



**CITY OF ELK GROVE
CITY COUNCIL STAFF REPORT**

AGENDA TITLE: Receive informational report for consideration of medical marijuana cultivation regulation ordinance and provide direction to staff

MEETING DATE: September 28, 2011

PREPARED BY: Bryan Noblett, Police Captain

DEPARTMENT HEAD: Robert Lehner, Chief of Police

RECOMMENDED ACTION:

Staff recommends that the City Council of the City of Elk Grove consider available options for the regulation of medical marijuana cultivation within the City and provide direction to staff.

BACKGROUND INFORMATION:

The non-medicinal use of marijuana is illegal and criminal under state and federal law. Under state law, persons who have received a doctor's recommendation to use marijuana for medical purpose are provided a defense to state marijuana related criminal charges. Elk Grove Municipal Code Section 9.28.030 prohibits consumption of medical marijuana on any public property or in any facility or space generally open to the public. Additionally, Elk Grove Municipal Code Chapter 9.31 prohibits medical marijuana dispensaries in the City, which are defined as "any facility where medical marijuana is made available to, distributed by, or distributed to one (1) or more of the following: a qualified patient, a person with a [valid medical marijuana user] identification card, or a primary caregiver." (EGMC §§ 9.31.020, 9.31.030). The state medical marijuana laws authorize cities to adopt and enforce local laws consistent with state law.

In response to the Council's stated desire to consider an ordinance to regulate the cultivation of medicinal marijuana within the City of Elk Grove, staff has researched comparable ordinances from other cities and counties in order to provide the Council with options to address this issue.

A number of cities and counties across the state either have enacted or are considering enacting local legislation to address the issue of cultivating medical marijuana in their various jurisdictions. City and county governing bodies are carefully trying to balance the medicinal needs and legal rights of qualified patients and primary caregivers against the public health and safety concerns associated with outdoor growing of marijuana. Staff has researched ordinances which have either been enacted or are being considered in other jurisdictions for the Council to consider as we move down the path of drafting a medical marijuana cultivation ordinance for the City of Elk Grove.

The following is a brief list of what is being done in terms of local legislation of medical marijuana cultivation in other jurisdictions:

- **Rancho Cordova:** The City of Rancho Cordova has enacted an ordinance which sets both indoor and outdoor cultivation standards in that city. This ordinance states that outdoor cultivation of marijuana is to be on 25 square feet or less, set back 10 feet from all fences, secured in a full perimeter fence to prevent access by minors, and that there be no exterior evidence of marijuana cultivation visible from a public right-of-way. Marijuana cultivation for sale is prohibited, and tenants must obtain the written permission of the property owner prior to cultivating marijuana. Indoor cultivation is permitted only on parcels with residential units. The indoor area of cultivation shall not exceed 25 square feet, may not be carpeted, and lighting used shall not exceed 1,200 watts. Cultivation of marijuana in multi-family units requires advance inspection by a building inspector or code enforcement officer to confirm no health and safety concerns are present. Additionally, these settings require written permission from the property owner, and the ordinance states the building official may require additional specific standards which could include the installation of sprinklers.

The Rancho Cordova ordinance allows for a public nuisance to be declared if the cultivation results in odors which are disturbing to people of normal sensitivity residing or present on nearby property. Repeated police responses to the location and other disruptive impacts on the neighborhoods are also indicated as reasons why the cultivation can be declared a public nuisance. Enforcement in Rancho Cordova of this ordinance is done by code enforcement and/or the Chief of Police.

- **City of Chico:** Chico allows outdoor, residential cultivation of 50 square feet per parcel, regardless of the number of patients. Plants must be enclosed, screened, and five feet from the property line. Indoor cultivation is also allowed, but must be an area of 50 square feet or less and lighting used must be no more than 1,200 watts. Indoor cultivation requires written permission of the property owner and the marijuana can be grown for personal use only.
- **City of Rocklin:** In January of this year, Rocklin passed an ordinance which limits cultivation of marijuana to 50 square feet and 10 feet in height per residence and only within an enclosed structure. The authorized grower must reside in the residence where the marijuana is being grown.
- **Sacramento County:** The Board of Supervisors is currently considering an ordinance to regulate both cultivation and dispensing of medicinal marijuana. The ordinance would not allow the outdoor cultivation of marijuana for any purpose because they have determined outdoor cultivation to be a public nuisance. Indoor cultivation would be allowed under the ordinance in residential and agricultural residential zones. The indoor cultivation could only occur in the primary residence of a qualified patient or caregiver. Under this ordinance, cultivation would also be allowable within non-residential structures such as sheds, garages, and greenhouses; however, additional regulations relative to setback requirements, security, fencing, parcel placement, etc. would be required. The Sacramento

County ordinance would additionally limit cultivation to 12 mature plants, or a maximum of 24 immature plants, or a total of 24 marijuana plants if both mature and immature plants are being cultivated.

- **City of Fort Bragg:** This ordinance prohibits the outdoor cultivation of marijuana and sets standards for indoor cultivation. Cultivation is only allowed within a residential unit, a garage, or a self-contained outside accessory building that is secured, locked, and fully enclosed. The ordinance specifies that cultivation cannot occur in the kitchen, bathroom, and primary bedrooms of any residence. Fort Bragg's ordinance specifies that the cultivation area may not exceed 50 square feet and that lighting shall not exceed 1,200 watts. Additionally, the qualified patient or caregiver may only cultivate marijuana indoors on the parcel upon which they reside. If the cultivator is not the property owner, written permission from the owner must be obtained.
- **City of Corning:** Corning prohibits cultivation outdoors or in a residential structure. Marijuana cultivation may occur only in a secure detached structure in the rear yard, removed 10 feet from the property line and with a six foot solid fence, mechanical ventilation system, and a security system approved by the Building Official or Police Department.

ANALYSIS:

The aforementioned ordinances are but a few of those currently in existence or under consideration as local governments grapple with this issue of balancing medical marijuana patients' rights against the public nuisance and crime-related concerns associated with marijuana cultivation. Many of the ordinances declare the outdoor cultivation a public nuisance due to odors, proximity to areas where children may be present, visibility from public areas, enticement of criminal activity, and other concerns. As the Council deliberates this matter, staff suggests the following options as a marijuana cultivation ordinance is contemplated:

1. The Council may opt to do nothing with respect to local regulation of medical marijuana cultivation. This would maintain the current situation of complaints associated with cultivation being handled on an individual, case by case basis;
2. Cultivation of medical marijuana could be permitted outdoors and indoors in residential zones with restrictions such as those mentioned in other ordinances. In outdoor applications, such things as setback requirements, fencing, odor control, public visibility, and security controls might be considered. Another possibility for allowing outdoor cultivation may be for the Council to require any outdoor cultivation take place in an outbuilding which is totally enclosed, secured and ventilated. Another feature of such an ordinance may be a maximum square footage requirement as several of the example ordinances specify;
3. Medical marijuana cultivation could be prohibited outdoors completely and only permitted indoors in residentially zoned areas. In this case, restrictions on such things as lighting, square footage, exclusion of living areas from allowable cultivation areas, security of cultivation area from children, and odor control may be considered in order to maintain as much safety as possible for those neighborhoods which would be affected; or
4. An ordinance such as Corning's could be considered. An ordinance of this nature would allow cultivation of medical marijuana only in secured sheds or greenhouses located in the rear yard of the residence. Staff would recommend in this instance that security requirements, ventilation, setbacks, and maximum square footage dedicated to cultivation be considered. This variety of ordinance would not allow marijuana to be cultivated inside residential structures.

The options listed above are only a few of the options available to Council. Once Council deliberation on this matter has taken place, if so directed, staff will develop a draft marijuana cultivation ordinance and return for Council review and/or additional direction.

FISCAL IMPACT:

There are no fiscal impacts from this recommended action.

ATTACHMENTS:

1. Marijuana cultivation ordinances from other cities

ATTACHMENT 1**Chapter 6.90
MARIJUANA CULTIVATION**

Sections:

- 6.90.010 Purpose.
- 6.90.020 Definitions.
- 6.90.030 Outdoor cultivation of marijuana.
- 6.90.040 Indoor cultivation of marijuana.
- 6.90.050 Public nuisance.
- 6.90.060 Enforcement.
- 6.90.070 Penalty for violation.

