

TO: Honorable Mayor and City Council
Attention: Jeremy Craig, City Manager

FROM: Barton Brierley, AICP, Community Development Director
(Staff Contact: Christina Love, (707) 449-5374)

**SUBJECT: STUDY SESSION ON POSSIBLE CITY OF VACAVILLE ORDINANCE
GOVERNING CANNABIS AND RELATED ACTIVITIES FOR PERSONAL
CULTIVATION**

DISCUSSION:

On April 10, 2018, City staff presented information for City Council consideration regarding possible local regulations for personal cultivation of cannabis. Through the course of the discussion, the Council had additional questions with requests for additional information related to:

- Privacy of the personal information of personal cultivators;
- Fiscal cost of creating and enforcing regulations; and
- Definitions of terms and parameters of regulations

In this report, staff addresses the questions and offers more information for consideration.

BACKGROUND:

California Health and Safety Code defines and governs personal cultivation of cannabis in California. There are 2 general classifications of personal cultivation: Medicinal or recreational. Within those 2 classifications are a few subtypes. The City can prohibit all outdoor cultivation, both recreational and medical. The City can prohibit indoor personal medical cultivation. The City cannot prohibit indoor personal recreational cultivation. The City can limit recreational and medical cultivation to a maximum of 6 plants.

The City Council approved the temporary moratorium completely banning all outdoor cultivation. Consistent with State law, the moratorium cannot completely ban indoor personal cultivation. However, local jurisdictions can elect to reasonably regulate indoor personal cultivation. Currently, residents of Vacaville are permitted by right to grow cannabis plants on private property within an enclosed structure. However, the State and City codes do not clearly define safety regulations or other code compliance concerns. During the April meeting, Staff presented areas of concern related to unregulated home cultivation. The list included:

- Health and Safety Considerations – Staff presented a list of concerns related to home cultivation, including improper electrical wiring leading to fire or electrocution hazards; improper/inadequate ventilation leading to mold; the use of flammable or hazardous gases often used to increase growth and harvest rates or for extracting cannabis oil; and impediments to emergency access due to dense cannabis growth.

Code compliance has 2 open cases for home cultivation, based on the visibility of the plants from the neighboring residences as opposed to odor. Both residents have since placed the plants in enclosed accessory structures; one in a greenhouse, the other in a shed. One case remains open for improper electrical connections made by using extension cords to provide power to the structures. Electrical Code Article 110.3 prohibits the use of extension cords for permanent wiring.

- Crime – The current State regulations do not include control mechanisms for home cultivation to deter access by underage persons or encourage protection of the home residents. Council supported the prohibition of open-air outdoor cultivation. This may decrease trespass and theft. Protection for indoor cultivation can include locks on doors and alarmed windows, similar to what is required for pools at home where small children reside. However, burglary and theft of indoor cultivation within a home can be more dangerous to safety. An alternative to growing within a home is growing within a detached, enclosed accessory structure, such as a greenhouse or shed.
- Odor – The City consistently receives complaints about odors from people smoking cannabis. Indoor cultivation has the ability to generally contain and reduce the impacts of odor, be it within a residence or enclosed accessory structure.
- Enforcement – The enforcement of any level of regulation within a residence is a balancing act of general health and safety of the public against the privacy of a resident within their homestead. Without codified regulations in the City’s Municipal Code to provide a mechanism for allowing safety enforcement officers to inspect grow operations for compliance with fire, building and cannabis codes and laws, enforcement is based on incomplete State regulations. Enforcement would also be reactionary and complaint driven with cases proceeding through the City’s Code Compliance Division of the Fire Department with the nuisance abatement process.

COUNCIL DISCUSSION AND QUESTIONS:

Privacy of the personal information of personal cultivators.

City Council expressed concerns over the individual privacy of a personal cultivator and whether or not their information would be subject to public records should a permit or registry program be required. After extensive research, the City Attorney’s office determined that there is not likely a way to keep the information private. Under the Public Records Act, generally, if records will contribute significantly to the public’s understanding of government activity, the record is accessible to the public upon request. Given the general rules of the Public Records Act, the lack of any confidentiality requirement under the State laws, and previous California litigation, it is unclear whether a permit or registry list is publicly accessible or not. The likely argument would be that such information is publicly accessible because it would contribute to the public’s understanding of how the City is regulating cannabis and that it is done uniformly.

Because of the uncertainty and broad interpretation of the privacy requirements, staff recommends that the City not require a permit or registration program. However, codifying the State laws into the Municipal Code would provide more clear and concise language of what the regulations and standards are for personal cultivation of cannabis without an application review.

Fiscal cost of creating and enforcing regulations.

Staff spoke with other jurisdictions about their policies and successes. The responses were all very similar in that the policies (permits, registrations, or codes) were new, therefore, it was too soon to provide statistics on impacts. Additionally, their programs are based on voluntary compliance or complaint based reactionary compliance, which is a slower process for data collection. In codifying the State laws, compliance would be determined through the City complaint driven or emergency driven nuisance abatement process. Violations of the State cannabis laws for personal cultivation may result in a misdemeanor and fine through the nuisance abatement process and procedures funded through the General Fund.

The Council's concerns also included implications of potential personal and City responsibility should the Federal authorities choose to enforce the Federal law and the illegality of cannabis. Cannabis cultivation is illegal under federal law, but California State Law has legalized the right to cultivate cannabis within residential dwellings. The City is allowed to regulate personal cultivation but cannot prohibit personal cultivation. Staff recommends adopting a new ordinance in the Municipal Code that clearly and simply states that the State law allows, without taking an affirmative action in, granting approvals for cannabis use on private residential property. The ordinance should include additional regulated measures to better ensure public health and safety. Additionally, the ordinance should clearly state how the State law would be enforced at the local level.

As it concerns rental units, property owners have the right to prohibit cannabis cultivation and use. However, enforcement is not a criminal matter and therefore not a police matter; but one of private citizens to control and enforce on their land. This includes the ability for owners of apartment complexes make a determination that apartments are cannabis free.

Definitions of terms and possible parameters of regulations.

The State cannabis laws grant persons 21 years or older the right to: (1) Smoke or ingest cannabis or cannabis products out of the view of the public; (2) Possess, process, transport, purchase, obtain, give away without compensation to persons 21 years or older 28.5 grams of cannabis or 8 grams of concentrated cannabis; and (3) Possess, plant, cultivate, harvest, dry or process up to 6 living cannabis plants per legal dwelling unit for personal use.

The State cannabis laws permit local jurisdictions to reasonably regulate, but not ban, personal indoor cultivation of up to 6 living cannabis plants within a private residence for personal use. Private residence includes a house, apartment unit, mobile home or similar dwelling unit. Permitted-by-right cultivation activities are not limited to the residence, but may also be in a greenhouse on the same property, provided it is fully enclosed, secure, and not visible from a public space. Local jurisdictions are permitted to regulate and/or completely ban outdoor cultivation, meaning open air outside of any form of structure (not in a greenhouse or other accessory structure).

