19 the ordinance and the Clerk shall post in the office of the Clerk to the Board of Supervisors a certified
20 copy of the full text of the adopted ordinance along with the names of those supervisors voting for and
21 against the Ordinance.
22

23 The Foregoing Ordinance was passed by the Board of Supervisors on the 21st day of August,
24 2012, by the following vote:

25 AYES: Supervisors Comstock, Smith, Rushing, Farrington and Brown

26 NOES: None

27 ABSENT OR NOT VOTING: None
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COUNTY OF LAKE

Rb Brown

Chair Board of Supervisors

ATTEST: MATT PERRY
Clerk of the Board of Supervisors

By: Matt Perry

APPROVED AS TO FORM:

ANITA L. GRANT

County Counsel

By: Anita L Grant



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