

## ORDINANCE NO. 509

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLUE LAKE PROHIBITING THE ESTABLISHMENT AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

The City Council of the City of Blue Lake, Humboldt County, California, does hereby ordain as follows:

#### **Section 1. Findings.**

1. In 1996, the *Compassionate Use Act* was adopted by voter initiative, codified at Health and Safety Code section 11362.5 (“CUA”), providing a criminal defense to the cultivation, possession and use of marijuana for medical purposes.
2. In 2003, the California State Legislature adopted the *Medical Marijuana Program Act*, Health and Safety Code sections 11362.7 et seq. (“MMP”) to clarify the scope of lawful medical marijuana practices.
3. The MMP at Section 11362.768(f) allows a city to adopt ordinances or policies that restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment or provider.
4. The California Supreme Court in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4<sup>th</sup> 729, held that a city may ban the establishment and operation of medical marijuana dispensaries without violating the CUA or MMP.
5. The City Council hereby finds that the establishment and operation of a medical marijuana dispensary is incompatible with the City of Blue Lake and would significantly impact, or have the potential to significantly impact, the City because of the following:
  - a. Loitering around medical marijuana dispensaries and armed burglaries within dispensaries, which have been reported and documented by other cities;
  - b. Increased pedestrian and vehicular traffic, increased noise, and increased parking and traffic violations;
  - c. Noncompliance with the applicable environmental laws and regulations, such as stormwater pollution prevention and waste water discharge into the groundwater and Mad River.
6. Blue Lake has no current zoning standards or land use regulations specific to medical marijuana dispensary, growing or processing to address and minimize the above recited potential impacts and thereby protect the public health safety and welfare of the City of Blue Lake.

7. The purpose of this ordinance is to adopt rules consistent with the CUA and MMP to regulate medical marijuana in a manner that protects the public health, safety and welfare of the community and prevents adverse impacts that such activities may have on nearby properties and residents, without interfering with the rights of qualified patients and their primary caregivers to possess or cultivate medical marijuana pursuant to State Law.
8. The City adopts this ordinance pursuant to its police powers granted under Article XI, section 7 of the California Constitution in order to promote the health, safety and welfare of the residents of the City of Blue Lake.

**Section 2. Definitions.**

The following terms and phrases, whenever used in this Ordinance, shall have the following meanings:

“Medical Marijuana Collective, Cooperative or Dispensary” means a collective, cooperative, dispensary, operator, establishment, provider, association or similar entity that cultivates, distributes, delivers and/or processes marijuana for medical purposes relating to a qualified patient or primary caregiver, pursuant to the *Compassionate Use Act* and *Medical Marijuana Program Act*.

“Primary Caregiver” is defined in Health and Safety Code section 11362.7.

“Qualified Patient” is defined in Health and Safety Code section 11362.7.

**Section 3. Medical Marijuana Dispensary Prohibited.**

It shall be unlawful for any person or entity to own, manage, conduct or operate any Medical Marijuana Collective, Cooperative or Dispensary, or to participate as an employee contractor, agent, volunteer or in any other manner or capacity in any Medical Marijuana Collective, Cooperative or Dispensary within the City of Blue Lake.

**Section 4. Existing Medical Marijuana Dispensaries.**

Any Medical Marijuana Collective, Cooperative or Dispensary existing within the City of Blue Lake on the effective date of this Ordinance shall cease operations immediately.

**Section 5. Violations.**

Any person, firm, corporation, or other entity, whether as principal, agent, employee or otherwise, violating or causing violation of any provision of this Ordinance shall be guilty of a misdemeanor.

**Section 6. Savings Clause.**

To the extent that the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, Resolution, rule or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof and such inconsistent or conflicting provisions or prior ordinances, motions, Resolutions, rules or regulations are hereby repealed.

**Section 7. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this Ordinance, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any Court of competent jurisdiction, such decision shall not affect the validity or effectiveness or the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional or invalid or ineffective.

**Section 8. CEQA Compliance.**

This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15061(b)(3) of the CEQA guidelines.

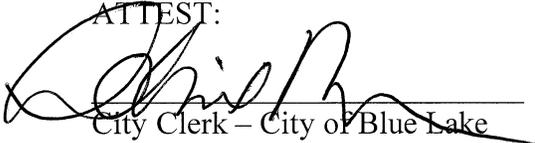
**Section 9. Effective Date.**

This Ordinance shall go into effect and be in full force and operation 30 days after its final passage and adoption.

**APPROVED:**

  
\_\_\_\_\_  
Sherman Schapiro, Mayor  
City of Blue Lake

ATTEST:

  
\_\_\_\_\_  
City Clerk – City of Blue Lake

**CLERK'S CERTIFICATE**

**THIS IS TO CERTIFY** that Ordinance No. 509 of the City Council of the City of Blue Lake was introduced and read at the regular meeting of the City Council of the City of Blue Lake, California, held on MARCH 11, 2014. This Ordinance, again read at the regular meeting of the Blue Lake City Council, held on MARCH 25, 2014 and at the time, passed by roll call vote, the vote on the adoption of the Ordinance being as follows:

AYES: **BENJAMIN, MANZANITA, SCHAPIRO**

NOES: **NONE**

ABSENT: **KULLMANN**

DISQUALIFIED: **NONE**

  
City Clerk, City of Blue Lake

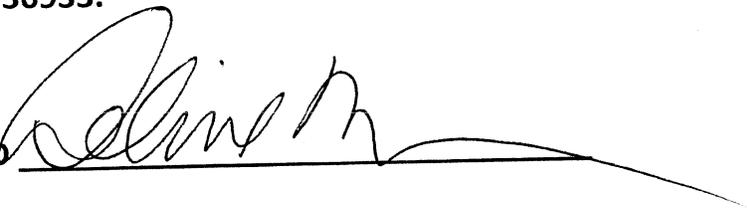
AFFIDAVIT OF POSTING OF ORDINANCE NO. 509

STATE OF CALIFORNIA)

COUNTY OF HUMBOLDT)

I, Adrienne Nielsen, HAVING BEEN FIRST DULY SWORN,  
DEPOSES AND SAYS:

THAT SHE/HE IS AND AT ALL TIMES MENTIONED WAS  
A CITIZEN OF THE UNITED STATES, OVER THE AGE OF 21 YEARS,  
THAT WITHIN 15 DAYS AFTER PASSAGE OF ORDINANCE NO. 509,  
AND ON THE 26th DAY OF March, 2014, AFFIANT POSTED  
TRUE AND CORRECT COPIES OF THE SAID ORDINANCE IN THREE  
PUBLIC PLACES IN THE CITY OF BLUE LAKE, ALL IN CONFORMITY  
GOVERNMENT CODE SECTION 36933.

SIGNED 

SUBSCRIBED AND SWORN TO BEFORE

ME THIS 26th DAY OF March, 2014



CITY CLERK, CITY OF BLUE LAKE