

Opinion: South Tahoe's cultivation ordinance hurts patients

Publisher's note: *This letter was written to South Lake Tahoe City Manager Tony O'Rourke and reprinted with permission of the author.*

Hi Tony,

I had an opportunity to review your latest draft of the proposed cultivation ordinance. I must tell you I was shocked by what you are proposing, not just because it is illegal, immoral, and unnecessary. No, I was deeply shocked and disturbed by the text of your ordinance because it is truly a shameful document.

Under the proposed ordinance, sick, disabled and dying patients will have until the end of the year to comply with capricious and illegal regulations or face fines, criminal convictions and up to six months in jail, for each day they are in violation.



Steve Kubby

Here is just one of numerous outrageous regulations that could land sick, disabled and dying patients in jail for years:

“Any violation of this ordinance is hereby declared a public nuisance per se. Any person violating any provision of this

ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000.00, by imprisonment in the County jail not to exceed six months, or by both a fine and imprisonment. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this ordinance is committed, continued or permitted by such person and shall be punishable as herein provided.”

Whoever wrote this document clearly understood the city will be violating our civil and medical rights because in order to comply with this new ordinance you must agree to grant you guys full immunity for your illegal, unconstitutional and immoral actions:

“To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this ordinance shall not become a personal liability of any public officer or employee of the City.

“Permitees pursuant to this ordinance hereby agree to save, defend, indemnify and keep harmless the City and its officials, officers, employees, representatives, agents and volunteers from all actions, claims, demands, litigation, or proceedings, including those for attorneys’ fees, against the City in consequence of the granting of this permit, and will, in all things, strictly comply with the conditions under which this permit is granted, if any.”

Although the Compassionate Use Act was written as 11362.5 of the Health and Safety Code, the proposed ordinance will move enforcement back to the police chief and fire marshal, granting both the power to invade our home, apparently without a search warrant, if I correctly understand Chapter 17 of the City Abatement Code.

Furthermore, sick, disabled and dying patients must now notify local burglars and drug police of their activities and

location by filing a public notice in the form of a building permit.

Absolutely nothing in the new ordinance does anything to protect patients. No patients were consulted at any time in the creation of this ordinance. Nor does the ordinance fix any problem that cannot be fixed by landlords who can add whatever prohibitions or fines they wish to their leases in order to prevent cultivation in their rental properties.

At a time when the City Council is firing valuable employees because of budget cuts, it seems dangerous and unwise to attempt to pass an ordinance that will most certainly face expensive court challenges. How many more valuable city employees will you have to fire in order to pay for these additional court costs?

Your primary responsibility as city manager is to protect the health and safety of the residents of this city. Instead, you are proposing new ordinance is a direct threat to the health and safety of the medical marijuana community. Please step back and think about the fear, anger and disrespect for you and the City Council that will surely result if you persist in campaigning for this awful and ill-conceived ordinance.

Let freedom grow,

Steve Kubby, South Lake Tahoe

Steve Kubby played a key role in the drafting and passage of Proposition 215. He has written two books on drug policy reform and serves as executive director of the American Medical Marijuana Association.