6.90.010 Purpose.

The purpose and intent of this chapter is to regulate the cultivation of marijuana that is grown in accordance with state law in order to promote the health, safety, morals, and general welfare of the residents and businesses within the city. It is not the intent of this chapter to create conflict or inconsistency between this chapter and (A) the Constitutions of the United States or the State of California; (B) the Federal Controlled Substances Act; or (C) California law. [Ord. 17-2010 § 2].

6.90.020 Definitions.

For purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise:

"Abatement" means the removal of marijuana plants and improvements that support marijuana cultivation which occupy an area or cubic feet in excess of the area and cubic feet that is allowed under this chapter.

"Cultivated area" means:

1. For indoor cultivation, the greater of either (a) the total area of a property that is densely or primarily occupied by marijuana cultivation; or (b) one square foot per juvenile or mature marijuana plant indoors on the property; and
2. For outdoor cultivation, the greater of either (a) the total area of the property that is densely or primarily occupied by marijuana cultivation; or (b) 12.5 square feet per juvenile or mature plant outdoors on the property.

"Cultivation" or "marijuana cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.

"Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

"Indoors" means within a fully enclosed and secure structure.

"Marijuana" means the plant *Cannabis sativa* L. and any of its derivatives that is six inches in height or taller, grown in accordance with state law.

"Outdoors" means any location within the city of Rancho Cordova that is not within a fully enclosed and secure structure.

"Parcel" means property assigned a separate parcel number by the Sacramento County assessor. [Ord. 17-2010 § 2].

6.90.030 Outdoor cultivation of marijuana.

A. It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city of Rancho Cordova to cause or allow such parcel to be used for the outdoor cultivation of more than 25 square feet of marijuana.

B. Outdoor Cultivation Standards. All outdoor cultivation of marijuana of 25 square feet or less, within the city of Rancho Cordova, shall conform to the following standards:

1. Cultivation of outdoor marijuana shall be set back from all fences by 10 feet.
2. All marijuana plants cultivated outside must be secured in a full perimeter fence to prevent access by minors.
3. Marijuana cultivation for sale is prohibited.
4. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation.
5. Individuals that are tenants shall obtain the written permission of the property owner prior to cultivating marijuana.
6. The outdoor marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, smoke, traffic, vibration or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.
7. The cannabis cultivator shall pay any applicable city taxes relating to marijuana. [Ord. 17-2010 § 2].

6.90.040 Indoor cultivation of marijuana.

A. It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel in the city of Rancho Cordova to cause or allow such parcel to be used for the cultivation of marijuana plants within a fully enclosed and secure structure on the parcel, except as provided in subsections (B) and (C) of this section.

B. Indoor Cultivation Standards. Marijuana cultivated indoors, within the city of Rancho Cordova, shall be in conformance with the following standards:

1. Indoor cultivation of marijuana is permitted only on parcels with residential units.
2. Marijuana cultivation is permitted only within fully enclosed and secure structures inaccessible to minors.
3. Indoor cultivation of marijuana shall not exceed 25 square feet per residence, except as provided in subsection (C) of this section.
4. Marijuana cultivation shall not occur on any carpeted area.
5. Marijuana cultivation lighting shall not exceed 1,200 watts.
6. The use of gas products (CO₂, butane, etc.) for marijuana cultivation or processing is prohibited.
7. Marijuana cultivation for sale is prohibited.
8. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation.
9. The residence shall be occupied and is required to maintain a functioning kitchen and bathroom(s), and the use of primary bedrooms are for their intended purpose. These rooms shall not be used for marijuana cultivation.
10. Any marijuana cultivation area located within a residence shall not create a humidity or mold problem in violation of Rancho Cordova building codes.
11. Individuals that are tenants shall obtain the written permission of the property owner prior to cultivating marijuana.
12. The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.
13. The cultivation of marijuana within a residential unit in a multifamily structure shall comply with the requirements of subsections (8)(1) through (11) of this section, and shall require administrative review by the planning director and shall meet specific criteria, as set forth in subsections (B)(13)(a) through (c) of this section:
 - a. Inspection of the cultivation area by a building inspector or code enforcement officer to confirm that no health or safety concerns are present; and
 - b. Written permission from the property owner; and
 - c. The building official may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.
14. The cannabis grower shall pay any applicable city taxes relating to marijuana.

C. Indoor Marijuana Cultivation in Excess of 25 Square Feet. Any proposed marijuana cultivation by an individual that may exceed the cultivation area standard maximum of 25 square feet per residence shall require administrative review by the planning director, and shall meet the criteria set forth above, as well as the additional criteria set forth in subsections (C)(1) through (4) of this section:

1. Marijuana cultivated in excess of 25 square feet shall only be indoors;
2. Documentation of medical need, such as a physician's recommendation; and
3. Inspection of the cultivation area by a building inspector or code enforcement officer to confirm that no health or safety concerns are present; and
4. The building official may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers. [Ord. 17-2010 § 2].

6.90.050 Public nuisance.

It is hereby declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel within the city of Rancho Cordova to create a public nuisance in the course of cultivating marijuana plants or any part thereof. A public nuisance may be deemed to exist if such activity produces:

- A. Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public;
- B. Repeated responses (more than three times in a one-year time period) to the parcel from law enforcement officers;
- C. Repeated disruption (more than three times in a one-year time period) to the free passage of persons or vehicles in the neighborhood;
- D. Excessive noise in violation of applicable city noise standards in the general plan or municipal code;
- E. Any other impacts on the neighborhood which are disruptive of normal activity in the area. [Ord. 17-2010 § 2].

6.90.060 Enforcement.

- A. The violation of this chapter is hereby declared to be a public nuisance. Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed the amount provided in Penal Code Section 19, as may be amended from time to time, by imprisonment in the county jail not to exceed six months, or by both a fine and imprisonment.
- B. A violation of this chapter may be abated by the city attorney by the prosecution of a civil action for injunctive relief and by the abatement procedure set forth in Chapter 16.18 RCMC.

C. Abatement Procedure. The code enforcement officer and/or the chief of police, or his or her designee (hereafter the "enforcement official"), are hereby authorized to order the abatement of any violation of this chapter by following the abatement procedure as defined in Chapter 16.18 RCMC. In addition, the enforcement official may require the property owner or tenant to personally abate/remove all medical marijuana plants and improvements to the property that exceed the limits set by this chapter. [Ord. 17-2010 § 2].

6.90.070 Penalty for violation.

A. Cultivation of marijuana on parcels within the city that does not comply with this chapter is subject to the penalties and enforcement as provided in Chapters 6.60 and 16.18 RCMC.

B. The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any others and none of these penalties and remedies prevent the city from using any other remedy at law or in equity which may be available to enforce this chapter or to abate a public nuisance. [Ord. 17-2010§2].

This page of the Rancho Cordova Municipal Code is current through Ordinance 8-2011, passed June 20, 2011.

Disclaimer: The City Clerk's Office has the official version of the Rancho Cordova Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website:
<http://jwww.cityofranhocordova.org>
([http://jwww .cityofranhocordova.org](http://jwww.cityofranhocordova.org))
City Telephone: (916) 851-8723
Code Publishing Company
(<http://www.codepublishing.com/>)

Chapter 19.77

CULTIVATION OF MEDICAL MARIJUANA

Section:

- 19.77.010 Findings and purpose.
- 19.77.020 Applicability.
- 19.77.030 Definitions.
- 19.77.040 Cultivation in residential zoning districts for personal use.
- 19.77.045 Cultivation of medical marijuana on non-conforming residential property.
- 19.77.050 Appeal of permit denial.
- 19.77.060 Permit revocation.
- 19.77.070 Nuisance.