Ongoing questions and confusion circle around varying interpretations of terms often used during discussions. Part of staff's recommendation for Municipal Code amendments would include clear definitions of common terms. For example:

- Outdoor cultivation – is the growth and harvest of cannabis plants outside of any structure, in the open air.
- Indoor cultivation – is the growth and harvest of cannabis plants within an enclosed structure that has walls and a roof.
- Structure – is a constructed or erected building; such as a house, shed, or greenhouse.
 - Accessory structure is defined in the Municipal Code as *a structure detached from and incidental to the main structure on the same lot and not designed or used for human habitation, or a structure attached to the main structure by a breezeway. Accessory structures include, but are not limited to, storage sheds; gazebos; garden arbors greater than 10 feet in length, or three feet in width, or eight feet in height; detached decks with a floor height greater than 18 inches above grade; and detached patio covers. Accessory structures do not include accessory dwelling units, carports, garages, patio covers, or decks directly attached to the main structure, and additions attached to the main structure.*
- Adequate filtered ventilation – means the use of a mechanical ventilation device with an air filter which, when ducted to the exterior of the house, draws out stale, impure and very humid air thereby improving the quality of indoor air.
 - The filter would help to reduce exterior odor impacts.
 - Ventilation is important to reduce accumulation and impacts of molds.

In addition to the State's maximum of 6 plants per dwelling unit, staff recommends the inclusion of the following requirements in an effort to address some general health and safety concerns.

- Cultivation of cannabis for personal use is prohibited on any parcels without a residence and a full-time resident on the premises where the cultivation is occurring.
- Prohibit all outdoor, open-air cultivation. Cultivation cannot occur indoors in a general common space; such as living room, kitchen or bathroom. Cultivation is prohibited in any room that does not have at least one door and at least one window.
- Cultivation is prohibited in any structure that was not legally built with all applicable permits (e.g. Building, Grading, Planning). Cultivation is prohibited in any greenhouses that are not screened from public streets or walkways, and there should not be exterior evidence of cultivation.
- Prohibit growing cannabis in any room without locking doors or gates.
- Prohibit growing cannabis in any room without odor control filtration and ventilation systems.
- Prohibit any lighting that is visible from outside the property.

- Prohibit the use of generators and extension cords for power connections.
- Structures cannot be in the front and side yard setback areas and must comply with setback requirements as defined in the Land Use and Development Code.
- The use of volatile solvents to manufacture cannabis products is prohibited.

ENVIRONMENTAL REVIEW:

Staff will complete any necessary California Environmental Quality Act review prior to presenting proposed regulations to the Planning Commission and City Council.

COURSE OF ACTION:

Staff recommends that City Council initiate a Municipal Code amendment to codify the State regulations. Staff requests direction and input on additional regulations, such as:

- Requirements for filtered ventilation;
- Compliance with all City and State building, fire and electrical codes;
- Locks on doors leading into any area where cannabis is grown, cultivated, and/or stored;
- Alarms on windows where cannabis is grown, cultivated and/or stored when done within a room of a house.

RECOMMENDATION:

That the City Council direct staff on a course of action, based on the options discussed, related to personal cultivation of cannabis.

ATTACHMENTS:

Attachment 1: April 10, 2018 Staff Report (for reference)

Attachment 2: Sample Regulations from 6 other cities

TO: Honorable Mayor and City Council
Attention: Jeremy Craig, City Manager

FROM: Barton Brierley, AICP, Community Development Director
(Staff Contact: Christina Love, (707) 449-5374)

**SUBJECT: STUDY SESSION ON POSSIBLE VACAVILLE ORDINANCE GOVERNING
CANNABIS AND RELATED ACTIVITIES FOR PERSONAL CULTIVATION**

DISCUSSION:

In September 2017, the City Council adopted an Urgency Interim Ordinance placing a temporary moratorium prohibiting approval, commencement, establishment, or operation of all commercial, industrial, and retail cannabis land uses and all outdoor cannabis cultivation within the City. The moratorium will expire in September 2019. During the 2-year time frame, Council directed staff to research and explore how other jurisdictions are regulating cannabis activities.

To help address the complexity and variety of cannabis activities and uses, an interdepartmental team of City staff from the Police, Fire, Utilities, Finance and Community Development Departments was created. The Cannabis Team chose to create a stepped process for reviewing all cannabis activities, beginning with personal cultivation because it is the one activity that is permitted by right with no State oversight. Essentially, any resident that meets the minimum conditions of the State law can grow cannabis in their place of residence now.

However, as discussed below, local jurisdictions do have the ability to impose minimal regulations on personal cultivation. Staff has done a significant amount of research on this subject, including how other jurisdictions are addressing personal cultivation. Some local jurisdictions have chosen to regulate through implementing personal cultivation permit or registry programs to provide some form of regulating and enforcing restrictions on personal growth. The Cannabis Team explored the idea and recommends a form of personal cultivation permit with specified requirements and enforcement actions, very similar to Home Occupation Permits.

BACKGROUND:

The following is a brief summary of the recent evolution of California cannabis law:

- October 9, 2015 – Governor Brown signed 3 separate legislative bills collectively referred to as the Medical Marijuana Regulation and Safety Act (MMRSA) to regulate and license cultivation, dispensing, distribution, manufacturing, testing and transportation of medical cannabis.

- June 27, 2016 – Governor Brown signed the Medical Cannabis Regulation and Safety Act (MCRSA) to add additional disciplinary grounds, require local license before applying for state license, implement tracking, and require specific testing of cannabis plants.
- November 8, 2016 – Proposition 64, the Adult Use of Marijuana Act (AUMA), passed during the statewide general election.
- June 27, 2017 – Governor Brown approved the 2017 budget trailer bill SB 94, titled Cannabis - Medicinal and Adult Use, to integrate the rules governing medicinal and recreational cannabis. The new consolidated provisions are now known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA).

The State cannabis laws, as they relate to personal use and cultivation, now grant persons 21 years or older the right to: (1) Smoke or ingest cannabis or cannabis products out of the view of the public; (2) Possess, process, transport, purchase, obtain, give away without compensation to persons 21 years or older 28.5 grams of cannabis or 8 grams of concentrated cannabis; and (3) Possess, plant, cultivate, harvest, dry or process up to 6 living cannabis plants per legal dwelling unit for personal use.

The State cannabis laws permit local jurisdictions to reasonably regulate, but not ban, personal indoor cultivation of up to 6 living cannabis plants within a private residence for personal use; herein referred to as “home grows.” Private residence includes a house, apartment unit, mobile home or similar dwelling unit. Permitted cultivation activities are not limited to the residence, but may also be in a greenhouse on the same property, provided it is fully enclosed, secure and not visible from a public space. Local jurisdictions are permitted to regulate and/or completely ban outdoor cultivation, meaning open air outside of any form of structure (not in a greenhouse or other accessory structure).

STATE LAW ON PERSONAL CULTIVATION:

California Health and Safety Code defines and governs personal cultivation in California. There are 2 general classifications of personal cultivation: Medicinal or recreational. Within those 2 classifications are a few subtypes. Personal cultivation does not require State permits; however, the City may adopt a permit/regulation program for personal cultivation. Personal indoor recreational cultivation is the only subtype that no jurisdiction can completely prohibit. All other personal cultivation types can be prohibited. Attachment 1 is a table that breaks down the nuances between the subtypes and possible City Code actions. In short:

- The City can prohibit all outdoor cultivation, both recreational and medical;
- The City cannot prohibit indoor personal recreational cultivation;
- The City can prohibit indoor personal medical cultivation;
- The City cannot prohibit indoor medical caregiver cultivation; but this subtype will be invalid January 1, 2019.

