



RESOLUTION No. 16-038

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION CALLING AN ELECTION FOR, AND AUTHORIZING THE SUBMISSION TO THE VOTERS OF, AN ORDINANCE AMENDING SUBSECTIONS G-IV 5.4(C) AND G-IV 5.4(E) OF ARTICLE 5 OF CHAPTER IV OF THE NEVADA COUNTY GENERAL CODE REGARDING RESTRICTIONS ON MARIJUANA CULTIVATION, AND CONSOLIDATING THE ELECTION WITH THE JUNE 7, 2016, STATEWIDE GENERAL ELECTION

WHEREAS, on January 12, 2016, the Sheriff, Keith Royal, proposed that the Board of Supervisors submit an Ordinance amending subsections G-IV 5.4(C) and G-IV 5.4(E) of Article 5 of Chapter IV of the Nevada County General Code regarding Restrictions on Marijuana Cultivation (the "Ordinance") to the voters of the County of Nevada for consideration at the statewide general election on June 7, 2016; and,

WHEREAS, the proposed Measure would (a) prohibit outdoor marijuana cultivation; (b) limit indoor marijuana cultivation to twelve (12) plants per parcel in certain residential and rural areas; (c) prohibit commercial marijuana cultivation and other commercial cannabis activity; (d) prohibit indoor marijuana cultivation in unpermitted structures and in areas used or intended for human occupancy; and (e) allow only qualified patients and their primary caregivers to cultivate marijuana at their primary residences for medicinal purposes; and

WHEREAS, the Board of Supervisors desires to submit the Ordinance to the voters at the next regularly scheduled county and statewide general election on June 7, 2016; and

WHEREAS, consolidating an election on the Ordinance with the June 7, 2016, county and statewide general election significantly reduces the cost to taxpayers for conducting an election while providing for the highest level of voter participation in the election process.

NOW, THEREFORE, BE IT RESOLVED by the Nevada County Board of Supervisors that:

1. The foregoing recitals are adopted as findings of the Board of Supervisors as though set forth fully herein.
2. The Board of Supervisors hereby calls an election to be held and conducted in and for the County of Nevada on Tuesday, June 7, 2016, for the purpose of submitting the Ordinance to the voters of Nevada County, and further orders that the election be consolidated with the County and Statewide General Election to be held on June 7, 2016.
3. Pursuant to Elections Code section 9140, the Board of Supervisors hereby submits to the voters of the County of Nevada, the following Measure:

COUNTY OF NEVADA MEASURE

Shall an ordinance amending Sections G-IV 5.4(C) and G-IV 5.4(E) of the Nevada County General Code regarding Restrictions on Marijuana Cultivation within the unincorporated areas of Nevada County be adopted?

Yes _____
No _____

4. The Measure shall pass only if a majority of the votes cast by the voters voting on the Measure are "yes" votes. In the event a majority of the electors voting on the Measure vote in favor thereof, the Nevada County General Code shall be amended to read as set forth in Exhibit "A" attached hereto and incorporated herein and, pursuant to Elections Code section 9122, shall become effective ten (10) days after the date the vote is declared by the Board of Supervisors.

5. The Nevada County Registrar of Voters is hereby directed to prepare and conduct all functions for the Election and canvass the returns of the election as set forth in the Elections Code, and to do all things required by law to present the proposed Measure to the electorate, including but not limited to, preparing and publishing all required postings, notices and filings.

6. The full text of the proposed Measure shall be as set forth in Exhibit "A" attached hereto and made a part hereof. The Nevada County Registrar of Voters is hereby directed to print the full text of the Measure in the voter information pamphlet mailed to all voters in the County of Nevada.

7. Pursuant to Elections Code section 9160(b), the Board of Supervisors hereby directs the County Counsel to prepare an impartial analysis of the proposed Measure. Arguments for and against the Measure may be filed and published consistent with Elections Code section 9162, et seq.

8. The Clerk of the Board is hereby directed to submit a certified copy of this Resolution to the Registrar of Voters for the County of Nevada within five (5) business days after its adoption.

9. The Board of Supervisors hereby finds and determines that approval of this Resolution 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). 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), 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 12th day of January, 2016, by the following vote of said Board:

Ayes: Supervisors Nathan H. Beason, Edward Scofield, Dan Miller and Hank Weston.

