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December 14, 2016

Honorable Board of Supervisors  
Eric Rood Administrative Center  
950 Maidu Avenue  
Nevada City, CA 95959

**DATE OF MEETING:** January 10, 2017

**SUBJECT:** Ordinance Adding Subsections G-IV 5.2.X, G-IV 5.3.CC, G-IV 5.3.DD, G-IV 5.4.M and G-IV 5.4.N to Article 5 of Chapter IV of the Nevada County General Code Regarding Indoor Personal Marijuana Cultivation.

**RECOMMENDATION:** Adopt proposed Ordinance

**FUNDING:** Not applicable.

**BACKGROUND:**

This limited amendment to the County's existing marijuana regulations was introduced on December 13, 2016 as a good faith effort to ensure the current ordinance is aligned with the legal requirements of Proposition 64. Proposition 64, which legalized recreational adult use of marijuana, prohibits a local agency from entirely banning indoor cultivation of up to 6 marijuana plants inside a private residence or accessory structure to a private residence.

The proposed amendment to the current ordinance would permit the personal cultivation of no more than 6 plants inside a Private Residence or Accessory Structure to a Private Residence by adults 21-years old or older. The amendment also provides exceptions to the setback requirements if application of the current setbacks would prevent cultivation Indoors of 6 plants or less.





# **ORDINANCE No. \_\_\_\_\_**

## **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA**

### **AN ORDINANCE ADDING SUBSECTIONS G-IV 5.2.X, G-IV 5.3.CC, G-IV 5.3.DD, G-IV 5.4.M AND G-IV 5.4.N TO ARTICLE 5 OF CHAPTER IV OF THE NEVADA COUNTY GENERAL CODE REGARDING INDOOR PERSONAL MARIJUANA CULTIVATION**

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

#### **SECTION I:**

Subsections G-IV 5.2.X, G-IV 5.3.CC, G-IV 5.3.DD, G-IV 5.4.M and G-IV 5.4.N are hereby added to Article 5 of Chapter IV of the Nevada County General Code to read as shown in Exhibit A attached hereto and incorporated herein by this reference.

#### **SECTION II:**

The County finds that this Ordinance 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) as this is an administrative action to address recent changes in state law. In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15301 (permitting, leasing and minor alterations to existing facilities), 15303 (construction and location of new, small structures), 15304 (minor alterations to land), 15307 (actions taken as authorized by local ordinance to assure protection of natural resources), and 15308 (actions taken as authorized by local ordinance to assure protection of the environment).

#### **SECTION III:**

If any provision of the amended Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

#### **SECTION IV:**

This Ordinance shall take effect and be in force thirty (30) days after the adoption hereof, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the

Supervisors voting for and against same in the Union and Sierra Sun, newspapers of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by a majority vote of the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote of said Board:

RESOLUTION No. \_\_\_\_\_

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

WHEREAS, the Board of Supervisors of the County of Nevada, in and through its Board of Health, has adopted a resolution to purchase certain real property situated in the County of Nevada, and

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF NEVADA, DO HEREBY ORDAIN AS FOLLOWS:

SECTION 1.

That the Board of Supervisors of the County of Nevada, in and through its Board of Health, is authorized to purchase certain real property situated in the County of Nevada, and

SECTION 2.

That the Board of Supervisors of the County of Nevada, in and through its Board of Health, is authorized to purchase certain real property situated in the County of Nevada, and

SECTION 3.

That the Board of Supervisors of the County of Nevada, in and through its Board of Health, is authorized to purchase certain real property situated in the County of Nevada, and

## EXHIBIT A

### Sec. G-IV 5.2 Findings and Purpose

\* \* \* \*

X. On November 8, 2016, the voters of the State of California enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). Proposition 64 legalizes the nonmedical use and personal cultivation of up to six living marijuana plants within, or upon the grounds of, a private residence, by persons 21 years of age and older. Proposition 64 provides that a county may not ban personal indoor cultivation of up to six plants within a person's private residence or certain accessory structures, but may reasonably regulate such indoor grows. The County desires to comply with the limited allowance for indoor personal cultivation of nonmedical marijuana as set forth in Proposition 64, while maintaining reasonable regulations regarding such cultivation activities to address the potentially significant land use, building, public safety and other impacts associated with unregulated indoor grows and to protect the public health, safety and welfare, and preserve the peace and integrity of neighborhoods within the unincorporated areas.

### Sec. G-IV 5.3 Definitions

\* \* \* \*

CC. "Nonmedical Marijuana" shall mean any Marijuana except for Medical Marijuana as defined herein, including but not limited to Marijuana that is intended to be used for nonmedical purposes pursuant to Health and Safety Code section 11362.1, et seq.

DD. "Private Residence" shall mean a house, apartment unit, mobilehome or similar dwelling unit within a fully enclosed permanent structure used, designed or intended for human occupancy that has been legally established, permitted, and certified in accordance with the Nevada County Land Use and Development Code. Recreational Vehicles (RVs), trailers, motorhomes, tents or other vehicles or structures which are used, designed, or intended as temporary housing shall not constitute a Private Residence for purposes of this Article, whether or not such vehicle or structure is otherwise permitted or allowed under the Nevada County Land Use and Development Code.

### Sec. G-IV 5.4 Nuisance Declared; Cultivation Restrictions

\* \* \* \*

M. Notwithstanding any other provision in this Article and pursuant to Proposition 64 ("AUMA"), persons 21 years or older may Cultivate not more than six (6) Medical or Nonmedical Marijuana plants, mature or immature, Indoors only and for personal use only. Nonmedical Marijuana Cultivation shall be limited to six (6) Marijuana plants per Private Residence regardless of how many persons reside at the Private Residence. The Indoor Cultivation of Marijuana under this Subsection G-IV 5.4.M shall comply with all applicable requirements in this Article except:

a. Indoor Cultivation under this subsection shall be allowed inside a Private Residence or in an Accessory Structure on the same property as the Private Residence. Indoor Cultivation under this subsection may occur in any area which is not occupied by, or easily accessible to, children, notwithstanding any provision to the contrary in Subsection G-IV 5.4.D.

b. Indoor Cultivation under this subsection shall be exempted from any setback requirements set forth in Subsections G-IV 5.4.F and G-IV 5.4.G of this Article to the extent that the strict application of said setbacks would completely prohibit the Indoor personal cultivation of Marijuana in a Private Residence or Accessory Structure allowed under this Subsection G-IV 5.4.M.

c. To the extent Indoor Cultivation is permitted under this Article, the Cultivation allowances under this subsection are not additional to the maximum plant counts set forth in sections G-IV 5.4(E)(1)(b)(ii)-(iv) or G-IV 5.4(E)(2)(c)-(e).

N. Marijuana-related activities which are not expressly permitted by this Article are prohibited in the County of Nevada.