CITY OF VACAVILLE CODE AND CONSIDERATIONS:

The City Council approved the temporary moratorium completely banning any and all outdoor cultivation. The reasons for approving the prohibition of outdoor cultivation include: 1) Providing for the public health, safety and welfare; 2) Limiting odor caused by cannabis from impacting adjacent properties; and 3) Preventing the attractive nuisance created by cannabis cultivation, which creates the risk of burglary, trespass, robbery and armed robbery, requiring the expenditure of scarce police and public safety resources.

Consistent with State law, the moratorium cannot completely ban indoor personal cultivation. However, local jurisdictions can elect to reasonably regulate indoor personal cultivation. Currently, residents of Vacaville are permitted by right to grow cannabis plants on private property within an enclosed structure.

Here in Vacaville, Code Enforcement and Police Department representatives have opined that it is imperative that any cannabis cultivation be subject to crime prevention conditions, use of security and consistent regulatory monitoring. This opinion, in part, is from reports from other jurisdictions and YouTube videos of catastrophes within residences. This belief also comes from recent experience from 2 open code enforcement cases where more than 6 plants are grown in multiple locations on the private property, with extension cords used for electrical connections inside and outside, odors and other improper construction for concealing the cultivation. Both sites raise concerns of public health, safety, fire and building integrity with the lack of oversight.

AREAS OF CONCERN:

The following is a discussion of reasons that the Cannabis Team encourages a permit program or registry program to best address identifiable areas of concern.

- Enforcement – The enforcement of any level of regulation within a residence is a balancing act of general health and safety of the public against the privacy of a resident within their homestead. A permit or registry program for personal cultivation will provide a mechanism for allowing safety enforcement officers to inspect grow operations for compliance with fire, building and cannabis codes and laws. Such a program could include a nominal fee with built-in renewal requirements and inspections by safety enforcement officers. Such a program could also include detailed violation procedures and related fines, the same as or more than what is set by State laws.
- Health and Safety Considerations – A common and significant area of concern is that of health and safety of residents in and around personal cultivation sites. The reasons for concerns come from:
 - Improper electrical wiring – the use of extension cords both inside and outside as permanent wiring, and the excessive electrical loads on outlets that can lead to fires.

The City's Building Codes may consider the use of extension cords for cannabis grows as a violation of electrical codes. If used in a cannabis growing operation, any extension cord serving lights or similar equipment that already has a flexible cable is considered a violation of Electrical Code Article 400.8 (a substitute for fixed wiring). Further, for the reasons stated above, the use of an extension cord is also a violation of Electrical Code Article 110.3 B. However, without a program to enforce with clear requirements, getting "in the door" to enforce codes prior to a problem is much more difficult.

- Flammable and hazardous gases – compressed gasses, such as CO₂, are often injected into cultivation areas to increase the growth and harvest rate, or propane or butane is used to power CO₂ generators. Additionally, butane is used in extracting the cannabis hash oil. Both circumstances have led to explosions, even in Vacaville.

- Height and canopy size (girth) – Fire Department personnel trying to enter a room where cannabis plants are growing may be inhibited or entangled. If the size of the plants results in an environment that blocks, obscures or otherwise inhibits the safe navigation into or out of a room where the cannabis plants are located, there is a legitimate concern for health and safety.
- Improper or inadequate ventilation – indoor grows are often rudimentarily constructed in a room with high levels of humidity, especially with hydroponic systems, with little to no ventilation. Prolonged extreme humidity easily leads to hazardous mold conditions in a room or house that is not designed for such conditions.
- Crime – Vacaville has not had a significant history of reported crime for residential cultivation because it has not ever been legal here. However, in the last year, Code Compliance has received 2 verified complaints and opened investigative cases for both sites. Based on reports and shared information from other jurisdictions, such as Sacramento, Concord and Lincoln, both indoor and outdoor personal cultivation attracts burglaries and theft. Outdoor cultivation theft is more difficult to control because a fence is only so strong. Indoor cultivation can include locks on doors and alarmed windows, similar to what is required for pools at home where small children reside. However, burglary and theft of indoor cultivation can be more dangerous to safety.
- Life Safety – City standards require that any installation of grow lights, fans, ventilation devices, or other electrical and mechanical equipment modifications comply with all applicable building and fire code requirements and that any necessary permits be obtained. A permit program would require scheduled inspections to review the resident's compliance with management of stored and used chemicals, adequate ventilation, mold containment, fire and building codes, maintaining emergency exits, and ensuring that smoke detectors and fire sprinklers are unobstructed. Additionally, in the case of renters, a permit program would ensure that the property owner is aware of activity on the owner's property.
- Odor – Growing cannabis may pose odor impacts during any cultivation. A single, blooming marijuana plant may be noticeable up to 150-feet away. According to the Police Department, the City consistently receives complaints about odors from people smoking. Code Enforcement has received 2 complaints about personal cultivation and both resulted in open cases. The complaints were more based on the visibility of the plants from the neighboring residences as opposed to odor. Indoor cultivation has the ability to generally contain and reduce the impacts of odor, be it within a residence or enclosed accessory structure.

OTHER JURISDICTIONS:

Staff researched and contacted numerous cities and counties to learn of their ordinances, programs, operations and forms. The following section provides examples of the three general options for regulating personal cultivation; administrative permit, general registration, or simple codification. What was interesting is that majority of the regulations or standards that are required for compliance are almost identical. For example, almost all ordinances reviewed include:

City of Chico – Permit Program

Chico's personal cultivation ordinance prohibits outdoor cultivation and requires a \$238.00 permit for indoor cultivation through the Community Development Department (See Attachment 2A – City of Chico Indoor Marijuana Cultivation Permit), in compliance with applicable State standards and additional city standards:

1. Must own residence or have written permission from owner, and all other residents within the home.
2. Limited to 50 square feet of home may be devoted to the cultivation, regardless of recreational or medical. Cultivation shall not take place in the kitchen, bathrooms or primary bedrooms of a residence
3. The lighting shall not exceed 1,200 watts.
4. No exterior evidence of the marijuana cultivation from any public right of way.
5. Prohibit the use of flammable or combustible products, such as CO₂ and butane.
6. 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.

The City of Lincoln has a very similar permit program that is carried out by the Police Department, include in Attachment 2B.

City of Covina – Registration Program

City of Covina adopted Indoor Cultivation Compliance Standards requiring "Personal Cultivation Registration" and compliance with various building code, zoning code, and health and safety considerations. Residents who will personally cultivate cannabis plants pursuant to State law are required to register with the Covina Police Department (see Attachment 3 – Covina Ordinance). The purpose for the registration is to ensure public safety considerations. The reasons cited for requiring a registration are to address potential issues such as building code considerations, emergency exiting from the residence, as well as crime prevention considerations. The City's registration fee is a one-time charge of \$25.00 to process the registration application.