19.77.010 Findings and purpose.

- A. The city council hereby finds that the cultivation of medical marijuana impacts, or has the potential to impact, the community. These impacts include damage to buildings in which cultivation occurs, including improper and dangerous electrical alterations and use, inadequate ventilation, increased occurrences of home-invasion robberies and similar crimes, and nuisance impacts to neighboring properties from the strong and potentially noxious odors from the plants and increased crime.
- B. It is acknowledged that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of marijuana for medical purposes through the adoption of the Compassionate Use Act, but that the Compassionate Use Act does not address the land use or other impacts that are caused by the cultivation of medical marijuana.
- C. The purpose of this chapter is to adopt rules consistent with the Compassionate Use Act, the Medical Marijuana Program Act and the Guidelines issued by the California Attorney General, to regulate the cultivation of medical marijuana in a manner that protects the public health, safety and welfare of the community and prevents the adverse impacts which such activities may have on nearby properties and residents, without interfering with the rights of qualified patients and their primary caregivers to possess or cultivate medical marijuana pursuant to state law.

(Ord. 2417)

19.77.020 Applicability.

- A. Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act.
- B. 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.
- C. Nothing in this chapter is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting medical marijuana cultivation or other related activities by tenants.
- D. Nothing in this chapter is intended, nor shall it be construed, to exempt any activity

related to the cultivation or use of medical marijuana from any applicable electrical, plumbing; land use, or other building or land use standards or permitting requirements.

- E. All cultivation of medical marijuana within the city shall be subject to the provisions of this chapter.

(Ord. 2417)

19.77.030 Definitions.

- A. "Medical marijuana" means marijuana used for medical purposes in accordance with California Health & Safety Code section 11362.5.
- B. "Primary caregiver" means a primary caregiver as defined in Health & Safety Code section 11362.7.
- C. "Qualified patient" means a qualified patient as defined in Health & Safety Code section 11362.7.

(Ord. 2417)

19.77.040 Cultivation in residential zoning districts for personal use.

It is unlawful for anyone to cultivate medical marijuana in the city of Chico except that medical marijuana may be cultivated in residential zoning districts as follows:

- A. Outdoor Cultivation. Medical marijuana may be cultivated outdoors on residentially zoned property by a qualified patient or primary caregiver subject to the following conditions:
1. The location of the plants is at least 5 feet from the property line and takes place within an enclosed side or back yard.
 2. An area of no more than fifty square feet is devoted to the cultivation of the marijuana. This restriction applies regardless of how many qualified patients are living on the property.
 3. The plants are located and screened so that they are not visible from any adjacent public or private property.
- B. Indoor Cultivation. It is unlawful for any person to cultivate medical marijuana inside any residence or other building on residentially zoned property without an indoor cultivation permit issued by the director.
1. An application for an indoor cultivation permit shall be filed in the office of the director on a form prescribed by the director and accompanied by an application fee as adopted by the city council.
 2. An indoor cultivation permit may only be issued if the director makes both the following findings:
 - a. It is not feasible for a qualified patient to cultivate marijuana outdoors on the property on which the patient resides either because cultivation cannot take place in a manner that complies with all of the conditions set forth in paragraph A., above, or that outdoor cultivation, even though conducted in compliance with the standards set forth in Paragraph A, above, adversely affects neighboring property by creating dust, glare, noise, odors or other impacts; and
 - b. The owner of the residence or building, if other than the applicant, has consented in writing to the issuing of the permit.
 3. Any permit issued to allow indoor cultivation shall be subject to the following conditions:

- a. An area no larger than 50 square feet may be devoted to the cultivation of the marijuana. This restriction applies regardless of how many qualified patients are living on the property.
 - b. The lighting used for the cultivation shall not exceed 1200 watts.
 - c. There shall be no exterior evidence of the marijuana cultivation from any public right of way.
 - d. The cultivation of marijuana shall not take place in the kitchen, bathrooms or primary bedrooms of a residence.
 - e. The use of flammable or combustible products, including but not limited to, CO₂ and butane, for cultivation and processing is prohibited.
- C. All medical marijuana cultivated pursuant to this section, whether outdoor or indoor, shall be for the personal use only of the qualified patient for whom it is grown.
- D. Notwithstanding that cultivation which is otherwise in compliance with the standards set forth in paragraph A., above, or a permit issued pursuant to paragraph B., above, the cultivation of medical marijuana is not permitted if the cultivation activity adversely affects the health or safety of the residents or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, odor, or other impacts.
- E. The cultivation and/or processing of medical marijuana shall not be an allowed home occupation.

(Ord. 2417)

19.77.045 Cultivation of medical marijuana on non-conforming residential property.

Medical marijuana may be cultivated on non-residentially zoned property which is improved and used for a legal non-conforming residential use subject to all of the same standards and restrictions as set forth in section 19.77.040.

(Ord. 2417)

19.77.050 Appeal of permit denial.

Any applicant for a permit authorized by this chapter who has had an application denied or a permit revoked, shall have the right to request administrative review by the city manager pursuant to the procedure set forth in section 19.12.040.

(Ord. 2417)

19.77.060 Permit revocation.

A. Permit revocation or modification. The director may modify or revoke any permit issued pursuant to this chapter based upon the making of one or more of the following findings:

1. The permit was issued based on a material misrepresentation by, or on behalf of, the permittee or property owner, whether as a result of its content or omissions therefrom and regardless of whether the misrepresentation was intentional or negligent or otherwise inadvertent;
2. One or more of the conditions of the permit has not been met or has been violated; or
3. Notwithstanding compliance with the conditions of the permit, the carrying out of the activities authorized by the permit adversely affects the health or safety of the residents or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, odor, or other impacts.

- B. Notice. Prior to modifying or revoking any permit the director shall provide fifteen days written notice to the permittee of the intent to modify or revoke the permit. The notice shall include a brief statement of the grounds for the proposed modification or revocation and shall notify the Permittee of the opportunity to take any corrective actions necessary to remove the grounds for the modification or revocation.
- C. Opportunity to respond. Prior to the expiration of the fifteen days, the permittee may request a meeting with the director and/or submit documentation demonstrating that corrective action has been taken or documentation otherwise in response to the notice.
- D. Final decision. After the expiration of the fifteen days, the director shall issue a written notice indicating whether the permit is being maintained as originally granted, modified, or revoked. Any notice of modification or revocation shall include a statement of the reasons therefore.
- E. Appeal. The modification or revocation of a permit may be appealed by the filing of a request for administrative review by the city manager pursuant to the procedure set forth in section 19.12.040.

(Ord. 2417)

19.77.070 Nuisance.

Any violation of any provision of this chapter shall be, and is hereby declared, a public nuisance and may be abated by the city as such.

(Ord. 2417)

Rocklin, California, Code of Ordinances»Title 17- ZONING»Chapter 17.81- MARIJUANA CULTIVATION>>

Chapter 17.81- MARIJUANA CULTIVATION

Sections:

- 17.81.010- Purpose and applicability.
- 17.81.020- Definitions.
- 17.81.030- Outdoor cultivation.
- 17.81.040- Cultivation of marijuana; regulations for residential zones.
- 17.81.050- Indoor cultivation of marijuana restricted to authorized growers.
- 17.81.060- Public nuisance prohibited.
- 17.81.070- Violation.
- 17.81.080- Enforcement.
- 17.81.090. - Penalties not exclusive.

17.81.010- Purpose and applicability.

The council finds as follows:

- A. Purpose. The purpose and intent of this section is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a patient's right to medical marijuana, as provided for in California Health & Safety Code Section 11362, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law. This section is not intended to give any person independent legal authority to grow marijuana; it is intended simply to impose zoning restrictions on the cultivation of marijuana when it is authorized by California state law for medical or other purposes.
- B. Applicability. No part of this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation of marijuana in the city of Rocklin is controlled by the provisions of this section of the zoning code.

(Ord. No. 970, § 1, 1-11-2011)

17.81.020 - Definitions.

As used herein the following definitions shall apply:

- A. "Authorized grower" means a person who is authorized by federal or state law to grow marijuana for personal use or medical use in compliance with local, state or federal laws authorizing such marijuana cultivation.
- B. "Cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.
- C. "Enforcement Official" means the community development director, chief of police, or city of Rocklin Code Enforcement Officer, or his or her designee respectively.
- D. "Fully enclosed and secure structure" means a space within a building that complies with the California Building Code ("CBSC"), as adopted in the city of Rocklin, or if exempt from the permit requirements of the CBSC, that has a complete roof enclosure supported by connecting walls extending 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. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two inch by four inch nominal or thicker studs overlaid with three-eighths 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 Rocklin.
- E.

