

## Chapter 8.55 - MEDICAL CANNABIS

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### **8.55.010-** Findings and purpose.

A. In 1996, the voters of the State of California approved Proposition 215, the Compassionate Use Act, enacted as California Health and Safety Code Section 11362.5, which permits the possession and cultivation of cannabis by qualified medical patients and qualified primary caregivers. The act provides that "nothing in this section shall be construed to supersede legislations prohibiting persons from engaging in conduct that endangers others." The right of qualified patients and their primary caregivers under state law to cultivate cannabis plants for medical purposes does not confer the right to create or maintain a public nuisance.

B. It is the purpose and intent of this chapter to implement state law by providing a means for regulating the cultivation of medical cannabis in a manner that is consistent with state law and which balances the needs of medical patients and their caregivers and promotes the health, safety, morals, and general welfare of the residents of the county of Trinity. Nothing in this chapter shall be construed to allow the use of cannabis for non-medical purposes, or allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.

C. The Trinity County board of supervisors acknowledges that federal law, promulgated or decided by the United States Government and the federal courts of the United States, prohibits the possession or cultivation of cannabis except under very limited circumstances as part of federal governmental research and treatment programs. This chapter is not intended to nor does it change or exempt any provision of federal law prohibiting the possession and cultivation of cannabis.

D. The Trinity County board of supervisors recognizes that California law restricts smoking cannabis in certain places. Smoking is prohibited in most businesses and places of employment and in certain outdoor locations. This chapter is not intended to and does not limit or restrict the enforcement of any state or federal law, or policy, regulation or rule of any school district. Health and Safety Code Section 11362.79 provides that the Compassionate Use Act does not authorize the smoking of medical cannabis in any place where smoking is prohibited by law or in or within one thousand feet of a school, recreation center, or youth center, unless the medical use occurs within a residence. Those provisions are incorporated and shall apply in interpreting this chapter.

E. The Trinity County board of supervisors finds that the cultivation of cannabis at locations within five hundred feet of schools, parks, teen centers, childcare centers, and school bus stops, is at places where plants may be observed by juveniles and are vulnerable to theft by juveniles, and that this would

be detrimental to public safety and order, and to the protection of children and the qualified primary caregiver or qualified patient who is cultivating the plants. Cannabis plants cultivated within Trinity County have been stolen from growers by juveniles, and this has sometimes resulted in violent confrontations and threats of violence directed at juveniles.

(Ord. No. 1311, § 1, 4-15-08)

**8.55.020- Definitions.**

"Access" means entry to the garden by any person other than the patient or caregiver.

"Child care centers" means any licensed child care or daycare center.

"Fence" means a solid structure surrounding the garden that eliminates visibility and provides security.

"Garden" means a portion of a parcel that is used for the cultivation of cannabis

"Parks" means those parks identified in the County Code's Parks Ordinance, Code Section 8.52.010 and any parks maintained or operated by any special district within Trinity County.

"School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university.

"School bus stop" means any location designated and used as a bus stop for juveniles attending schools as defined above.

"Teen center" means any establishment identified as catering to or providing services primarily intended for teenagers and pre-teens under the age of eighteen.

(Ord. No. 1311, § 1, 4-15-08)

**8.55.030- Limitation on location for cultivation of cannabis.**

A. The definitions of qualified patients and primary caregivers contained in Health and Safety Code Section 11362.7, as well as other definitions contained therein, are incorporated and shall apply in interpreting this chapter.

B. The distance between a garden and the above-listed sites shall be determined by measuring in a straight line from the boundary line of the garden on which a qualified patient or caregiver wishes to cultivate to the property line of the parcel on which the facility, building, structure, or portion thereof, is located.

C. Cannabis plants may not be cultivated outdoors at any location within five hundred feet of any school, park, teen center, and childcare center, unless security for such plants is provided by secure fencing, enclosures, screening, or other means sufficient to totally block the view of and access to the cannabis plants. On parcels contiguous to schools, cannabis shall not be cultivated outdoors unless said cultivation is a minimum of one hundred feet from the common boundary line and will be secured in such a manner that will prevent the garden from being seen as well as preventing unauthorized access to the garden. On parcels contiguous to schools, cultivation shall be limited to cannabis grown

by a qualified patient, or by a qualified caregiver cultivating cannabis for one qualified patient.

D. Any garden located within five hundred feet of a school bus stop shall provide for security of the garden with secure fencing, enclosures, screening or other means sufficient to totally block the view of and access to the garden by the public.

E. Qualified patients are prohibited from smoking cannabis in any place where smoking is prohibited by law. Qualified patients are prohibited from smoking cannabis within one thousand feet of any school, park, teen center, childcare center, or school bus stop, unless the use occurs within a residence.

(Ord. No. 1311, § 1, 4-15-08)

**8.55.040- Criminal penalty for violations.**

First time violations of subsection C, D, or E of Section 8.55.030 of this chapter is punishable as a misdemeanor with a fine not to exceed one thousand dollars, or a maximum sentence of six months in jail, or by both fine and jail sentence. Second and subsequent violations of subsections C or D of section 8.55.030 of this chapter are punishable as a misdemeanor with a fine not to exceed one thousand dollars, or a maximum sentence of six months in jail, or by both fine and jail sentence and removal of the garden.

(Ord. No. 1311, § 1, 4-15-08)

**8.55.050- Savings clause.**

If any provision of this chapter is held to be invalid by any court with jurisdiction over the validity of this chapter, or the application of this chapter to any person or circumstance is held invalid thereby, that invalidity shall not affect any other provision or application of this chapter that may be given effect without the invalid provision or application. The provisions of this chapter are severable as necessary to achieve this purpose and intent.

(Ord. No. 1311, § 1, 4-15-08)