Sonoma County – Codified Regulations

Sonoma County opted for an ordinance with standards for personal cultivation without a permit or registration program. Attachment 4A is Sonoma's ordinance, including the following standards:

- Standards apply to any cannabis growing environment including, but not limited to, outdoor, mixed light/greenhouse or indoor environments.
- Cultivation of cannabis for personal use is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.
 - All structures should be legally built with all applicable permits (e.g. Building, Grading, Planning).
 - Limit access with locking doors or gates.
 - Equip structures with odor control filtration and ventilation systems.

- Lights should be shielded and confined to the inside of the structure.
- Generators are not allowed.
- Cultivation of cannabis for personal use is limited to no more than 100 square feet per residence, of which up to 6 plants can be cultivated for adult use purposes.
- The use of volatile solvents as defined herein to manufacture cannabis products is prohibited.
- Indoor grows must be in an accessory structure, like a greenhouse or garage. Growing inside a residential structure is not allowed, unless there is no feasible alternative.
 - Structures cannot be in the front and side yard setback areas and must comply with setback requirements.
 - Greenhouses must be screened from public streets or walkways, and there should not be exterior evidence of cultivation.

Similarly, Dixon adopted ordinances with defined requirements for compliance. Dixon determined that a violation of their cannabis codes shall constitute a misdemeanor with penalties of \$250 - \$25,000 per day the violation continues. Dixon's full ordinance can also be reviewed in Attachment 4B.

ENVIRONMENTAL REVIEW:

Staff will complete any necessary California Environmental Quality Act review prior to presenting proposed regulations to the Planning Commission and City Council.

COURSE OF ACTION OPTIONS:

The City Council has a few options for consideration for personal cultivation. Based on the information provided, staff has attempted to simplify possible options down to a few for immediate consideration and direction.

- If Council would like to consider regulating personal cultivation through a Permit Program, it would need to initiate a Municipal Code amendment and direct staff to draft a new Personal Cultivation of Cannabis ordinance for a Permit Program. This option will:
 - Define necessary terms related to personal cultivation.
 - Define specific restrictions and requirements for approval of a permit, including processes for violations.
 - Council would be asked to include specific requirements for staff's analysis.

OR

- If Council would like to codify the existing State regulations for personal cultivation and not require a permit or registry program, it would need to initiate a Municipal Code amendment and direct staff to draft a new Personal Cultivation of Cannabis ordinance to codify State law. This option will:
 - Create an ordinance that would supersede the existing ordinance.
 - Could include other minimum requirements, such as prohibit outdoor grows and limit the size of the indoor space used.
 - Could include processes for violations and fines.

OR

- Take no action and defer to State regulations. This option will:
 - Allow for all personal cultivation types to operate; both indoor and outdoor; when the Urgency Ordinance expires.

RECOMMENDATION:

That the City Council direct staff on a course of action, based on the options discussed, related to personal cultivation of cannabis.

ATTACHMENTS:

Attachment 1: Table of the Breakdown of Medicinal vs. Recreational Personal Cultivation
Attachment 2A: Sample Ordinance with Personal Cultivation Permit Program: City of Chico
Attachment 2B: Sample Ordinance with Personal Cultivation Permit Program: City of Lincoln
Attachment 3: Sample Ordinance with Personal Cultivation Registry Program: City of Covina
Attachment 4A: Sample Ordinance with Personal Cultivation Regulations: Sonoma County
Attachment 4B: Sample Ordinance with Personal Cultivation Regulations: City of Dixon

CITY OF FAIRFIELD

CITY OF FAIRFIELD

ORDINANCE NO. 2017-19

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD UPDATING SECTION 25.32.17 (MARIJUANA REGULATIONS) OF THE FAIRFIELD ZONING ORDINANCE TO REFLECT CHANGES IN STATE LAW AND DIRECTING THE PLANNING MANAGER TO SUBMIT THE ORDINANCE TO THE STATE

THE CITY COUNCIL OF THE CITY OF FAIRFIELD DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 25.32.17 (Marijuana Regulations) of Section 25.32 (Specific Use Regulations) of the Fairfield City Code is hereby amended to read in its entirety as follows:

“25.32.17 Cannabis Regulations.

A. Purpose. In enacting this Section, it is the intent of the Fairfield City Council to protect the safety and welfare of the general public. Federal laws prohibit the possession, sale, and distribution of cannabis and the City Council finds that sanctioning commercial cannabis activities would be inconsistent with federal law. The purpose of this Section is to prohibit commercial cannabis activities, cannabis deliveries, and outdoor cannabis cultivation from occurring in the City, and to reasonably regulate indoor personal cultivation of cannabis consistent with State law.

B. Definitions. For the purposes of this Section, the following definitions shall apply. All citations to State law shall refer to the act, statute, or regulation as may be amended from time to time.

“Cannabis” means marijuana and all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” includes cannabis that is used for medical, adult-use, or other purposes. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “Cannabis” also does not include industrial hemp, as defined in Health and Safety Code section 11018.5.

“Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to,

concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“Commercial cannabis activity” means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, adult-use, or any other purpose and includes the activities of any business licensed by the State or other government entity under the MAUCRSA, or any provision of State law that regulates the licensing of cannabis businesses. Commercial cannabis activity does not include the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person. Commercial cannabis activity also does not include the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver, exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with Health and Safety Code section 11362.765.

“Concentrated cannabis” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed under Division 10 of the Business and Professions Code.

“Fully enclosed and secure structure” means a space within a building, greenhouse or other structure that satisfies all of the following criteria: (i) has a complete roof enclosure supported by connecting walls extending from the ground to the roof; (ii) is secure against unauthorized entry; (iii) provides complete visual screening; (iv) is accessible only through one or more lockable doors; and (v) is inaccessible to minors.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“MAUCRSA” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act codified in Division 10 of the Business and Professions Code.

“Person” includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

“Primary caregiver” shall have the same meaning as in Health and Safety Code section 11362.7(d).

“Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling that is lawfully used as a residence.

“Qualified patient” means a person who is entitled to the protections of Health and Safety Code section 11362.5, but who does not have an identification card.

C. Prohibitions.

1. Commercial cannabis activity, whether or not for profit, is not a permitted use anywhere in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial cannabis activity. This Section is meant to prohibit all activities for which a State license is required pursuant to the MAUCRSA, or any other act or provision of law that licenses cannabis businesses.
2. A property owner shall not rent, lease, or otherwise permit any business that engages in commercial marijuana activity to occupy real property in the city. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial marijuana activity on any real property owned or controlled by that property owner that is located in the city.
3. To the extent not already prohibited by Subsection 1 above, delivery of cannabis or cannabis products to or from any location in the city is expressly prohibited. No person shall conduct or perform any delivery of cannabis or cannabis product where the delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

4. Outdoor cannabis cultivation is expressly prohibited in the city.
5. Indoor cannabis cultivation, including cultivation by a qualified patient and primary caregiver, is prohibited except as specified in subsection E below.

D. Exceptions.

1. Nothing in this Section shall prohibit a person 21 years of age or older from engaging in any activities authorized under California Health and Safety Code section 11362.1.
2. Nothing in this Section shall prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant to Business and Profession Code section 26054(c) and (d), as the same may be amended from time to time, or any other provision of the MAUCRSA.