"Immature marijuana plant" means a marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

- F. "Indoors" means within a fully enclosed and secure structure as that structure is defined above in subsection D.
- G. "Mature marijuana plant" means a marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.
- H. "Outdoor" means any location within the city of Rocklin that is not within a fully enclosed and secure structure.
- I. "Parcel" means property assigned a separate parcel number by the Placer County assessor.

(Ord. No. 970, § 1, 1-11-2011)

17.81.030 - Outdoor cultivation.

It is hereby declared to be unlawful, a public nuisance, and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city of Rocklin to cause or allow such premises to be used for the outdoor cultivation of marijuana plants.

(Ord. No. 970, § 1, 1-11-2011)

17.81.040- Cultivation of marijuana; regulations for residential zones.

- A. When authorized by state law, an individual shall be allowed to cultivate marijuana in residential zones, subject to the following regulations:
 - 1. The marijuana cultivation area shall not exceed fifty square feet and not exceed ten feet in height per residence.
 - 2. Marijuana cultivation lighting shall not exceed one thousand two hundred watts.
 - 3. The use of gas products (CO₂, butane, etc.) for marijuana cultivation or processing is prohibited.
 - 4. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation either within or outside the residence.
 - 5. The authorized grower shall reside in the residence where the marijuana cultivation occurs.
 - 6. The authorized grower shall not participate in marijuana cultivation in any other residential location within the city of Rocklin.
 - 7. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily and exclusively for marijuana cultivation.
 - 8. The marijuana cultivation area shall be in compliance with the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)).
 - 9. The building official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.
 - 10. The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
- B. Any proposed marijuana cultivation by an authorized grower that does not meet the grow area standard of Section 17.81.040 (A)(1) shall require the written determination of the city manager, or his or her designee, of the need for additional cultivation area.
 - 1. Documentation, such as a physician's recommendation or verification of more than one authorized grower living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible.
 - 2. The request for determination shall include written permission from the property owner and no determination and authorization for additional area of marijuana cultivation shall issue without the written permission of the property owner.
 - 3. An approved marijuana cultivation area that exceeds fifty square feet shall conform to the following standards:
 - a. Shall be in compliance with Section 17.81.040 A.1-10 above.
 - b. The marijuana cultivation area shall not exceed an additional fifty square feet for a total of one hundred square feet per residence and shall not exceed ten feet in height per residence.

(Ord. No. 970, § 1, 1-11-2011)

17.81.050 - Indoor cultivation of marijuana restricted to authorized growers.

It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the city of Rocklin to cause or allow such parcel to be used for the cultivation of marijuana, unless the person is authorized by state law to grow marijuana, and such authorized grower is complying with all requirements of this section.

(Ord. No. 970, § 1, 1-11-2011)

17.81.060- Public nuisance prohibited.

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the city of Rocklin to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces:

- A. Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public.
- B. Repeated responses to the parcel from law enforcement officers,
- C. A repeated disruption to the free passage of persons or vehicles in the neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public
- D. Any other impacts on the neighborhood which are disruptive of normal activity in the area.

(Ord. No. 970, § 1, 1-11-2011)

17.81.070- Violation.

Cultivation of marijuana on any parcel within the city that does not comply with this chapter constitutes a violation of the zoning ordinance and is subject to the penalties and enforcement as provided in Section 17.81.080 of this chapter, and Chapter 17.88 of this Title 17.

(Ord. No. 970, § 1, 1-11-2011)

17.81.080 - Enforcement.

- A. Public Nuisance. The violation of this section is hereby declared to be a public nuisance.
- B. Abatement. A violation of this section may be abated by the city attorney by the prosecution of a civil action for injunctive relief and by the summary abatement procedure set forth in subsection C of this section.
- C. Summary Abatement Procedure.
 - 1. The enforcement official is hereby authorized to order the abatement of any violation of this section by issuing a notice and order to abate which shall:
 - a. Describe the location of and the specific conditions which represent a violation of this section and the actions required to abate the violation.
 - b. Describe the evidence relied upon to determine that a violation exists, provided that the enforcement official may withhold the identity of a witness to protect the witness from injury or harassment, if such action is reasonable under the circumstances.
 - c. State the date and time by which the required abatement actions must be completed.
 - d. State that to avoid the civil penalty provided in subsection C.4. of this section and further enforcement action, the enforcement official must receive consent to inspect the premises where the violation exists to verify that the violation has been abated by the established deadline.
 - e. State that the owner or occupant of the property where the violation is located has a right to appeal the notice to abate by filing a written notice of appeal with the city clerk no later than five business days from the service of the notice. The notice of appeal must include an address, telephone number, fax number, if available, and e-mail address, if available. The city may rely on any of these for service or notice purposes. If an adequate written appeal is timely filed, the owner or occupant will be entitled to a hearing as provided in subsection C.3. of this section.
 - f. State that the order to abate the violation becomes final if a timely appeal is not filed or upon the issuance of a written decision after the appeal hearing is conducted in accordance with subsection C.3 of this section.
 - g. State that a final order of abatement may be enforced by application to the superior court for an inspection and/or abatement warrant or other court order.
 - h. State that a final order to abate the nuisance will subject the property owner and the occupant to a civil penalty of five hundred dollars for each day that the violation continues

after the date by which the violation must be abated as specified in the notice and order to abate. The penalty may be recovered through an ordinary civil action, or in connection with an application for an inspection or nuisance abatement warrant.

2. The notice described in subsection C.1 of this section shall be served in the same manner as a summons in a civil action in accordance with article 3 (commencing with section 415.10) of chapter 4 of title 5 of part 2 of the Code of Civil Procedure, or by certified mail, return receipt requested, at the option of the city. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of not less than ten days and publication thereof in a newspaper of general circulation pursuant to Government Code section 6062.
3. Not sooner than five business days after a notice of appeal is filed with the city clerk, a hearing shall be held before the city manager or a hearing officer designated by the city manager to hear such appeals. The appellant shall be given notice of the date, time and place of the hearing not less than five days in advance. The notice may be given by telephone, fax, e-mail, personal service or posting on the property. At the hearing, the enforcement official shall present evidence of the violation, which may include, but is not limited to, incident and police reports, witness statements, photographs, and the testimony of witnesses. The property owner and the occupant of the property where the violation is alleged to exist shall have the right to present evidence and argument in their behalf and to examine and cross examine witnesses. The property owner and property occupant are entitled at their own expense to representation of their choice. At the conclusion of the hearing, the city manager or hearing officer shall render a written decision which may be served by regular first class mail on the appellants.
4. A final notice and order to abate the nuisance will subject the property owner or owners and any occupant or occupants of the property who are cultivating marijuana in violation of this section to a civil penalty of five hundred dollars for each day that the violation continues after the date by which the violation must be abated as specified in the final notice and order to abate.
5. The enforcement official or the city manager or hearing officer hearing an appeal pursuant to subsection C.3. of this section may reduce the daily rate of the civil penalty for good cause. The party subject to the civil penalty shall have the burden of establishing good cause, which may include, but is not limited to, a consideration of the nature and severity of the violation, whether it is a repeat offense, the public nuisance impacts caused by the violation, and the violator's ability to pay. The daily penalty shall continue until the violation is abated. The penalty may be recovered through an ordinary civil action, or in connection with an application for an inspection or nuisance abatement warrant.

(Ord. No. 970, § 1, 1-11-2011)

17.81.090. - Penalties not exclusive.

The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any other criminal, civil, or administrative remedy or penalty authorized by, or set forth in, the Rocklin Municipal Code. None of the penalties or remedies authorized by, or set forth in, the Rocklin Municipal Code shall prevent the city from using any other penalty or remedy under state statute which may be available to enforce this section or to abate a public nuisance.

