

RESOLUTION NUMBER 2011-040

**A RESOLUTION OF THE SHASTA COUNTY PLANNING COMMISSION
RECOMMENDING THAT THE SHASTA COUNTY BOARD OF SUPERVISORS
APPROVE AMENDMENTS TO THE ZONING PLAN OF THE COUNTY OF SHASTA
IDENTIFIED AS ZONE AMENDMENT 09-011 – MEDICAL MARIJUANA CULTIVATION**

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

WHEREAS, the intent of the Compassionate Use Act was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes; and

WHEREAS, on January 1, 2004, Senate Bill 420, codified as California Health and Safety Code sections 11362.7 et seq. and entitled "The Medical Marijuana Program," became effective to clarify the scope of the Compassionate Use Act; and

WHEREAS, the Shasta County Resource Management Department was directed by the Board of Supervisors to study the options for regulation of Medical Marijuana Cultivation and propose amendments to the Shasta County Code, Title 17, Zoning Plan for consideration by the Planning Commission and Board of Supervisors for the purpose of regulating Medical Marijuana cultivation in a manner that accommodates the needs of patients while promoting the public health, safety, and general welfare; and

WHEREAS, said amendment was referred to various affected public and private agencies, County departments, and referral agencies for review and comment; and

WHEREAS, a duly noticed public hearings were held on October 13, 2011, and November 10, 2011, at which public testimony was taken; and

WHEREAS, the Shasta County Planning Commission has considered public comments and a report from the Planning Division.

NOW, THEREFORE BE IT RESOLVED, by the Shasta County Planning Commission:

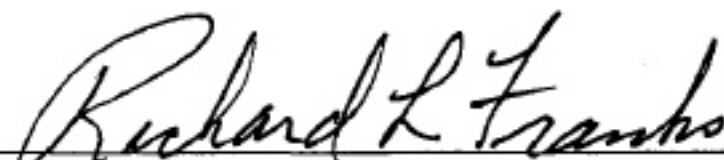
- 1 The foregoing recitals are true and correct.
- 2 The Planning Commission makes the following findings:
 - A. Under the current Zoning Plan, there are no specific regulations addressing Medical Marijuana Cultivation in the unincorporated areas of the County of Shasta; and
 - B. Health and Safety Code section 11362.83 expressly allows Cities and Counties to adopt and enforce ordinances that are consistent with Senate Bill 420; and
 - C. Comprehensive civil regulation of premises use for marijuana cultivation is proper and necessary to avoid risk of criminal activity, normalization of marijuana use for vulnerable youths, degradation of the natural environment, malodorous smell, and indoor electrical fire and mold hazards that may result from unregulated marijuana cultivation.

3. Recommends that the Shasta County Board of Supervisors amend the Shasta County Code, Title 17, Zoning Plan, adding section 17.88.320, Medical Marijuana Cultivation to provide a means for regulating the cultivation of medical marijuana in a manner that is consistent with State law, balances the needs of medical patients and their care givers, and promotes the public health, safety, and welfare of residents and businesses within the unincorporated territory of the County of Shasta.
4. Recommends that the Shasta County Board of Supervisors amend the Shasta County Code, Title 17, Zoning Plan, section 17.94.060(C)(1) of the Shasta County Code to read as follows:

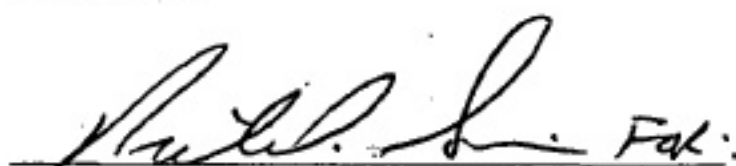
The planning director (or designee) is the enforcing officer for the provisions of this title. The Shasta County Sheriff (or designee) may also serve concurrently as an enforcing officer for the provisions of this title with the approval of the Shasta County Sheriff and the planning director. Nothing in this provision shall be construed to limit the authority provided to the Shasta County Sheriff by state or federal law.
5. Recommends that the Shasta County Board of Supervisors find that this Section is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15061(b)(3) (there is no possibility the activity in question may have a significant effect on the environment). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

DULY PASSED this 10th day of November 2011, by the following vote:

AYES: FRANKS, CORNELIUS, RAMSEY, SIMMONS
NOES:
ABSENT:
ABSTAIN: CHAPIN
RECUSE:


RICHARD L. FRANKS, Chairman
Planning Commission
County of Shasta, State of California

ATTEST:


RUSS MULL, Secretary
Planning Commission
County of Shasta, State of California