E. Indoor Cannabis Cultivation. It is hereby declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any real property in the city to cause or allow such real property to be used for the cultivation of cannabis, except in strict compliance with the requirements set forth below:

1. Only persons twenty-one (21) years of age or older may cultivate cannabis. Any cannabis cultivation must comply with the requirements set forth in California Health and Safety Code sections 11362.1 and 11362.2.
2. Cannabis cultivation shall only occur indoors at a private residence, or inside an accessory structure located upon the grounds at a private residence. Cultivation is permitted only within fully enclosed and secure structures.
3. Cannabis cultivation shall be limited to six (6) plants total, whether immature or mature, regardless of how many individuals reside at the private residence.
4. Cannabis cultivation, including any lighting, plumbing, or electrical components used for cultivation, shall comply with Chapter 5 (Building and Housing), Chapter 7 (Electricity), Chapter 8 (Fire Protection), and Chapter 22 (Water) of the City Code. Lighting shall not exceed 1,000 watts per light. The use of gas products (CO₂, butane, etc.) or CO₂ and Ozone generators for cannabis cultivation is prohibited. Any fully enclosed and secure structure or private residence used for cultivation must have proper

ventilation and shall not create a humidity or mold problem in violation of the City Code or applicable state health and safety codes.

5. Cannabis cultivation shall not be conducted in a manner that constitutes a public nuisance. A public nuisance may be deemed to exist if the cultivation produces light, glare, heat, noise, odor, or vibration that is or whose effect is either detrimental to public health, safety, or welfare or interferes with the reasonable enjoyment of life or property.
6. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms shall not be used for cannabis cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping, and bathing.
7. Cannabis cultivation shall not displace required off street parking, or violate any other provisions of the City Code.
8. Written consent of the property owner must be obtained prior to the commencement of cannabis cultivation.

F. Permissive Zoning. Nothing in this Section shall be interpreted to the effect that the City's permissive zoning scheme allows any other use not specifically listed therein.

G. Enforcement. In addition to any other enforcement authorized under Chapter 1, Article II, the city attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Section. In any civil action brought pursuant to this Section, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party. Notwithstanding the above, no provision of this Section authorizes a criminal prosecution, arrest, or penalty inconsistent with or prohibited by Health and Safety Code section 11362.1, *et seq.*, or section 11362.71, *et seq.* In the event of any conflict between the penalties set forth in the City Code and the penalties set forth in State law, the maximum penalties allowable under State law shall govern."

SECTION 2. CEQA. The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000 *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000 *et seq.*). The ordinance makes minor amendments to the language related to the City's existing regulations of cannabis uses, cultivation, deliveries in order to maintain consistency with State law. Because it can be seen with certainty that that there is no possibility that these amendments may have a significant effect on the

environment, the ordinance is exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

SECTION 3. Severability. If any sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this ordinance. The City Council hereby declares that it would have passed this ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases are declared unconstitutional, invalid, or ineffective. To this end, the provisions of this ordinance are declared to be severable.

SECTION 4. Savings Clause. Neither the adoption of this ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 5. Effective Date, Publication. This ordinance shall take effect thirty (30) days after the date of its final passage and adoption. A summary of this ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code with the names of the Councilmembers voting for and against.

SECTION 6. Submission to State. The Community Development Director shall submit a copy of this ordinance to the Bureau of Cannabis Control.

INTRODUCED at a regular meeting of the City Council of the City of Fairfield on the 19th day of December, 2017; and

PASSED AND ADOPTED this 16 day of January, 2018, by the following vote:

AYES:	Councilmembers:	<u>Price/Timm/Bertani/Moy/Vaccaro</u>
NOES:	Councilmembers:	<u>NONE</u>
ABSENT:	Councilmembers:	<u>Moy</u>
ABSTAIN:	Councilmembers:	<u>NONE</u>

Price + Timm
MAYOR

ATTEST:
Karen L. Rees
CITY CLERK

CITY OF BENICIA

EXHIBIT A

**ARTICLE 40.26A
PERSONAL CULTIVATION OF CANNABIS**

- 40.26A.010 – Purpose**
- 40.26A.020 – Applicability**
- 40.26A.030 – Definitions**
- 40.26A.040 – Indoor Personal Cultivation**
- 40.26A.050 – Outdoor Personal Cultivation**
- 40.26A.060 – Enforcement**

40.26A.010 Purpose.

The purpose of this Article is to impose zoning restrictions on the personal cultivation of cannabis pursuant to State law. This Article is not intended to interfere with a patient’s right to use medical cannabis pursuant to the Compassionate Use Act, as may be amended, nor does it criminalize cannabis possession or cultivation otherwise authorized by State law. This Article is not intended to give any person or entity independent legal authority to operate a cannabis business, it is intended simply to impose zoning restrictions regarding personal cultivation of cannabis in the City pursuant to this Code and State law.

40.26A.020 Applicability.

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

40.26A.030 Definitions.

The following words and phrases shall have the following meanings when used in this Article:

“Cannabis” means all parts of the plant *Cannabis sativa* L., 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, including cannabis products derived therefrom. “Cannabis” shall also mean “marijuana” and “marijuana products” as used and defined in State law. For purposes of this Article, “cannabis” shall mean and include both cannabis for medical purposes and non-medical cannabis, unless otherwise specified. Cannabis shall not include industrial hemp.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Personal cultivation” means cultivation of cannabis conducted by an individual strictly for that individual’s personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with this Code and State law, including but not limited to Health and Safety Code sections 11362.1 and 11362.2, as may be amended. Personal cultivation also means and includes cultivation of medical cannabis conducted by a qualified patient exclusively for his or her personal medical use, and cultivation conducted by a primary caregiver for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, in accordance with State law, including Health and Safety Code sections 11362.7 and 11362.765, as may be amended. Except as herein defined, personal cultivation does not include, and shall not authorize, any cultivation conducted as part of a business or commercial activity, including cultivation for compensation or retail or wholesale sales of cannabis.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code Section 11362.7(d), as may be amended.

“Qualified patient” shall mean a person identified in California Health and Safety Code Section 11362.7(c) or (f), as may be amended.

40.26A.040 Indoor Personal Cultivation.

Indoor Cultivation. Indoor personal cultivation of cannabis is permitted in all residential districts, all residential uses within planned development districts of a similar nature, and residential uses within mixed-use districts, subject to all of the following minimum performance standards:

- (a) All indoor personal cultivation, including by a qualified patient or primary caregiver, shall occur in a dwelling or fully-enclosed accessory building or structure, as those terms are defined in Section 40.01.010 of this chapter.
- (b) Medical cannabis shall be cultivated by:
 - (1) A qualified patient exclusively for his or her own personal medical use but who does not provide, donate, sell, or distribute medical cannabis to any other person; or
 - (2) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides medical cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code Section 11362.765(c).
- (c) Structures and equipment used for indoor cultivation, such as indoor grow lights, shall comply with all applicable building, electrical and fire code regulations as adopted by the city.