(Ord. No. 970, § 1, 1-11-2011)

SZCNo. _____

**AN INTERIM URGENCY ORDINANCE OF THE SACRAMENTO COUNTY ZONING
CODE ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858
RELATING TO THE CULTIVATION AND DISPENSING OF MEDICAL MARIJUANA**

Whereas, the Sacramento Zoning Code currently does not regulate either the location or manner of cultivation of medical marijuana, but prohibits the establishment and operation of medical marijuana dispensaries and the sale or distribution of medical marijuana; and

Whereas, medical marijuana cultivation is increasing in the unincorporated area and there are a number of medical marijuana dispensaries that are unlawfully operating within the unincorporated area;

Whereas, the increasing cultivation of medical marijuana without regulation creates health and safety risks;

Whereas, if medical marijuana dispensaries were permitted to be established without appropriate regulation, such uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare;

Whereas, citizens of the County of Sacramento have expressed concerns regarding the inadequacy of the current regulations to address the increasing cultivation of medical marijuana as well as the increasing number of unpermitted medical marijuana dispensaries and cooperatives operating within the unincorporated area of the County and the impacts of such establishment on the community as a whole, including safety, noise, litter and other public health and welfare impacts;

Whereas, the County of Sacramento is in the process of studying appropriate amendments to the County's Zoning Ordinance related to the cultivation and dispensing of medical marijuana in order to provide, clear, consistent and uniform guidance to businesses and individuals regarding the cultivation of marijuana as well as the siting and operating characteristics of dispensaries and similar establishments, if permitted, while addressing the significant community concerns described above; and

Whereas, the Board of Supervisors desires, on an urgency basis, to temporarily regulate the cultivation of medical marijuana, as well as the location and operating conditions for dispensaries within the unincorporated area of the County, pending development of final regulations.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, ordains as follows:

SECTION 1. Chapter 45 of the Sacramento County Zoning Code is added to read as follows:

345-01 Purpose and Intent

It is the purpose and intent of this Article to regulate the cultivation and dispensing of medical marijuana in a manner that is consistent with State law and which promotes the health, safety, and general welfare of the residents and businesses within the unincorporated territory of the County of Sacramento by balancing the needs of medical patients and their caregivers for access to medical marijuana with the needs of neighbors and communities to be protected from public safety and nuisance impacts related to the cultivation or dispensing of medical marijuana and the need to limit the harmful environmental impacts that are sometimes associated with marijuana cultivation and distribution. Nothing in this Article is intended to permit activities or conduct which are illegal under state law. Nothing in this Article shall be construed to a) allow persons to engage in activities or conduct that endanger others or causes a public nuisance as defined herein; or b) allow any activities or conduct relating to cultivation, distribution, dispensing, sale or consumption of marijuana that is otherwise illegal under state law.

345-02 Findings

The Board of Supervisors of the County of Sacramento hereby finds and declares the following:

A. In 1996, the voters of the State of California approved Proposition 215, codified as California Health and Safety Code section 11362.5 and entitled "The Compassionate Use Act of 1996."

B. The intent of Proposition 215 was to ensure that seriously ill persons have the right to obtain and use medical marijuana for medical purposes when that medical use is deemed appropriate and has been recommended by a physician without fear of criminal prosecution under limited, specified circumstances. Proposition 215 further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes." The ballot arguments supporting Proposition 215 expressly acknowledged that "Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere."

C. In 2004, the Legislature enacted Senate Bill 420 which was codified as California Health and Safety Code sections 11362.7. That legislation was enacted to clarify the scope of Proposition 215 and to provide qualified patients and primary caregivers cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes.

D. Health and Safety Code section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420.

E. The federal Controlled Substances Act (21 USC §§ 801 et seq.) classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, transport, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act does not exempt the cultivation, manufacture, distribution, dispensation, transportation, or possession of marijuana for medical purposes.

F. The cultivation, distribution, dispensing or sale of medical marijuana in the unincorporated area of Sacramento County can adversely affect the health, safety and well-being of the County and its residents. Medical marijuana cultivation, distribution, dispensing or sale, without certain safeguards, increases the risk of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards, particularly substantial amounts of medical marijuana are concentrated in one place. Both the outdoor cultivation of marijuana and the distribution, dispensing or sale of medical marijuana in or near residential zones increases the risk of such activity and intrudes upon residential uses.

G. The distribution, dispensing, or sale of any amount of marijuana at locations or premises within 1,000 feet of schools, school bus stops, school evacuation sites, churches, parks, child care centers, or youth-oriented facilities creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. The cultivation of marijuana in accessory structures within 600 feet of schools, school bus stops, school

evacuation sites, churches, parks, child care centers or youth-oriented facilities increases the risk that the marijuana will be vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation, distribution or sale at such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation, distribution, dispensing, or sale of any amount of marijuana at such locations or premises is especially hazardous to public safety and welfare, and to the protection of juveniles and the person(s) cultivating the marijuana plants.

H. Marijuana plants, as they begin to flower and for a period of two months or more during the growing season, produce an extremely strong odor, offensive to many people and detectable far beyond property boundaries.

I. The strong smell of marijuana may create an attractive nuisance, alerting persons to the location of marijuana plants, thereby creating a risk of burglary, robbery, armed robbery, assault, attempted murder, and murder.

J. Marijuana that is grown indoors may require excessive use of electricity which may overload standard electrical systems, thereby creating an unreasonable risk of fire. If indoor grow lighting systems are powered by diesel generators, the improper maintenance of generators and fuel lines and the improper storage and disposal of diesel fuel and waste oil may create an unreasonable risk of fire and pollution.

K. As recognized by the Attorney General's August 2008 *Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use*, the cultivation, distribution, dispensing, sale or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

L. The limited right of qualified patients and their primary caregivers under state law to cultivate marijuana plants for medical purposes does not confer upon them the right to create or maintain a public nuisance.

M. Nothing in this ordinance shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of marijuana that is otherwise illegal under state law. No provision of this Article shall be deemed a defense or immunity to any action brought against any person by the Sacramento County District Attorney, the Attorney General of the State of California, or the United States of America.

N. This Article is not subject to the California Environmental Quality Act pursuant to Sections 15060(c)(2) and 15061(8)(3). In addition to the foregoing general exemptions, the following categorical exemptions apply: Sections 15308 and 15321.

345-03 Definitions

As used herein, the following definitions shall govern the construction of this Article.

A "Child Care Center" means any licensed child care center, daycare center or childcare home, or any preschool.

B. "Church" means a structure or leased portion of a structure which is used primarily for religious worship and related religious activities.

C. "Cultivation" means the planting, growing, harvesting, drying, processing or storage of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including a fully enclosed and secure building.

D. "Dispensing Collective or Cooperative" means any association, cooperative, affiliation, or collective of persons where multiple qualified patients or primary caregivers are organized or associated to collectively or cooperatively cultivate, store and/or dispense marijuana for medical purposes as provided in Health and Safety Code section 11362.775.

E. "Dispensary" means any facility or location where medical marijuana is made available to and/or distributed by two or more of the following: a qualified patient, a person with an identification card, and/or a primary caregiver. A dispensary shall include any facility or location where medical marijuana is made available to or distributed by or to a primary caregiver or a qualified patient in strict accordance with Health and Safety Code sections 11362.5 et seq. A dispensary shall include a dispensing collective or cooperative. A dispensary shall not include dispensing by primary caregivers to qualified patients in the following locations, so long as such locations are otherwise permitted by the Sacramento Zoning Code or by applicable state laws and such facilities are in compliance with applicable laws:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code;

2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the state Health and Safety Code;

3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the state Health and Safety Code;

4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code; and

5. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the state Health and Safety Code.

F. "Enforcing Officer" means the Director of the Department of Building and Code Enforcement.

G. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.

H. "Indoors" means within a fully enclosed and secure structure which can only be entered through a locked door that requires a key or combination to open and which is secure against unauthorized entry.

I. "Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (commencing with Section 66410 of Title 7 of the Government Code).

J. "Marijuana" means all parts of the plant Genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

K. "Marijuana plant" means any mature or immature marijuana plant, or any marijuana seeding, unless otherwise specifically provided herein.

L. "Outdoors" means any location within the County of Sacramento that is not within a fully enclosed and secure structure.

M. "Premises" means a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single "premises" for purposes of this Article.

