

**ORDINANCE 1222**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF INYO, STATE OF CALIFORNIA,  
ADDING CHAPTER 18.82 TO THE INYO COUNTY CODE**

**WHEREAS**, the State of California recently legalized the recreational use of cannabis and subsequently consolidated laws applicable to recreational use with those for medical use in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA); and

**WHEREAS**, experiences in other Counties across the state indicate that cannabis cultivators operating outside of the MAUCRSA and/or local laws are able to avoid enforcement actions due to lengthy amounts of time required to complete such actions; and

**WHEREAS**, the Inyo County Board of Supervisors wishes to add Chapter 18.82 as part of a holistic set of regulations around commercial cannabis activity in order to help ensure, among other things, that the industry does not substantially negatively impact County residents and visitors.

**NOW, THEREFORE**, the Board of Supervisors of the County of Inyo ordains as follows:

**SECTION I:** Chapter 18.82, attached hereto as Exhibit A, is added to the Inyo County code.

**SECTION II: EFFECTIVE DATE**

This Ordinance shall take effect and be in full force and effect thirty (30) days after its adoption. Before the expiration of fifteen (15) days from the adoption hereof, this Ordinance shall be published as required by Government Code Section 25124. The Clerk of the Board is hereby instructed and ordered to so publish this Ordinance together with the names of the Board members voting for and against same.

**PASSED AND ADOPTED THIS 16<sup>TH</sup> DAY OF JANUARY, 2018.**

**AYES: -4- Supervisors Griffiths, Kingsley, Pucci, Tothoroh**

**NOES: -0-**

**ABSTAIN: -0-**

**ABSENT: -1- Supervisor Tillemans**



**Dan Tothoroh, Chairperson  
Inyo County Board of Supervisors**

**ATTEST:**

**Kevin Carunchio  
Clerk of the Board**

By:  \_\_\_\_\_  
Darcy Ellis, Assistant

**Exhibit A**

**CHAPTER 18.82  
EXPEDITED ABATEMENT PROCEDURE FOR NUISANCES CAUSED BY CANNABIS  
CULTIVATION**

- 18.82.010 - Findings, Purpose and Authority**
- 18.82.020 - Consistency with Title 22**
- 18.82.030 - Scope of Chapter**
- 18.82.040 - Summary Abatement**
- 18.82.050 - Standard Abatement**
- 18.82.060 - Administrative Order to Show Cause**
- 18.82.070 - Service of Notice and Order to Show Cause**
- 18.82.080 - Automatic Hearing Procedures**
- 18.82.090 - Enforcement**
- 18.82.100 - Liability for Costs**
- 18.82.110 - General Penalty**
- 18.82.120 - Severance**

**18.82.010 - Findings, Purpose and Authority.**

The Board of Supervisors of Inyo County finds that effective abatement of nuisances caused by cultivation of cannabis requires a more expedient set of procedures than those otherwise appropriate for other types of nuisances as laid out in Inyo County Code Title 22. This chapter is enacted pursuant to Government Code Sections 25843 and 53069.4 to address the unique circumstances related to abatement of nuisances caused by cannabis cultivation.

**18.82.020 – Consistency with Title 22.**

To the extent they are not inconsistent, this Chapter shall incorporate the provisions of Title 22.

**18.82.030 - Scope of Chapter.**

Any cannabis cultivation activity not in compliance with all applicable provisions of the Inyo County Code is hereby declared to be a nuisance. When such a public nuisance is declared the procedures in this Chapter may be applied.

**18.82.040 - Summary Abatement.**

After a public nuisance is declared, the nuisance may be summarily abated by any reasonable means and without notice or hearing when immediate action is necessary to preserve or protect the public health or safety.

**18.82.050 - Standard Abatement.**

Whenever the County Administrator finds that a public nuisance caused by cultivation of cannabis exists within the unincorporated area of Inyo County, he or she may utilize the abatement procedures provided by Title 22 of this Code.

**18.82.060 - Administrative Order to Show Cause.**

As an alternative to the uniform abatement procedures provided in Title 22, the County Administrator may instead utilize the provisions of this Chapter, starting with the issuance of a notice and administrative order to show cause. The notice and order to show cause shall:

- A. Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.
- B. Describe the location of such property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- C. Identify such property by reference to the assessor's parcel number.
- D. Contain a statement describing the unlawful conditions existing on the premises that caused the declaration of a public nuisance, and that also describes the actions required to abate it.
- E. Contain a statement that the owner or occupant is required to abate the unlawful conditions caused by cannabis cultivation within five (5) calendar days after the date that said notice was served.
- F. Notify the recipient(s) that, unless the owner or occupant abates the conditions, a hearing will be held before a hearing officer appointed in accordance with this Chapter to determine whether there is any good cause why these conditions should not be abated.
- G. Specify the date, time, and location of the hearing to be held before a hearing officer, or state that the date, time and location of the hearing will be specified in a subsequent notice.
- H. State that the owner or occupant will be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions existing on the property constitute a nuisance under this chapter, or whether there is any other good cause why those conditions should not be abated.
- I. Contain a statement that, unless the owner or occupant abates the conditions, or shows good cause before the Hearing Officer why the conditions should not be abated, the enforcing officer, his or her Department, or other authorized designee will cause to be done whatever work is necessary to abate the nuisance.
- J. State that the abatement costs, including administrative costs and any general penalties imposed pursuant to Chapter 1.20, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