- (d) All accessory buildings and structures used for indoor cultivation shall comply with the locational and other requirements set forth in Section 40.26.010 of this chapter.
- (e) Indoor personal cultivation of cannabis may occur inside a dwelling and/or an accessory building or structure on the same parcel, subject to the following restrictions:
 - (1) The cumulative cultivation area for medical cannabis shall total no more than fifty contiguous square feet per qualified patient, and no more than two hundred fifty contiguous square feet for primary caregivers, but in no event shall the total cumulative cultivation area for medical cannabis exceed two hundred fifty contiguous square feet regardless of how many qualified patients or primary caregivers reside at the premises. Either a qualified patient or primary caregiver shall reside full-time on the premises where the medical cannabis cultivation occurs.
 - (2) For persons other than qualified patients or primary caregivers, all personal cultivation shall be conducted by persons 21 years of age or older. For persons other than qualified patients or primary caregivers, the cumulative total of cannabis plants on the property, indoor and outdoor, shall not exceed six (6) cannabis plants, regardless of the number of persons residing on the property.
- (f) Personal cultivation of cannabis shall not interfere with the primary occupancy of the building or structure, including regular use of kitchen(s) or bathroom(s).
- (g) No exterior evidence of cannabis cultivation occurring at the property shall be discernable from the public right-of-way.
- (h) Nothing in this section is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting personal cultivation of cannabis by tenants.
- (i) Nothing in this section is intended, nor shall it be construed, to authorize commercial cultivation of cannabis.
- (j) Nothing in this section is intended, nor shall it be construed, to authorize any public or private nuisance as specified in Chapter 23 of this code.

40.26A.050 Outdoor Personal Cultivation.

Outdoor Cultivation. Outdoor personal cultivation of cannabis is permitted in all residential districts, all residential uses within planned development districts of a similar nature, and residential uses within mixed-use districts, subject to all of the following minimum performance standards:

- (a) Outdoor personal cultivation of cannabis is only permitted in a rear or side yard that is entirely enclosed by a solid, opaque fence that is associated with a dwelling or secondary dwelling unit.

- (b) The height of the cannabis plants shall not exceed the standard fence height applicable to the parcel, or six (6) feet, whichever is lesser.
- (c) The cannabis plants shall be placed at a minimum setback of five (5) feet from the edge of canopy to the property line.
- (d) No exterior evidence of cannabis cultivation occurring at the property shall be visible from the public right-of-way.
- (e) For persons other than qualified patients or primary caregivers, all outdoor personal cultivation shall be conducted by persons 21 years of age or older, and the cumulative total of cannabis plants on the property, indoor and outdoor, shall not exceed six (6) cannabis plants, regardless of number of persons residing on the property.
- (f) For qualified patients and primary caregivers, the cumulative total of cannabis plants outside shall not exceed six (6) cannabis plants, regardless of the number of qualified patients and primary caregivers residing on the property.
- (g) Nothing in this section is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting cannabis cultivation by tenants.
- (h) Nothing in this section is intended, nor shall it be construed, to authorize commercial cultivation of cannabis.
- (i) Nothing in this section is intended, nor shall it be construed, to authorize any public or private nuisance as specified in Chapter 23 of this code.

40.26A.060 Enforcement.

- (a) **Nuisance.** Any violation of this Article is declared to be a public nuisance and may be abated by the city pursuant to Chapter 23 of this code.
- (b) **Penalty.** A violation of this section shall either be a misdemeanor or an infraction at the discretion of the prosecuting attorney. However, notwithstanding anything in this code to the contrary, persons violating this section shall not be subject to criminal liability under this Code solely to the extent such conduct or condition is immune from criminal liability pursuant to State law, including the Compassionate Use Act of 1996 (Health and Safety Code Section 11362.5), the Medical Marijuana Program (Health and Safety Code Section 11362.7 et seq.), or the Adult Use of Marijuana Act, as they may be amended. This section does not prohibit the city from abating violations of this section by any administrative, civil or other non-criminal means. In such cases, a violation of this section may be considered the civil or administrative equivalent of an infraction or misdemeanor as applicable.

CITY OF ROSEVILLE

Roseville Municipal Code

[Up](#) [Previous](#) [Next](#) [Main](#) [Collapse](#) [Search](#) [Print](#) [No Frames](#)

[Title 19 ZONING](#)

[Article IV. Special Area and Specific Use Requirements](#)

Chapter 19.63 MARIJUANA CULTIVATION AND USE

19.63.010 Purpose and applicability.

The city council adopts this chapter based on the following:

- A. Purpose.** The purpose and intent of this chapter is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community. This chapter is not intended to interfere with a person's right to marijuana, as provided for under State law, as may be amended, nor does it criminalize marijuana possession or cultivation by specifically defined classifications of persons, pursuant to State law. This chapter 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.
- B. Applicability.** No part of this chapter shall be deemed to conflict with Federal law as contained in the Controlled Substances Act, 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 Roseville is controlled by the provisions of this chapter of the municipal code, State law, and Federal law. (Ord. 5862 § 5, 2017; Ord. 5662 § 4, 2016.)

19.63.020 Definitions.

For the purposes of this chapter, the words and phrases shall have the same meanings respectively ascribed to them by this section:

- A.** "Authorized grower" means a person with an identification card, primary caregiver, qualified patient, or a person who is authorized by Federal or State law to cultivate marijuana for personal use in compliance with local, State, or Federal laws authorizing such marijuana cultivation.
- B.** "Accessory structure" shall mean a fully enclosed and secured structure detached from a private residence on the same parcel and incidental to that private residence. It is the intent of this section to ensure that all accessory structures comply with Section 19.22.030 of this code.
- C.** "Cannabis," "marijuana," "medical cannabis," and/or "medical marijuana" shall be used interchangeably and means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether for medical or non-medical purposes, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended. This section does not mean "industrial hemp" as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.
- D.** "Cultivation" or "cultivate" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana plants.
- E.** "Enforcement officer" means the chief of police, City of Roseville code enforcement officer, or any designee of either of them.
- F.** "Fully enclosed and secure structure" means a space within a parcel that complies with the California Building Standards Code, as adopted in the City of Roseville, or if exempt from the permit requirements of the California Building Standards Code, 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 through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily penetrated or breached, 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 Roseville.

- G. “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.
- H. “Indoors” means within a fully enclosed and secure structure as that structure is defined in subsection F.
- I. “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.
- J. “Medical purpose” shall mean cultivation of marijuana by a primary caregiver, qualified patient, and/or person with an identification card for personal medical purposes, as provided by California Health and Safety Code Section 11362.7 et seq.
- K. “Non-medical purpose” shall mean cultivation of marijuana by a person other than a primary caregiver, qualified patient, and/or person with an identification card, who is otherwise authorized under local, State, or Federal laws to cultivate marijuana, for personal non-medical use.
- L. “Outdoor” means any location within the City of Roseville that is not within a fully enclosed and secure structure.
- M. “Parcel” means property assigned a separate parcel number by the Placer County assessor.
- N. “Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.
- O. “Person with an identification card” shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as may be amended, and as may be amended by California Department of Public Health’s “Medical Marijuana Program.”
- P. “Primary caregiver” shall have the same definition as in California Health and Safety Code Section 11362.7 et seq., as may be amended.
- Q. “Private residence” means a house, apartment unit, mobile home, or other similar dwelling unit.
- R. “Public place” shall mean any place or area open to the public, including, but not limited to, public streets, sidewalks, rights-of-way, parks, public parking facilities, any public transit services, and/or property or programs owned or operated by the City.
- S. “Qualified patient” shall have the same definition as in California Health and Safety Code Section 11362.7 et seq., as may be amended. (Ord. 5862 § 6, 2017; Ord. 5662 § 4, 2016.)