N. "Primary caregiver" shall have the meaning set forth in Health and Safety Code section 11362.7(d).

O. "Qualified Patient" shall have the meaning set forth in Health and Safety Code section 11362.?(f).

P. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but does not include a home school, vocational or professional institution of higher education, including a community or junior college, college or university.

Q. "School Bus Stop" means any location designated in accordance with California Code of Regulations, Title 13, section 1238, to receive school buses, as defined in California Vehicle Code section 233 or school pupil activity buses as defined in Vehicle Code section 546.

R. "School Evacuation Site" means any location designated by formal action of the governing body, Superintendent, or principal of any school as a location to which juveniles are to be evacuated to, or are to assemble at, in the event of an emergency or other incident at the school.

S. "Youth-oriented facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

345-04 Authority and Application

The Director of the Sacramento County Department of Building and Code Enforcement, or the Director's designee ("Director") shall administer and enforce the provisions of this Article.

345-05 Outdoor Cultivation Prohibited

The cultivation of marijuana outdoors for any purpose shall be unlawful on any parcel in the unincorporated area of Sacramento County and shall be a public nuisance.

345-06 Indoor Cultivation

A. Indoor cultivation of medical marijuana shall be prohibited, except within the Agricultural Residential or Residential zones subject to the terms and conditions of this Chapter.

1. Indoor cultivation of marijuana may be undertaken only a) within the primary residence of a qualified patient; or, in the alternative, b) within a legal accessory structure located on a legal parcel on which the qualified patient maintains his or her primary residence.

2. A qualified caregiver may undertake indoor cultivation of marijuana on behalf of a qualified patient, provided that such indoor cultivation occurs only a) within the primary residence of the qualified caretaker, or, in the alternative, b) within a legal accessory structure located on a legal parcel on which the qualified caretaker maintains a primary residence;

3. In no case, shall a qualified patient or his or her qualified caretaker be permitted to undertake indoor cultivation of medical marijuana in both the personal residence of the patient or caretaker and any accessory structure located on the premises. In the event that a residential accessory structure which complies with Section 305-83 of the Sacramento Zoning Code is occupied by a person other than the person residing at the primary residence on the property, the residential accessory structure shall be treated for purposes of this Chapter as the primary residence of its occupant. In all other cases, the residential accessory structure shall be treated as accessory structure for purposes of this Chapter.

B. The accessory structure in which medical marijuana may be cultivated shall comply with the provisions of Title III, Article 6, Sections 305-80 et seq.

C. Notwithstanding the provisions of Title III, Article 6, Sections 305-80 et seq., any accessory structure in which medical marijuana is cultivated shall be set back from the boundaries of the premises as set forth below. Any required setback distance shall be measured in a straight line from the accessory structure in which the medical marijuana is cultivated.

1. On premises that are twenty (20) acres in size or less, the accessory structure shall be set back at least one hundred (100) feet from all boundaries of the premises.

2. On premises that are greater than twenty (20) acres in size but less than one hundred sixty (160) acres in size, the accessory structure shall be set back at least three hundred (300) feet from all boundaries of the premises.

3. On premises that are one hundred sixty (160) acres or greater in size, the accessory structure shall be set back at least one thousand (1,000) feet from all boundaries of the premises.

D. The cultivation of marijuana, in any amount or quantity, in an accessory structure upon any premises located within six hundred (600) feet of any school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility is prohibited.

1. Except as provided in subdivision (0)(2), such distance shall be measured in a straight line from the boundary line of the premises upon which medical marijuana is cultivated to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center or youth-oriented facility is located.

2. If the premises is twenty (20) acres or greater in size, then such distance shall be measured in a straight line from the building in which the medical marijuana is cultivated, to the boundary line of the premises upon which the school, school bus stop, school evacuation site, church, park, child care center or youth-oriented facility is located.

E. The indoor cultivation of medical marijuana, on any premises, by either a qualified patient or a qualified caregiver is limited to no more than the following number of marijuana plants, in order to minimize the nuisance risks attendant with greater numbers: twelve (12) mature marijuana plants or twenty-four (24) immature marijuana plants and, if both mature and immature marijuana plants are cultivated on the premises, not more than twelve (12) mature marijuana plants and not more than twenty-four (24) total marijuana plants. The limitations imposed herein shall be imposed regardless of the number of qualified patients or primary caregivers residing at the premises or participating directly or indirectly in the cultivation. The limitations herein shall be imposed notwithstanding any assertion that the person(s) cultivating marijuana is the primary caregiver(s) for qualified patients or that such person(s) is collectively or cooperatively cultivating marijuana.

345-07 Operational Standards for Cultivation

The cultivation of medical marijuana, in any amount or quantity, upon any premises is prohibited, unless all of the following occurs:

A. The person(s) owning, leasing, occupying, or having charge or possession of any premises annually shall register the premises with the Sacramento County Department of Building and Code Enforcement and shall provide on an annual basis all of the following:

1. The name of each person who owns, leases, occupies, and/or has charge or possession of the premises;
2. The name and county of residence of each qualified patient and/or primary caregiver who participates in the cultivation of medical marijuana or the services provided in conjunction with the provision of that marijuana;
3. A statement attesting under penalty of perjury that the person(s) cultivating the marijuana on the premises is either a qualified patient or qualified caregiver;
4. The number of marijuana plants, whether mature or immature, cultivated on the premises; and
5. Such other information and documentation as the Department of Building and Code Enforcement determines is necessary to ensure compliance with state law and this Chapter.

B. Any person who is not the legal owner of a parcel and who is cultivating medical marijuana on such parcel shall give written notice to the legal owner(s) of the parcel and submit a notarized letter from such legal owner(s) consenting to the cultivation of medical marijuana on the parcel.

C. All medical marijuana grown indoors shall be located within a fully enclosed and secure structure.

E. The qualifying residence located on the property containing the accessory structure in which medical marijuana is cultivated shall maintain a kitchen, bathroom and primary bedroom for their intended use and shall not be used for cultivation.

F. Notwithstanding the provisions of Title III, Article 6, Sections 305-80 et seq., any accessory structure in which medical marijuana is cultivated shall meet the following criteria:

1. The structure shall be provided with locking doors and shall have an operational security system.
2. If the structure is a greenhouse, it shall additionally be surrounded by a secure solid six (6) foot high fence located within ten (10) feet of the greenhouse and equipped with a lockable gate.
3. The structure shall be located in the rear portion of the parcel.
4. Accessory structures utilized for cultivation shall be ventilated with odor control filters and shall not create an odor, humidity or mold problem on the subject property or adjacent properties.

345-08 Dispensary- Permitted

A dispensary shall be permitted only within an area zoned GC, SPA (GC), LC, M1, and SPA (M1) provided, however, that such dispensary shall not be located within three hundred (300) feet from any property that is zoned agricultural residential or residential. Such distance shall be measured as a radius from the primary entrance of the dispensary to the nearest property line.

345-09 Dispensary- Use Permit Required

A conditional use permit shall be required to establish, operate or maintain a dispensary. The requirements for an application for a conditional use permit shall be as specified in Title I, Chapter 10, Article I, of this Code.

