ORDINANCE NO. 1380

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE, CALIFORNIA, ADDING CHAPTER 18.69 TO TITLE 18 OF THE MARYSVILLE MUNICIPAL CODE PERTAINING TO THE CULTIVATION OF CANNABIS WITHIN THE CITY LIMITS

The City Council of the City of Marysville, State of California, does hereby ordain as follows:

SECTION 1.

Chapter 18.69 is hereby added to Title 18 of the Marysville Municipal Code to read as follows:

"CHAPTER 18.69 CANNABIS CULTIVATION

18.69.010 Purpose.

The purpose of this chapter is to establish regulations for the cultivation of Cannabis, including its cultivation for use as medical marijuana, within the city to ensure any cultivation is conducted in a manner consistent with the overall health, welfare and safety of the city and its populace and in compliance with the California Compassionate Use Act (CUA: Health and Safety Code section 11362.5) and the Medical Marijuana Program Act (MMPA; Health and Safety Code Section 11362.7 et. Seq.).

Nothing in this Chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution under the CUA. Nothing in this Chapter is intended, nor shall it be construed, to make legal any cultivation, sale or other use of medical marijuana that is otherwise prohibited under California law. Nothing in this Chapter is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting medical marijuana cultivation by tenants. Nothing in this Chapter is intended, nor shall it be construed, to exempt any activity related to the cultivation of medical marijuana from any applicable electrical, plumbing, land use or other building or land use standards or permitting requirements.

All cultivation of medical marijuana within the City shall be subject to the provisions of this Chapter.

18.69.020 Definitions.

The following terms and phrases when used in this Chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) "Cannabis" means the *Cannabis sativa* plant from which marijuana, hashish, bhang, and similarly mildly euphorogenic and hallucinogenic drugs are prepared.

(b) "Fully Enclosed and Secure Structure" means a space within a building that complies with the California Building Code, as adopted in the City of Marysville, or, if exempt from permit requirements, that has a complete roof enclosure supported by connecting walls extended from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors and only to a licensee or operator of a licensed medical marijuana dispensary. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch or thicker studs overlaid with 3/8 inch or thicker plywood or the equivalent. Plastic sheeting regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical and Fire Codes as adopted in the City of Marysville.

(c) "Medical Marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code section 11362.5) or the Medical Marijuana Program Act (California Health and Safety Code sections 11362.7 *et seq.*).

(d) "Medical Marijuana Cultivation" means the planting, growing, harvesting, or processing of cannabis plants or any part thereof for medical use consistent with the Compassionate Use Act (Health and Safety Code section 11362.5) or the Medical Marijuana Program Act (Health and Safety Code section 11362.7 *et seq.*).

(e) "Primary Caregiver" means a primary caregiver as defined in California Health and Safety Code section 11362.7.

(f) "Qualified Patient" means a qualified patient as defined in California Health and Safety Code section 11362.7.

18.69.030 Regulation of Cannabis Cultivation.

Cultivation of Cannabis, whether indoors or outdoors, by any person or entity, including Primary Caregivers and Qualified Patients, except as permitted in Section 18.69.030(a), is prohibited in all zoning districts within the City of Marysville.

(a) Medical Marijuana Cultivation is permitted when conducted by the owner and licensee of a Medical Marijuana Dispensary licensed pursuant to Chapter 5.10 within the same Fully Enclosed and Secure Structure housing the Medical Marijuana Dispensary and otherwise complies with all relevant provisions of this Chapter, Chapter 5.10 and applicable state law.

18.69.040 Violations Declared a Public Nuisance.

The conduct of any person or entity within the City in violation of any of the terms of this Chapter is hereby found and declared to be a per se public nuisance, and the City Attorney or the District Attorney may, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or proceeding for the civil abatement, removal and enjoinment thereof, in the manner provided by law; and shall take other steps and shall apply to such courts as may have jurisdiction to grant such relief as well as abate or remove such Medical Marijuana and restrain and enjoin any person or entity from Medical Marijuana Cultivation contrary to the provisions of this Chapter.

18.69.050 Violation and penalty.

(a) Any person who violates any section of this Chapter shall be guilty of a misdemeanor and subject to a fine of One Thousand Dollars ($1,000.00) and/or imprisonment in the county jail for a period of up to six months.

(b) In addition to or in the alternative to any other penalties for violation of this Chapter, a person who violates the provisions of this Chapter may be assessed an administrative penalty for each day that a violation exists. For the first five days that a violation exists, a person shall be subject to a fine of One Hundred Dollars ($100.00) per day. Should a violation continue beyond five days, the violator shall be subject to a fine of Five Hundred Dollars ($500.00) per day from the sixth through the tenth days of a violation. Should a violation persist beyond ten days, the violator shall be subject to a fine of One Thousand Dollars ($1,000.00) for each day that the violation continues. The administrative penalties specified above may be enforced either by way of judicial action or by way of administrative action; the provisions of Section 9.50.170 shall apply.

(c) The administrative violations and other penalties set forth in this chapter are not the exclusive remedy. Nothing in this Chapter is intended to limit or prohibit the enforcement of the Marysville Municipal Code or other applicable laws through civil or criminal process, or in any other manner allowed by law.

SECTION 2. REPEAL OF LAWS IN CONFLICT

All local laws and ordinances or parts of such ordinance in conflict with any provisions of this Ordinance are hereby repealed to the extent of the conflict and no further.

SECTION 3. SEVERABILITY

If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

SECTION 4. EFFECTIVE DATE

This Ordinance shall become effective thirty days from and after its passage.

This Ordinance was introduced before the City Council of the City of Marysville, County of Yuba, at a duly noticed meeting of the City Council held on the 15th day of December, 2015, and adopted at the regular meeting of said City Council on the 19th day of January, 2016, by the following roll call vote:

AYES: Bill Simmons, Christopher Pedigo, and Ricky Samayoa

NOES: Dale Whitmore and Jim Kitchen

ABSENT: None

ATTEST:

By: _____
Billie J. Fangman, City Clerk

CITY OF MARYSVILLE, CALIFORNIA
BY ITS CITY COUNCIL

By: _____
Ricky A. Samayoa, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Nicole D. Delerio, City Attorney