19.63.030 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, property, and/or private residence, within any zoning district in the City of Roseville to cause or allow such parcel, property, and/or private residence to be used for the outdoor cultivation of marijuana plants. (Ord. 5862 § 7, 2017; Ord. 5662 § 4, 2016.)

19.63.040 Cultivation of marijuana—Regulations for residential zones.

- A. When authorized by State law, an authorized grower shall be allowed to cultivate marijuana indoors in a private residence or accessory structure in residential zones, subject to the following regulations:
 1. The private residence or accessory structure does not exceed the maximum allowed cultivation. For purposes of this section the “maximum allowed cultivation” shall be:
 - a. No more than six marijuana plants per private residence or accessory structure, regardless of whether they are mature marijuana plants or immature marijuana plants, when the marijuana cultivation is for a non-medical purpose; or
 - b. No more than 50 square feet and 10 feet in height per private residence or accessory structure, when the marijuana cultivation area is for a medical purpose.
 2. Marijuana cultivation lighting shall not exceed 1,200 watts total.

3. The use of gas products (CO₂, butane, etc.), including, but not limited to, “volatile solvents” as defined by California Health and Safety Code Section 11362.3, 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 private residence or accessory structure.
 5. The authorized grower shall not participate in marijuana cultivation in any other location within the City of Roseville.
 6. The private residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be primarily or exclusively for marijuana cultivation.
 7. The marijuana cultivation area shall be in compliance with the current edition of the California Building Standards Code, as adopted by the City of Roseville.
 8. The building official for the City of Roseville may require additional specific standards to meet the California Building Standards Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.
 9. The marijuana cultivation area shall not adversely affect the health or safety of the occupants of other property by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, and shall not be maintained so as to constitute a hazard due to use or storage of materials, processes, products or wastes.
- B.** Any proposed marijuana cultivation by an authorized grower for a medical purpose that does not meet the grow area standard of subsection (A)(1) shall require the prior written determination of the City Manager for the City of Roseville, or 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 record property owner and no determination and authorization for additional area of marijuana cultivation shall issue without the written permission of the record property owner.
 3. An approved marijuana cultivation area that exceeds 50 square feet shall conform to the following standards:
 - a. It shall be in compliance with subsections (A)(1) through (10).
 - b. The marijuana cultivation area shall not exceed an additional 49 square feet for a total of 99 square feet per residence and shall not exceed 10 feet in height per residence.
 4. Any written determination of the need for additional cultivation area shall be issued for a period not exceeding one year, but may be renewed upon review of a subsequent submittal of the required documentation. (Ord. 5862 § 8, 2017; Ord. 5662 § 4, 2016.)

19.63.050 Indoor cultivation of marijuana restricted to authorized grower.

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, property, and/or private residence, within the City of Roseville to cause or allow such parcel, property, and/or private residence 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 chapter. (Ord. 5862 § 9, 2017; Ord. 5662 § 4, 2016.)

19.63.060 Public nuisance prohibited.

It is hereby declared to be unlawful and a public nuisance for any person to create a public nuisance in the course of cultivating and/or using marijuana or marijuana products 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, property, and/or private residence, from law enforcement officers.
- C. A repeated disruption to the free passage of persons or vehicles in the immediate 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 or public generally which are disruptive of normal activity in the area, including, but not limited to, smoking or ingesting marijuana or marijuana products in any public place, smoking marijuana or marijuana products in a location where smoking tobacco is prohibited, or any other prohibited activities outlined in California Health and Safety Code Section 11362.3, as may be amended from time to time. (Ord. 5862 § 10, 2017; Ord. 5662 § 4, 2016.)

19.63.070 Violation.

Cultivation of marijuana on any parcel, property, and/or private residence, within the City that does not comply with this chapter constitutes a violation of this zoning ordinance and is subject to the penalties and enforcement as provided in Section 19.63.080 of this chapter and Chapter 19.90 of this title. (Ord. 5862 § 11, 2017; Ord. 5662 § 4, 2016.)

19.63.080 Enforcement.

- A. **Public Nuisance.** 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 chapter and the actions required to abate the violation.
 - b. Describe the evidence relied upon to determine that a violation exists, provided that the enforcement officer 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 officer 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 seven calendar days from the service of the notice. The notice of appeal must include the appellant's 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 \$500.00 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 cannot be found after diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of not less than 10 days and publication thereof in a newspaper of general circulation pursuant to Government Code Section 6062, as may be amended.
3. Not sooner than 10 calendar days after a notice of appeal is filed with the City Clerk, a hearing shall be held before a hearing panel of the board of appeals in accordance with the procedures prescribed in Chapter 2.52. 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, email, or personal service or posting on the property and shall be effective when given. At the hearing, the enforcement officer 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 to representation of their choice at their own expense. At the conclusion of the hearing, the hearing panel shall render a written decision which may be served by regular first class mail on the appellant.
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 \$500.00 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 officer or the hearing panel 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 application for an inspection or nuisance abatement warrant. (Ord. 5662 § 4, 2016.)

19.63.090 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 Roseville Municipal Code. None of the penalties or remedies authorized by, or set forth in, the Roseville Municipal Code shall prevent the City from using any other penalty or remedy under State statute which may be available to enforce this chapter or to abate a public nuisance. (Ord. 5662 § 4, 2016.)

19.63.100 Severability.

The provisions of this chapter are hereby declared to be severable. If any section, sentence, clause, phrase, word, portion or provision of the ordinance codified in this chapter is held invalid, or unconstitutional, or unenforceable, by any court of competent jurisdiction, such holding shall not affect, impair, or invalidate any other section, sentence, clause, phrase, word, portion, or provision of said ordinance which can be given effect without the invalid portion. In adopting said ordinance, the City Council affirmatively declares that it would have approved and adopted said ordinance even without any portion which may be held invalid or unenforceable. (Ord. 5662 § 4, 2016.)

CITY OF ROCKLIN

CITY OF ROCKLIN, CALIFORNIA

Chapter 17.81 - MARIJUANA CULTIVATION

Sections:

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)

CITY OF ELK GROVE

Chapter 23.83 INDOOR PERSONAL MARIJUANA CULTIVATION

Sections:

- 23.83.010 Purpose and intent.**
- 23.83.020 Definitions.**
- 23.83.030 Cultivation of marijuana for personal use.**
- 23.83.040 Enforcement.**

23.83.010 Purpose and intent.

[+ SHARE](#)

It is the purpose and intent of this chapter to enact and enforce reasonable regulations to reasonably regulate the ability of an individual twenty-one (21) years of age or older to possess, plant, cultivate, harvest, dry, or process, for personal noncommercial use, not more than six (6) living marijuana plants indoors and to possess the marijuana produced by the plants, all in accordance with the Adult Use of Marijuana Act of 2016 and, specifically, Sections [11362.1](#) and [11362.2](#) of the Health and Safety Code. The cultivation of marijuana for personal noncommercial use may only take place in accordance with this chapter. Nothing herein is intended to alter or amend any other local, State, or Federal law or regulations concerning marijuana. [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]

23.83.020 Definitions.

[+ SHARE](#)

Consistent with the definitions set forth in the Adult Use of Marijuana Act of 2016, for the purposes of this chapter, the following words shall have the following meanings. If a word is not defined in this chapter, the common and ordinary meaning of the word shall apply.