345-10 Dispensary -Operating Conditions

In addition to any other conditions which may be imposed lawfully, once permitted, a dispensary shall meet and comply with the following operating conditions:

1. The dispensary shall not grow or cultivate medical marijuana onsite, including cuttings of the marijuana plant.
2. The dispensary shall be located in a visible store-front type location which provides good public views of the entrance, its windows, and the entrance to the premises from a public street.
3. The dispensary shall be located on a parcel more than 1,000 feet from a school, school bus stop, school evacuation site, church, park, child care center, or youth-oriented facility. Such distance shall be measured as a radius from the primary entrance of the dispensary to the nearest property line.
4. The operator, owner, manager, employee, volunteer worker or other person exercising managerial authority over a dispensing cooperative or collective and/or dispensary shall not have a conviction for a) controlled substance offense (whether felony or misdemeanor), b) any felony; or 3) a conviction for the cultivation, distribution or dispensing of marijuana in violation of this Chapter.
5. The operator, owner, employee, volunteer worker or other person in charge of any dispensing cooperative or collective and/or dispensary shall be at least 18 years of age. Persons under the age of 18 shall not be allowed on the premises unless they are a qualified patient or a primary caregiver and are in the presence of their parent or guardian. The entrance to any dispensing cooperative or collective and/or dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a

CHAPTER 9.32

MEDICAL MARIJUANA CULTIVATION

9.32.010 PURPOSE.

9.32.015 DEFINITIONS.

9.32.020 CULTIVATION OF MEDICAL MARIJUANA.

9.32.030 ENFORCEMENT.

9.32.040 PENALTY FOR VIOLATION.

9.32.010 PURPOSE.

The purpose and intent of this Ordinance is to regulate the cultivation of medical marijuana in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. It is not the intent of this ordinance to condone or legitimize the use of marijuana for non-medical purposes, or to create conflict or inconsistency between this Ordinance and (1) the Federal Controlled Substances Act; (2) the Compassionate Use Act; (3) the Constitutions of the United States or the State of California. (Ord. 880 §2, passed 01-26-2009)

9.32.015 DEFINITIONS.

For purposes of this chapter, the following words shall have the following meaning, unless the context clearly indicates otherwise.

Abatement. The removal of marijuana plants and improvements that suppmi marijuana cultivation which occupy an area or cubic feet in excess of the area and cubic feet that is allowed under this ordinance.

Cultivation. The planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.

Fully enclosed and secure structure. A space within a building, greenhouse or other structure which has a complete roof enclosure supplied by connecting walls extending from the ground to the roof, which is secure against unauthorized entty, provides complete visual screening, and which is accessible only through one or more lockable doors.

Indoors. Within a fully enclosed and secure structure.

Outdoor. Any location within the City ofFmi Bragg that is not within a fully enclosed and secure structure.

Parcel. Property assigned a separate parcel number by the Mendocino County Assessor.

Primary caregiver. The individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, as more particularly as set forth in California Health and Safety Code §11362.7(d), as may be amended.

Qualified patient. A person who is entitled to the protections of Section 11362.5 of the California Health and Safety Code and who meets the definition of "qualified patient" as defined in the Health and Safety Code section 11362.7(f).

Medical Marijuana. Marijuana that is grown in accordance with state law.

(Ord. 880 §2, passed 01-26-2009)

9.32.020 CULTIVATION OF MEDICAL MARIJUANA.

- A. **Outdoor cultivation:** It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City ofFmi Bragg to cause or allow such parcel to be used for the outdoor cultivation of marijuana plants.
- B. **Indoor cultivation of marijuana restricted to Qualified Patients and Primary Care Givers:** It is hereby

declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel in the City of Fort Bragg to cause or allow such parcel to be used for the cultivation of marijuana plants within a fully enclosed and secure structure on the parcel, except as outlined below in Sections 9.32.020(C) and 9.32.020(D).

- C. Medical Marijuana for Personal Use. Medical marijuana for personal use shall be cultivated within the City of Fort Bragg in conformance with the following standards:
1. An individual qualified patient shall be allowed to cultivate medical marijuana indoors on the parcel where the qualified patient resides.
 2. A primary caregiver shall only cultivate medical marijuana for a qualified patient for whom he/she is the primary caregiver.
 3. Medical marijuana cultivation is permitted only on parcels with residential units. Medical marijuana cultivation is permitted only within a residential unit, a garage, or a self-contained outside accessmy building that is secured, locked, and fully enclosed. The Cultivation of Medical Marijuana within a residential unit in a multifamily structure shall require administrative review (through a Minor Use Permit process without implementation of public notice procedures) and shall meet specific criteria, as set forth in a) through c) below:
 - a. Inspection of the cultivation area by a building inspector to confirm that no health or safety concerns are present; and
 - b. Written permission from the property owner; and
 - c. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.
 4. Medical marijuana cultivation is prohibited on parcels adjacent to any school or public park.
 5. The medical marijuana cultivation area shall not exceed 50 square feet and 250 cubic feet per residence.
 6. Medical marijuana cultivation shall occur only in a fully enclosed and secure structure.
 7. Medical marijuana cultivation lighting shall not exceed 1200 watts.
 8. The use of gas products (CO2, butane, etc.) for medical marijuana cultivation or processing is prohibited.
 9. Medical marijuana cultivation for sale is prohibited.
 10. From a public right of way, there shall be no exterior evidence of medical marijuana cultivation.
 11. The qualified patient shall not paticipate in medical marijuana cultivation in any other location within the City of Fort Bragg.
 12. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and these rooms shall not be used for medical marijuana cultivation.
 13. Any medical marijuana cultivation area located within a residence shall not create a humidity or mold problem.
 14. The qualified patient shall obtain the written permission of the property owner for the cultivation of medical marijuana.
 15. The medical marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.
- D. Medical Marijuana Cultivation In Excess of 50 Square Feet and 250 Cubic Feet. Any proposed medical marijuana cultivation by an individual qualified patient or primary caregiver that does not meet the cultivation area standard maximum of 50 square feet and 250 cubic feet per residence shall require administrative review (through a Minor Use Permit, without implementation of public notice procedures) and shall meet specific criteria, as set fmth in a) through d) below:
- a. Documentation of medical need, such as a physician's recommendation or verification of more than one qualified patient living in the residence; and
 - b. Inspection of the cultivation area by a building inspector to confirm that no health or safety concerns are present; and
 - c. Written permission from the property owner; and
 - d. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

In addition to the standards 1 through 15 listed in subsection C above, approved medical marijuana cultivation uses that exceed 50 square feet shall conform to the following standards:

1. The cultivation area shall not exceed an additional 50 square feet, for a total of 100 square feet and 500 cubic feet; and
2. At a minimum, the medical mat-ijuana cultivation area shall be constructed with a 1-hour firewall

assembly of green board.

- E. **Public nuisance.** It is hereby declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Fort Bragg to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location. A public nuisance may be deemed to exist, if such activity produces:
1. Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public;
 2. Repeated responses (more than three times in a one year time period) to the parcel from law enforcement officers;
 3. Repeated disruption (more than three times in a one year time period) to the free passage of persons or vehicles in the neighborhood;
 4. Excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; or
 5. Any other impacts on the neighborhood which are disruptive of normal activity in the area.

(Ord. 880 §2, passed 01-26-2009)

9.32.030 ENFORCEMENT.

- A. The violation of this ordinance is hereby declared to be a public nuisance. Any person violating any provision of this Chapter 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.
- B. A violation of the ordinance may be abated by the City Attorney by the prosecution of a civil action for injunctive relief and by the abatement procedure set forth in Chapter 6.12 of the Municipal Code.
- C. Abatement procedure. The Code Enforcement Officer and/or the Chief of Police, or his or her designee (hereafter, the "Enforcement Official"), are hereby authorized to order the abatement of any violation of this Chapter by following the abatement procedure as defined in the Municipal Code chapter 6.12. In addition, the Code Enforcement Officer may require the property owner or tenant to personally abate/remove all medical marijuana plants and improvements to the property that exceed the limits set by this ordinance.

(Ord. 880 §2, passed 01-26-2009)

9.32.040 PENALTY FOR VIOLATION.

- A. Cultivation of marijuana on parcels within the City that does not comply with this Chapter is subject to the penalties and enforcement as provided in Chapter 1.12, Chapter 6.12, and Chapter 9.32.
- B. The remedies and penalties provided herein are cumulative, alternative and non-exclusive. The use of one does not prevent the use of any others and none of these penalties and remedies prevent the City from using any other remedy at law or in equity which may be available to enforce this section or to abate a public nuisance.

(Ord. 880 §2, passed 01-26-2009)

Corning, California, Code of Ordinances >> Title 17 -ZONING* >> Chapter 17.64 - CULTIVATION OF MEDICAL MARIJUANA >>

Chapter 17.64- CULTIVATION OF MEDICAL MARIJUANA

Sections:

- 17.64.010- Purpose and intent.
- 17.64.020- Definitions.
- 17.64.030- Cultivation of medical marijuana.
- 17.64.040- Non-conforming use.
- 17.64.050- Enforcement.

17.64.010- Purpose and intent.