**18.82.070 - Service of Notice and Order to Show Cause.**

The notice and order to show cause shall be served on each Owner and on each Occupant, if known to the County Administrator, of the subject property, in the following manner:

- A. By posting a copy of the notice in a conspicuous place in front of or on the real property on which, or in front of which, the nuisance exists, or if the property has no frontage upon any street, highway, or road, then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the County Administrator to be in possession of the property; and
- B. By either personal service, or by United States mail, first class or overnight, or by overnight courier service. If by mail or courier service, then postage shall be prepaid with a certificate of mailing requested, and shall be addressed to each Owner at the address shown on the last equalized assessment roll or last known address according to the County Assessor, and addressed to each Occupant known to the County Administrator at the street address of the subject property.
- C. Date of service shall be deemed to be the date of personal service, or five (5) days after delivery by United States first class mail, or one (1) day after overnight delivery by either the United States mail or courier service.
- D. If the notice and order are properly and timely served, the failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings conducted herein.

**18.82.080 - Automatic Hearing Procedures.**

- A. In order to hear cases brought by the County Administrator under this Chapter, the Board of Supervisors authorizes the use of a Hearing Officer consistent with Inyo County Code section 22.12.050. The County Administrator shall coordinate with County Counsel, prior to the issuance of any notice and order to abate, to ensure that a Hearing Officer is appointed for the purpose of presiding at the administrative hearings provided for by this Chapter.
- B. The Hearing Officer shall hold an administrative hearing to determine whether the conditions existing on the property subject to the notice constitute a nuisance under this Chapter, or whether there is any other good cause why those conditions should not be abated. This hearing shall be held no less than five (5) calendar days after service of the notice and order to show cause.
- C. Parties may choose to be represented by an attorney; however, formal rules of evidence or procedure shall not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- D. The hearing shall be conducted in the English language. The proponent of any testimony by a witness who does not proficiently speak the English language shall provide an interpreter who has been certified as an interpreter by either the State of California or the County of Inyo.
- E. The County Administrator shall first describe the acts or conditions constituting a nuisance. Thereafter, the Owner or Occupant of the property shall be given an opportunity at the hearing to present and elicit testimony and other evidence regarding whether the conditions

existing on the property constitute a nuisance under this Chapter, or whether there is any other good cause why those conditions should not be abated.

- F. In the event that the Owner or Occupant does not appear and present evidence at the hearing, the Hearing Officer may base their decision solely upon the evidence submitted by the Enforcement Officer. Failure of the Owner or Occupant to appear and present evidence at the hearing shall constitute a failure to exhaust administrative remedies.
- G. The Hearing Officer shall consider the evidence presented by the parties, and shall issue a written decision and order that either affirms, reverses, or modifies the determination contained in the administrative order to show cause issued by the Enforcement Officer, and may include findings relating to the existence or non-existence the alleged nuisance caused by cannabis cultivation, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice and order to show cause. If the notice and order to show cause has been combined with the administrative citation and penalties set forth in Inyo County Code Chapter 1.20, then the decision shall also include said matters. Such decision shall be served on the parties upon whom the notice and order to show cause was served and posted on the subject property at the same or at a similar place as utilized for the posting of the notice and order to show cause.

**18.82.090 - Enforcement.**

If the owner or occupant fails to abate any nuisance caused by the cultivation of cannabis within two (2) calendar days of the date of service of the decision of the Hearing Officer under this Chapter requiring such abatement, the County Administrator or other authorized designee may cause to be done whatever work is necessary to abate the nuisance. If necessary, the County Administrator may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of inspecting the property to determine if the nuisance remains and also for undertaking the work to abate the nuisance if the nuisance had not already been abated.

**18.82.100 - Liability for Costs.**

- A. In any enforcement action brought pursuant to this Chapter, each person who causes, permits, suffers, or maintains the nuisance caused by the cultivation of cannabis shall be liable for all costs incurred by the County, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this chapter, whether those costs are incurred prior to, during, or following enactment of this chapter.
- B. The costs of abatement incurred as a result of enforcement pursuant to this Chapter may be recovered.

**18.82.110 – General Penalty.**

The general penalty set forth in Inyo County Code Chapter 1.20 may be imposed in conjunction with and pursuant to the procedures set forth in this Chapter.

**18.82.120 - Severance.**

The provisions of this Ordinance are separate and severable. If any provision of this Ordinance is for any reason held by a court to be unconstitutional or invalid, the Board declares that it would have passed this Ordinance irrespective of the invalidity of the provision held to be unconstitutional or invalid. Such unconstitutionality or invalidity shall therefore not affect the remaining provisions of this Ordinance, or the validity of its application to other persons or circumstances.