- A. "Accessory structure" means a legally existing fully enclosed detached structure no larger than one hundred twenty (120 ft²) square feet in size that is fully enclosed with walls for all perimeters of the building, including, without limitation, a storage shed located on the same legal parcel as a private residence.
- B. "Commercial marijuana activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, or sale of marijuana and marijuana products for commercial purposes, whether or not conducted with a license issued in accordance with Division 10 of the Business and Professions Code (Business and Professions Code Section [26000](#) et seq.).
- C. "Cultivate" or "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
- D. "Distribution" means the commercial procurement, sale, and transport of marijuana and marijuana products whether or not conducted with a license issued in accordance with Division 10 of the Business and Professions Code (Business and Professions Code Section [26000](#) et seq.).
- E. "Indoor" means inside a private residence, residential structure, or accessory structure.
- F. "Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Government Code Section [66410](#) et seq.).

G. "Manufacture" means the commercial production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extractions and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or relabels its container.

H. "Marijuana" means all parts of the plant *Cannabis sativa* L., 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 resins. Marijuana does not include:

1. Industrial hemp, as defined in Health and Safety Code Section 11018.5; or
2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

The terms "marijuana" and "cannabis" shall be synonymous and have the same meaning.

I. "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

J. "Outdoor" means any location within the City of Elk Grove that is not within a fully enclosed structure.

K. "Premises" means a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall constitute a single "premises" for purposes of this chapter.

L. "Private residence" means a legally existing house, apartment unit, mobile home, or other similar dwelling. A legally existing accessory structure located on the same legal parcel as a private residence shall be considered a part of that private residence.

M. "Residential structure" means any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking and sanitation on a premises or legal parcel located within a zoning district authorizing such use and which may be legally occupied by persons. [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]

23.83.030 Cultivation of marijuana for personal use.



The following regulations shall apply to the cultivation of marijuana for personal use within the City:

- A. It shall be unlawful and a public nuisance for any person under twenty-one (21) years of age to cultivate marijuana.
- B. It shall be unlawful and a public nuisance for any person to cultivate marijuana for any commercial marijuana activity. Notwithstanding the foregoing, nothing herein is intended to prohibit the transportation of marijuana or marijuana products on public roads by a licensee duly licensed and acting in compliance with Division 10 of the Business and Professions Code (Business and Professions Code Section 26000 et seq.). Commercial delivery of marijuana in the City is prohibited.
- C. It shall be unlawful and a public nuisance for any person twenty-one (21) years of age or older who owns, leases, occupies, or has charge or possession of any legal parcel or premises within any zoning district in the City of Elk Grove to cultivate marijuana for personal use except as provided for in this chapter.

D. Limitations on Cultivation. Not more than a total of six (6) living marijuana plants may be planted, cultivated, harvested, dried, or processed inside a single private residence and/or inside an accessory structure located on the grounds where the private residence is located, at any one time. The living marijuana plants and any marijuana produced by the plants in excess of twenty-eight and one-half (28.5) grams shall be kept within the private residence or accessory structure located upon the premises, in a locked space, and not visible by normal unaided vision from a public view.

E. Residency Requirement. Any person who cultivates marijuana for personal use shall reside full-time on the premises where the marijuana cultivation occurs.

F. Outdoor Cultivation Prohibited. It shall be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City of Elk Grove to cause, or allow such parcel or premises to be used for, the outdoor cultivation of marijuana or marijuana products.

G. Cultivation in Private Residences Only. Personal cultivation of marijuana is prohibited in all zoning districts except inside a private residence or inside an accessory structure located on the same legal parcel as a private residence, as permitted under EGMC Section 23.27.020 and Use Table 23.27-1, and all subject to the regulations set forth in this chapter.

H. Indoor Personal Cultivation. The indoor personal cultivation of marijuana inside a private residence or inside an accessory structure located on the same legal parcel as a private residence, as permitted herein, shall only be conducted consistent with the following minimum standards:

1. Structures shall comply with all laws concerning building and construction of structures, including, without limitation, and as applicable, the Zoning Code, the California Building Code, Electrical Code, and Fire Code, as adopted by the City of Elk Grove.
2. Marijuana cultivation lighting shall not exceed a total of one thousand two hundred (1,200) watts for the cultivation area within the private residence.
3. The indoor use of generators and/or the indoor use of gas products, including, without limitation, CO₂, butane, propane, and natural gas shall be prohibited for the cultivation of marijuana.
4. The private residence shall maintain fully functional kitchen, bathroom, and bedroom facilities for use by the residents and guests, and the private residence shall not be used primarily for marijuana cultivation.
5. Marijuana cultivation areas shall not be readily accessible to persons under twenty-one (21) years of age.
6. Any private residence or accessory structure used for marijuana cultivation shall contain a lock on the entry door, which shall remain locked at all times, except when the accessory structure is in use or occupied by a person twenty-one (21) years of age or older authorized to cultivate marijuana pursuant to this chapter.
7. Marijuana cultivation activities, including marijuana plants and equipment, shall not be visible from a public right-of-way.
8. No marijuana may be cultivated in a rented private residence without the express consent of the property owner.

9. Marijuana cultivation shall not be conducted in such a manner as to emit detrimental odorous emissions outside of the private residence in violation of EGMC Section [23.60.050](#). [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]

23.83.040 Enforcement.



A. Violations of this chapter shall constitute a public nuisance and may be enforced pursuant to the provisions of EGMC Title [1](#) and EGMC Chapter [16.18](#).

B. Consistent with the restrictions set forth in California Health and Safety Code Section [11362.2\(a\)\(3\)](#), the City may seize and destroy any living marijuana plants found in excess of the six (6) plants allowed under EGMC Section [23.83.030\(D\)](#). Any marijuana plants seized pursuant to this section shall be held by the City for not less than fifteen (15) days to allow the owner of the marijuana plants to pursue an administrative appeal pursuant to EGMC Chapter [1.11](#). If an appeal is not properly filed (including the payment of any applicable appeal fee) within this time period, the City may thereafter destroy the seized marijuana plants.

C. Upon discovery of a violation of this chapter, the City may require all marijuana plants and marijuana in excess of twenty-eight and one-half (28.5) grams to be removed from the premises upon twenty-four (24) hours' notice from the City, or immediately if the City determines such action is necessary to protect the health, welfare and/or safety of the public and/or occupants of the premises.

D. The remedies set forth in this chapter shall be cumulative and in addition to any and all other remedies, civil, equitable or criminal, afforded to the City under the law. Pursuit of one remedy under this chapter, or any other provision of law, shall not preclude pursuit of any other remedy provided herein or any other provision of law.

E. Any notice of violation of this chapter may be appealed pursuant to EGMC Chapter [1.11](#). [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]