It is the purpose and intent of this chapter to require that medical marijuana be cultivated in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the public domain, to provide for the health, safety and welfare of the public, to prevent odor created by marijuana plants from impacting adjacent properties, and ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets.

This chapter is in compliance with the California Health & Safety Code Section 11362, and does not interfere with a patient's right to medical marijuana, nor does it criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, pursuant to Proposition 215 and Senate Bill 420.

(Ord. No. 639, 2-9-2010)

17.64.020- Definitions.

Definitions: As used herein the following definitions shall apply:

- A. "Cultivation:" The planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.
- B. "Detached fully enclosed and secure structure:" A building completely detached from a residence that complies with the California Building Code, as adopted in the City of Corning, and has a complete roof enclosure supported by connecting walls extending 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. 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 three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
- C. "Immature marijuana plant:" A marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.
- D. "Indoors:" Within a fully enclosed and secure structure.
- E. "Mature marijuana plant:" A marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.
- F. "Outdoor:" Any location within the City of Corning that is not within a fully enclosed and secure structure.
- G. "Legal parcel:" Any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2, commencing with Section 66410, of Title 7 of the Government Code).
- H. "Premises:" A single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall be counted as a single "premises" for purposes of this chapter.
- I. "Rear yard:" As defined in Section 17.06.560 of the Corning Municipal Code.
- J.

- Adequate mechanical or electronic security systems approved by the building official and chief of police must be installed in and around the detached structure prior to the commencement of cultivation.
- 6) Prior to commencing cultivation, and upon annual renewal of a qualified patients physicians recommendation, the person(s) owning, leasing, occupying, or having charge or possession of any legal parcel or premises where a detached structure is used for the cultivation of marijuana must register with the Corning Planning Department. The following information will be required with the annual registration:
- a. A notarized signature from the landowner consenting to the cultivation of marijuana within a detached structure on a legal parcel or premises. The city will supply the letter of consent for signature by the landowner.
 - b. The name of each person, owning, leasing, occupying, or having charge of any legal parcel or premises where marijuana will be cultivated.
 - c. The name of each qualified patient or primary caregiver who participates in the cultivation, either directly or by providing reimbursement for marijuana or the services provided in conjunction with the provision of that marijuana.
 - d. The original current valid medical recommendation or state issued medical marijuana card for each qualified patient identified as required above, and for each qualified patient for whom any person identified as required above is the primary caregiver.
 - e. The physical site address of where the marijuana will be cultivated.
 - f. A signed consent form authorizing city staff, including the police department, authority to do a notified inspection of the detached structure used for the cultivation of marijuana. The city will supply the letter of consent for signature.

The information contained within the registration material shall be received in confidence, and shall be used or disclosed only for purposes of administration of this chapter or state law, or as otherwise required by law.

(Ord. No. 639, 2-9-2010)

17.64.040- Non-conforming use.

Non-Conforming Cultivation: Any parcel or premises that was used for the cultivation of medical marijuana by a qualified patient or caregiver and had marijuana plants established and growing by March 12, 2010 and does not meet the requirements of this section shall be allowed to continue cultivation activities as established in accordance with regulations for non-conforming land uses in Section 17.52.010 of the Corning Municipal Code until December 31, 2010 at which time Section 17.52.010 will no longer be applicable and any non-conforming cultivation must cease and future cultivation of medical marijuana must comply with this chapter.

(Ord. No. 639, 2-9-2010)

17.64.050- Enforcement.

- A. Public Nuisance. The violation of this section is hereby declared to be a public nuisance.
- B. Abatement. A violation of this section may be abated by the city attorney by the prosecution of a civil action for injunctive relief and by the summary abatement procedure set forth in subsection C of this section.
- C. Summary Abatement Procedure.
 - a. The chief of police, building official, planning director, or a designee (hereafter, the "enforcement official"), are hereby authorized to order the abatement of any violation of this section by issuing a notice to abate. The notice shall:
 1. Describe the location of and the specific conditions which represent a violation of this section and the actions required to abate the violation.
 2. Describe the evidence relied upon to determine that a violation exists, provided that the enforcement official may withhold the identity of a witness to protect the witness from injury or harassment, if such action is reasonable under the circumstances.
 3. State the date and time by which the required abatement actions must be completed.
 4. State that to avoid the civil penalty provided in subsection C.a.8 of this section and further enforcement action, the enforcement official must receive consent to inspect the premises where the violation exists to verify that the violation has been abated by the established deadline.
 5. State that the owner or occupant of the property where the violation is located has a right to appeal the notice by filing a written notice of appeal with the city clerk by no later than

- three business days from the service of the notice. The notice of appeal must include an address, telephone number, fax number, if available, and e-mail address, if available. The city may rely on any of these for service or notice purposes. If an adequate written appeal is timely filed, the owner or occupant will be entitled to a hearing as provided in subsection E. of this section.
6. State that the order to abate the violation becomes final if a timely appeal is not filed or upon the issuance of a written decision after the appeal hearing is conducted in accordance with subsection E. of this section.
 7. State that a final order of abatement may be enforced by application to the superior court for an inspection and/or abatement warrant or other court order.
 8. State that a final order to abate the nuisance will subject the property owner and the occupant to a civil penalty of five hundred dollars for each day that the violation continues after the date specified in the notice under subsection C.a.3 of this section, when the violation must be abated. The penalty may be recovered through an ordinary civil action, or in connection with an application for an inspection or nuisance abatement warrant.
 9. State that in any administrative or court proceeding to enforce the abatement order the prevailing party is entitled to recover reasonable attorney fees from the other party or parties to the action, if the city elects, at the initiation of an individual action or proceeding, to seek recovery of its own attorney fees. In no action, administrative proceeding, or special proceeding shall an award of attorney fees to a prevailing party exceed the amount of reasonable attorney fees incurred by the city in the action or proceeding.
- D. The notice described in subsection C.a. of this section shall be served in the same manner as summons in a civil action in accordance with article 3 (commencing with section 415.10) of chapter 4 of title 5 of part 2 of the Code of Civil Procedure, or by certified mail, return receipt requested, at the option of the city. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation pursuant to Government Code section 6062.
- E. Not sooner than five business days after a notice of appeal is filed with the city clerk, a hearing shall be held before the city administrator or a hearing officer designated by the city administrator to hear such appeals. The appellant shall be given notice of the date, time and place of the hearing not less than five days in advance. The notice may be given by telephone, fax, e-mail, personal service or posting on the property. At the hearing, the enforcement official shall present evidence of the violation, which may include, but is not limited to, incident and police reports, witness statements, photographs, and the testimony of witnesses. The property owner and the occupant of the property where the violation is alleged to exist shall have the right to present evidence and argument in their behalf and to examine and cross examine witnesses. The property owner and property occupant are entitled at their own expense to representation of their choice. At the conclusion of the hearing, the city administrator or hearing officer shall render a written decision which may be served by regular first class mail on the appellants.
- F. A final order to abate the nuisance will subject the property owner or owners and any occupant or occupants of the property who are cultivating marijuana in violation of this section to a civil penalty of five hundred dollars for each day that the violation continues after the date specified in the notice under subsection C.a.3 of this section, when the violation must be abated. The enforcement official or the city administrator or hearing officer hearing an appeal pursuant to subsection C.a.5 of this section may reduce the daily rate of the civil penalty for good cause. The party subject to the civil penalty shall have the burden of establishing good cause, which may include, but is not limited to, a consideration of the nature and severity of the violation, whether it is a repeat offense, the public nuisance impacts caused by the violation, and the violator's ability to pay. The daily penalty shall continue until the violation is abated. The penalty may be recovered through an ordinary civil action, or in connection with an application for an inspection or nuisance abatement warrant.
- G. Violation. Cultivation of marijuana on parcels within the city that does not comply with this section constitutes a violation of the zoning ordinance and is subject to the penalties and enforcement as provided in subsections C.a.8 and F. of this chapter.
- H. Penalties Not Exclusive. The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any others and none of these penalties and remedies prevent the city from using any other remedy at law or in equity which may be available to enforce this section or to abate a public nuisance.

(Ord. No. 639, 2-9-2010)