

The County of Yuba

Community Development & Services Agency

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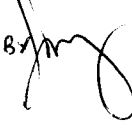
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To: Yuba County Board of Supervisors

From: Kevin Mallen, CDSA Director 

Date: June 26, 2012

Subject: Repealing and Reenacting Subsections 7.40.140(f), 7.40.200(c), 7.40.200(d), and 7.40.300(b) of Chapter 7.40, Marijuana Cultivation Ordinance

Recommendation:

Introduce and adopt the attached ordinance amending Chapter 7.40, Marijuana Cultivation Ordinance, clarifying certain subsections as they relate to marijuana cultivation and public nuisance.

Background/Discussion

The Board has been actively and publicly working to create a fair and reasonable marijuana cultivation ordinance to reduce conditions that create a public nuisance, beginning with a public workshop held by the Board on December 13, 2011. Subsequent to the December workshop, the Board has held numerous public meetings as well as Ad Hoc Committee meetings with stakeholders culminating in the current ordinance, Chapter 7.40, being introduced on April 17, 2012 and becoming effective on June 1, 2012.

As part of the Board's commitment to this topic, the Board requested the continuance of the Ad Hoc Committee to work through issues related to implementing Chapter 7.40. On June 6, 2012 the Ad Hoc Committee met with County staff to review correspondence the Board received subsequent to the adoption of Chapter 7.40. The result of the Committee meeting was to direct staff to prepare the attached ordinance amendments.

The amendments to Chapter 7.40 consist of repealing and reenacting certain subsections which include amending the definition of the "Defined Area of Cultivation" to recognize sloped and non-rectangular areas, clarifying that plants in "public view" means plants in "public view" as defined in Chapter 7.40, and providing an exception from public nuisance those parcels where primary caregivers or qualified patients cultivate on parcels where they are not residing so long as a portion of the cultivation is for the primary caregiver or qualified patient that occupies the parcel as their place of residence and no other violations of this Chapter exist.

6-26-12: BOS Approved, waived First Reading and introduced Ordinance/rf

Below are the tracked changes of the amendments to the text:

7.40.140 Definitions

- f. "Defined Area of Cultivation" means a single, ~~flat, horizontal~~ area of rectangular or circular shape ~~and with~~ visible boundaries, wherein all portions of cultivation, including all of the marijuana plant canopy, resides within and that vertically projects no higher than the fence or wall screening the cultivation from public view.

7.40.200 Conditions Creating Public Nuisance

- c. The cultivation of marijuana on a parcel by anyone other than a qualified patient or a primary caregiver ~~who occupies the parcel as their primary place of residence.~~
- d. Marijuana plants in public view as defined in Section 7.40.140 of this Chapter.

7.40.300 Exceptions

- b. The cultivation is conducted by one or more a qualified patients or primary caregivers and at least one of the plants being cultivated is for the qualified patient or primary caregiver who occupies the dwelling as their place of residence, and

Committee Action:

This item was prepared as a result of direction by the Marijuana Cultivation Ad Hoc Committee.

Fiscal Impact:

No changes from adoption of original ordinance.

Attachments:

Ordinance Repealing and Reenacting Subsections 7.40.140(f), 7.40.200(c), 7.40.200(d), and 7.40.300(b) of Chapter 7.40

ORDINANCE NO. _____

**AN ORDINANCE REPEALING AND RE-ENACTING SUBSECTIONS 7.40.140(f),
7.40.200(c), 7.40.200(d), AND 7.40.300(b) OF CHAPTER 7.40, TITLE VII REGARDING
MARIJUANA CULTIVATION**

The following ordinance consisting of three (3) sections was duly and regularly passed and adopted by the Board of Supervisors of the County of Yuba, State of California, at a regular meeting of the Board of Supervisors held on day of _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairman of the Board of Supervisors
of the County of Yuba, State of California

ATTEST: DONNA STOTTLEMEYER
Clerk of the Board of Supervisors

By: _____

APPROVED AS TO FORM
ANGIL MORRIS-JONES:

By: *Pat Harmon*

THE BOARD OF SUPERVISORS OF THE COUNTY OF YUBA, STATE OF CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1. This ordinance shall take effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after its passage a summary shall be published with the names of the members voting for and against the same, once in a local newspaper of general circulation in the County of Yuba, State of California.

Section 2. Subsections 7.40.140(f), 7.40.200(c), 7.40.200(d), and 7.40.300(b) of Chapter 7.40 of Title VII of the Yuba County Ordinance Code is hereby repealed and re-enacted to read as follows:

7.40.140 Definitions

- f. "Defined Area of Cultivation" means a single area of rectangular or circular shape with visible boundaries, wherein all portions of cultivation, including all of the marijuana plant canopy, resides within and that vertically projects no higher than the fence or wall screening the cultivation from public view.

7.40.200 Conditions Creating Public Nuisance

- c. The cultivation of marijuana on a parcel by anyone other than a qualified patient or a primary caregiver.
- d. Marijuana plants in public view as defined in Section 7.40.140 of this Chapter.

7.40.300 Exceptions

- b. The cultivation is conducted by one or more qualified patients or primary caregivers and at least one of the plants being cultivated is for the qualified patient or primary caregiver who occupies the dwelling as their place of residence, and

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.