Noes: Richard Anderson.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: _____

Julie Patterson Hunter

Dan Miller

Dan Miller, Chair

1/13/2016 cc:

Sheriff*
AC*
Elections*
CoCo*
CEO*

EXHIBIT A

FULL TEXT OF BALLOT MEASURE

AN ORDINANCE AMENDING SUBSECTIONS G-IV 5.4(C) AND G-IV 5.4(E) OF ARTICLE 5 OF CHAPTER IV OF THE NEVADA COUNTY GENERAL CODE REGARDING RESTRICTIONS ON MARIJUANA CULTIVATION

THE PEOPLE OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAIN AS
FOLLOWS:

SECTION I:

Section G-IV 5.4(C) of Article 5 of Chapter IV of the Nevada County General Code regarding Marijuana Cultivation is hereby amended to read as follows:

“C. Marijuana may only be cultivated

1. On a Legal Parcel improved with a permanent, occupied, legally permitted residence.
2. By a Qualified Patient on the same parcel that he or she occupies as his or her Primary Place of Residence.
3. By a Primary Caregiver, on behalf of his or her Qualified Patient(s), on the same parcel that the Primary Caregiver or the Qualified Patient(s) occupy as his or her Primary Place of Residence.
4. Only for medical purposes in accordance with federal, state and local law.
5. In conformance with all applicable State and local laws, including all regulations and restrictions adopted by the Nevada County Board of Supervisors.”

SECTION II:

Section G-IV 5.4(E) of Article 5 of Chapter IV of the Nevada County General Code regarding Marijuana Cultivation is hereby amended to read as follows:

“E. Regardless of the number of Qualified Patients or Primary Caregivers living on a parcel or participating in marijuana cultivation activities, the following limitations shall apply:

1. Outdoor Marijuana Cultivation in any amount or quantity is prohibited.
2. Indoor Marijuana Cultivation of more than twelve (12) Marijuana plants per Legal Parcel is prohibited.
3. Indoor Marijuana Cultivation may occur only on Legal Parcels located in an area zoned primarily for residential or rural uses (e.g., R-1, R-2, R-3, R-A, AG, AE, FR or TPZ).
4. Indoor Cultivation of Marijuana in any amount or quantity on any other parcel is prohibited.
5. Indoor Marijuana Cultivation is prohibited in non-permitted structures, structures that are exempt from permitting, or any portion of a structure used as, designed or intended for human occupancy.
6. Commercial Cannabis Activities in any amount or quantity are prohibited.”

SECTION III:

The People of the County of Nevada affirm that the Board of Supervisors may adopt, without a vote of the people, such additional ordinances, resolutions or other regulations as may be necessary to reasonably interpret and clarify the provisions of this Ordinance, so long as such interpretations or clarifications (even if contrary to a prior interpretation or clarification) is not inconsistent with the language and original intent of this Ordinance. The People of the County of Nevada further affirm that voter approval shall be required to repeal or substantially amend the Ordinance in a manner that is inconsistent with its original intent.

SECTION IV:

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 V:

Pursuant to Elections Code section 9122, this Ordinance shall not take effect until ten days after the a majority of voters voting at the June 7, 2016, general statewide election approve the Ordinance and the Nevada County Board of Supervisors declares the vote. Upon approval by the voters, the Nevada County Clerk-Recorder shall certify to the passage and adoption of this Ordinance and the Clerk of the Board shall cause the Ordinance to be published as required by law.

* * * *

Ordinance No. _____ was submitted to the People of the County of Nevada at the June ____, 2016 general statewide election. It is hereby certified that this Ordinance was APPROVED by the following vote of the People of the County of Nevada:

YES:

NO:

This Ordinance was thereby adopted by the voters at the June ____, 2016 election and took effect ten (10) days following adoption of a resolution declaring the results of the election at a regular meeting of the Board of Supervisors held on _____ by the following vote:

AYES:

NOES:

ABSENT:

I hereby certify that the foregoing is a true and correct copy of an ordinance duly and regularly adopted by the People of the County of Nevada, State of California.

Julie Patterson-Hunter
Clerk of the Board