

The Safe Cultivation Act of Nevada County

Whereas a majority of Nevada County citizens voted for Prop 215, and
Whereas the intent of Prop 215 and SB 420 Health & Safety Code Sec. 11362.7 was to insure that any patient in need of Medical Marijuana has safe, affordable and convenient access to Medical Marijuana, and
Whereas Medical marijuana has been found to be an effective therapy for treating many conditions and debilitating diseases, and
Whereas the California Attorney General's "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Purposes acknowledges Collectives and Cooperatives that provide medicine for their members comply with State law, and
Whereas the California Supreme Court in the City of Riverside v The Inland Empire Patients Health & Wellbeing Collective decision acknowledged that it was incumbent on citizens to use the initiative process to define regulations in their communities,
Whereas strict regulations ensure the non-diversion of Medical Marijuana into the illicit drug market,
THEREFORE, BE IT RESOLVED that the County of Nevada does hereby enact the following:

Section 1. TITLE

These provisions of the Nevada County General Code shall be known as the Safe Cultivation Act of Nevada County

Section 2. PURPOSE AND INTENT

To help ensure that Qualified Patients of Nevada County can obtain and use cannabis for medical purposes when deemed appropriate by a licensed physician in accordance with CA law.

To create clear guidelines for the cultivation, distribution, transportation, storage, and use practices for Medical Marijuana in unincorporated area of Nevada County.

To replace Article 5 of Chapter IV of the Nevada County General Code pertaining to the cultivation of Medical Marijuana.

Nothing in this Ordinance purports to permit activities that are otherwise illegal under state or local law.

Section 3. DEFINITIONS

Marijuana shall be defined as the usable medicinal parts of the plant.

(a) "Usable marijuana" means the seeds, leaves and flowers of marijuana and any mixture or preparation made from marijuana.

(b) The term does not include the stalks or roots of the plant.

Qualified Patient, Qualified Caregiver, Collective are the same as those in Health and Safety Code Sec 11362.7 (SB420).

Section 4. LAND USE CODE AMEDED

(1) Article 5 of Chapter IV of the Nevada County General Code is hereby amended as follows:

Section G-IV 5 4 Medical Marijuana Cultivation Restrictions

- (A) Medical Marijuana Cultivation may only be undertaken by Qualified Patient(s) or a Qualified Primary Caregiver on a Legal Parcel or a Legal Premises that is occupied by at least one Qualified Patient or Qualified Caregiver.
- (B) Pursuant to this Ordinance, Collectives and Cooperatives that receive compensation for actual expenses incurred in carrying out activities that are in compliance with these guidelines, including reasonable compensation incurred for services provided to the members or the organization, shall not be subject to prosecution or punishment either civilly or criminally.
- (C) Indoor Cultivation may occur within any legal structure that meets all applicable provisions of the County's Land Use and Development Code. Cultivation within any detached accessory structure that does not meet the definition of Indoor, such as a Greenhouse, shall be considered Outdoor Cultivation.
- (D) All electrical and plumbing used for Indoor Cultivation of Medical Marijuana shall be installed according to all applicable County Codes.
- (E) The following limitations apply to Cultivation of Medical Marijuana located on Residential properties within the unincorporated area of Nevada County.

- (1) Premises located within any area zoned primarily for residential uses (e.g. R-1, R-2 or R-3) shall be limited to the following:

- a. The defined areas of cultivation are in accordance with this section, and the cultivation does not exceed the allowances listed below.

- 1. Indoor Grow areas are restricted to one hundred (100) square feet in R-1, R-2, and R-3 zones. An additional allowance of one hundred (100) square feet of indoor cultivation is allowed if two (2) or more patients live on the property.

- a. The indoor space may be divided to allow for a Vegetative Room and a Flowering Room. The total cultivation area shall not exceed the maximum allowable space.

- b. Indoor Grows in Residential Zones R1 - R3 shall not exceed two hundred (200) square feet regardless of the number of qualified patients that live on the premises.
 - c. Precautions shall be taken to mitigate the odor, light, or noise from disturbing neighbors, i.e., install carbon filters and block light from escaping outside the Cultivation Room.
2. R-1, R-2, and R-3 Parcels on less than two (2) acres are limited to Indoor Cultivation only.
 3. Residential Parcels located in Residential Zones R-1, R-2, or R-3, over two (2) acres are restricted to twelve (12) immature plants or six (6) mature plants for Outdoor Cultivation regardless of the number of qualified patients that reside on the parcel.
 4. The use of Greenhouses is encouraged to control odors, obscure the garden from public sight, and increase safety measures. If enclosed within a Greenhouse, the plant count on R-1, R-2, and R-3 parcels over two acres shall be increased to twelve (12) mature plants.

(E) The following limitations apply to the Cultivation of Medical Marijuana for properties zoned RA, AG, AE, FR, or TPZ, located within the unincorporated area of Nevada County. Indoor and Outdoor Cultivation may occur simultaneously.

1. For parcels less than five (5) acres, twenty-four (24) immature or eighteen (18) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of two hundred (200) square feet regardless of the number of members patients in the Collective or Cooperative.
2. For parcels five (5) acres, but less than ten (10) acres, thirty-six (36) immature or twenty-four (24) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of three hundred (300) square feet regardless of the number of members in the Collective or Cooperative.
3. For parcels ten (10) acres, but less than twenty (20) acres, forty-eight (48) immature or thirty-six (36) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of four hundred (400) square feet regardless of the number of members in the Collective or Cooperative.
4. For parcels twenty acres (20) acres, but less than thirty (30) acres, a total of 60 immature or forty-eight (48) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor

Cultivation per Qualified Patient is allowed with a maximum of five hundred (500) square feet regardless of the number of members in the Collective or Cooperative.

5. For parcels thirty (30) acres or more, a total of ninety-nine (99) immature plants or sixty (60) mature plants may be cultivated outdoors. One hundred (100) square feet of Indoor Cultivation per Qualified Patient is allowed with a maximum of six hundred (600) square feet regardless of the number of members in the Collective or Cooperative.
- (F) The following setbacks shall apply to all Outdoor Cultivation areas and shall be measured in a straight line from the nearest point of the Cultivation area to the nearest exterior wall of the neighboring primary living structure and/or rental units if occupied.
- (1) On all Residential R-1, R-2 and R-3 Parcels, the Cultivation Area shall be at least one hundred (100) feet from any legal residence located on an adjacent separate Legal Parcel measured from the edge of the cannabis garden to the closest exterior wall of the primary residence next door.
 - (2) On all Parcels zoned RA, AG, AE, FR, or TPZ, the Cultivation Area shall be at least two hundred (200) feet from any legal residence located on an adjacent separate Legal Parcel measured from the edge of the cannabis garden to the closest exterior wall of the primary residence next door..
 - (3) Pursuant to CA State law, all Marijuana Cultivation Areas shall be at least 600 ÷ from any School, Church, Public Park, licensed Child Care Center, or any facilities that primary cater to children.
 - (4) Marijuana shall not be visible from the Public View at any stage of growth when viewed from ground level.
 - (5) Wherever Medical Marijuana is grown, a copy of a current, valid State-issued MMJ Identification Card, or Physician Recommendation or Affidavit shall be posted inside the Cultivation Area.

Severability of Provisions

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

ENDORSEMENTS: (Just Suggestions Right Now)

Americans for Safe Access - Nevada County

Lawmen Against Prohibition
Crusaders for Patients Rights
Law Enforcement Against Prohibition
Mothers Against Prohibition