

Opinion: S. Tahoe medical marijuana patients prepare to fight back

By Steve Kubby

Local medical marijuana patients are in a panic, because of the new South Lake Tahoe city ordinance that takes effect today. Frustrated and frightened patients complain that it is impossible to get their landlords to sign notarized letters giving permission for them to grow – even though they already know and allow their tenants to do so. Apparently, landlords are reluctant to sign something that would incriminate them for violating federal law and the Controlled Substance Act.

Patients must also register in public records that they are growing, a clear violation of their Fifth Amendment rights. Too bad for you if the city decides you are not in compliance, their ordinance allows them to publish your name in the newspaper and fine you \$1,000 per day. As a result, few patients have registered and are now on alert for an unwelcome visit from the city.



Steve Kubby

The current cultivation ordinance punishes bona fide patients by creating expensive and difficult barriers to rights already granted to them by the voters of California. In contrast, the city rewards illegal growers, because nearly anyone can

qualify, provided they have enough money and time to jump through all the hoops, give their landlords money under the table, and get a medical recommendation for the right price. Under the new system that starts today, illegal growers and out-of-towners will be flocking to the city of South Lake Tahoe by the thousands, something none of us wants.

We believe our best option at this point is to put our own model ordinance on the ballot instead. We have already verified that we need 856 validated signatures to qualify. Below is the current version of the citywide voter initiative that we will be filing.

South Lake Tahoe Marijuana Cultivation Ordinance

The People of the City of South Lake Tahoe, California, do enact as follows:

Section A. Findings, and Orders

The People of the City of South Lake Tahoe find and order all of the following:

(1) Adults 21 years and older, who are bona fide medical marijuana patients, may produce up to 6 mature outdoor flowering plants, or up to 12 mature indoor flowering plants per person; or a total number of plants cultivated per household not to exceed 12 mature flowering plants outdoors or 24 plants indoors. The cultivation shall take place in an indoor or outdoor space or area not visible to the public.

(2) No taxes, fees, laws, rules, regulations, zones, local city or county zoning requirements may be adopted or enacted to defeat, deny, or prohibit the purposes of this Act, or to defeat, deny, or prohibit adult medical marijuana patients, 21 or older or from engaging in the activities authorized and protected by this Act.

(3) Nothing in this section shall prevent a property owner

from prohibiting marijuana cultivation on their property or conduct that damages their property, so long as that is clearly stated in their rental agreement or lease.

(4) This Act preempts and nullifies any and all conflicting local regulations, but allows for a greater number of plants if a physician has written a letter or recommendation that states that these limits are insufficient for their patient.

(5) No regulations, taxes, or fees shall be enacted or imposed upon marijuana for qualifying patients or their caregivers.

(6) Elected, appointed, hired employees, officers, and officials of the City of South Lake Tahoe shall not directly or indirectly cooperate with or assist federal, state, or county officers or officials, volunteers, or employees who eradicate marijuana, act for seizure or forfeiture, or demand entry without a warrant or to defeat any liberally construed purpose of this Act, nor may any state or local agency contract to eradicate marijuana that is being grown, manufactured or stored under the provisions of this Act. Violation of this clause shall be a felony, punishable by up to one year in prison.

(7) The City of South Lake Tahoe is ordered to protect and defend all provisions of this Act from any and all challenges or litigation, whether by persons, officials, cities, counties, the state or federal governments.

(8) Child Protective Services is hereby enjoined from seizing any child or infant, based in whole or part on the cultivation or presence of marijuana in a home.

(9) South Lake Tahoe City Police are hereby enjoined from arresting anyone age 21 or older for any marijuana related offense, which is protected by this Act.

(10) This Act shall become effective immediately upon passage and may be applied retroactively to protect patients or

caregivers from civil or criminal prosecution.

(11) Patients and caregivers shall have the right to transfer their marijuana to other patients or collectives and be paid a non-taxible remuneration for their out of pocket expense and their time.

(12) The City of South Lake Tahoe is hereby enjoined from banning or limiting the number of medical marijuana collectives, dispensaries or delivery services operating within the City.

Section B. Severability

If any of the provisions of this Act, or any part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

Steve Kubby is CEO of Strategic Campaigns LLC and serves as chief officer and campaign chairman for a new California voter initiative to Regulate Marijuana Like Wine.