

Chapter 8.10 - MEDICAL MARIJUANA CULTIVATION

Sections:

8.10.010 - Purpose and intent.

It is the intent of the board of supervisors to prohibit the large scale cultivation of marijuana in the unincorporated area of the county, while regulating the cultivation of limited amounts of marijuana indoors for medical purposes to accommodate the needs of qualified patients and/or their primary caregivers, in order to protect Napa County's unique and sensitive environment, and to preserve the public peace, health, safety and general welfare of the citizens of, and visitors to the county. It is also the intent of the board that nothing in this chapter shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance or to allow the use or diversion of marijuana for non-medical purposes.

(Ord. No. 1410, § 1, 2-2-2016)

8.10.020 - Definitions.

For purposes of this chapter, the following definitions shall apply:

"Cultivated area" means the contiguous area of vegetative growth of live marijuana plants on the premises.

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

"Dispensary" means any collective, cooperative, operation, including a store-front facility or structure, mobile facility, vehicle, or delivery service hub or office, wherein medical marijuana is made available, sold, offered for sale, given, distributed, packaged for delivery, traded, cultivated for, or otherwise provided to qualified patients and primary caregivers, as defined by this chapter. Dispensary shall not include the act of making a delivery of medicinal marijuana to a qualified patient or primary caregiver residing within Napa County by or from a dispensary located in another jurisdiction that is authorized to operate and make deliveries.

"Fully enclosed and secure structure" means a space within a building or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure shall be: 1) adequately secure to prevent unauthorized entry; 2) include a secure locking mechanism consisting of at

least a deadbolt lock that shall remain locked at all times when a qualified patient or primary caregiver is not present within the cultivation area; and 3) provide complete visual screening of the cultivation. Cultivation within a greenhouse or "hoop house" shall not be considered indoor cultivation.

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

"Legal parcel" shall have the same meaning as set forth in Section 17.02.320 of this code.

"Marijuana" shall have the same meaning as set forth in California Health and Safety Code section 11018 as of the effective date of this chapter and as may be amended.

"Medical marijuana" shall mean marijuana recommended by a licensed physician, in accordance with California Health and Safety Code Sections 11362.5, and 11362.7 through 11362.83 as of the effective date of this chapter and as may be amended (respectively, the CUA and the Medical Marijuana Program).

"Outdoor" means any location that is not within a fully enclosed and secure structure. For purposes of this chapter, cultivation within a greenhouse or "hoop house" shall be considered outdoor cultivation.

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

"Primary caregiver" shall have the same definition as Health and Safety Code section 11362.7(d) as of the effective date of this chapter and as may be amended.

"Qualified patient" shall have the same definition as California Health and Safety Code section 11362.7(f) as of the effective date of this chapter and as may be amended.

"Rear yard" shall have the same meaning as set forth in Section 18.08.650 of this code.

"Residential structure" shall have the same meaning as set forth in Section 16.04.405 of this code.

"Single-family dwelling" shall have the same meaning as set forth in Section 18.08.580 of this code.

"Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a street, sidewalk, trail, or waterway, including but not limited to a device moved exclusively by human power.

(Ord. No. 1410, § 1, 2-2-2016)

8.10.030 - Medical marijuana dispensaries prohibited.

Marijuana dispensaries, as defined in this chapter, are prohibited within the unincorporated area of the county. The prohibition includes, without limitation, renting, leasing, or otherwise permitting a medical marijuana dispensary to occupy or use a location, building, structure or vehicle.

(Ord. No. 1410, § 1, 2-2-2016)

8.10.040 - Outdoor cultivation of marijuana prohibited.

Outdoor cultivation of marijuana, as defined in this chapter, is prohibited within the unincorporated area of the county. It is unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the unincorporated area of the county to cause or allow such parcel to be used for the outdoor cultivation of marijuana.

(Ord. No. 1410, § 1, 2-2-2016)

8.10.050 - Indoor cultivation of marijuana.

- A. General Provision. It is unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the unincorporated area of the county to cause or allow such parcel to be used for the cultivation of marijuana within a fully enclosed and secure structure on the parcel, except as provided in subsections (B) and (C) of this section.
- B. Persons Permitted to Cultivate Marijuana Indoors. Only a qualified patient or a primary caregiver may engage in indoor cultivation of medical marijuana. The indoor cultivation shall be restricted to the premises containing the primary residence of the qualified patient or primary caregiver.
- C. Indoor Cultivation Standards. Marijuana cultivated indoors shall be in conformance with the following standards:
 - 1. Indoor cultivation of marijuana is permitted only on premises with single-family residential structures.
 - 2. Marijuana cultivation is permitted only within fully enclosed and secure structures. No cultivation shall occur in apartments, duplexes, triplexes, or other multifamily dwellings.
 - 3. Indoor cultivation of marijuana shall not exceed twenty-five contiguous square feet of cultivated area per premises, regardless of how many qualified patients or primary caregivers are residing at the premises.
 - 4. Only one contiguous cultivation area is allowed per premises. Marijuana cultivation shall not occur in both a detached structure and inside a residence on the same parcel.
 - 5. A fully enclosed and secure structure used for the cultivation of marijuana that is separate from the main residence on a premises shall maintain a minimum ten-foot setback from any property line.
 - 6. The structure containing the cultivation area shall be secured in a manner that prevents unauthorized entry.
 - 7. Structures and electrical devices used for marijuana cultivation shall comply with the California Building, Electrical and Fire Codes as adopted by the county.
 - 8. The use of any gas products (CO₂, butane, etc.) or fossil fuel-powered electrical generators for

marijuana cultivation is prohibited.

9. Any structure used for the cultivation of medical marijuana must have proper ventilation and odor control filtration to prevent mold damage and to prevent marijuana plant odors or particles from becoming a public nuisance to surrounding properties or the public. The cultivation of marijuana shall not subject residents of neighboring parcels who are of normal sensitivity to reasonably objectionable odors. A public nuisance may be deemed to exist if the cultivation produces odors that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public.
 10. Marijuana cultivation shall not adversely affect the health, safety, or general welfare of persons at the cultivation premises or at any nearby residence or nearby property or areas open to the public by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, or vibration, by the use or storage of hazardous materials, processes, products or wastes, or by any other way.
- D. Sale or Other Disposition of Medical Marijuana Prohibited. It shall be unlawful for any person cultivating medical marijuana pursuant to this chapter to sell, offer for sale, furnish, administer, or donate the marijuana permitted to be grown under this chapter. A primary caregiver that receives compensation for cultivation services, or monies in advance or reimbursement for actual expenses incurred to cultivate marijuana, such as costs of starter plants or seed, soil, containers, and utilities, from a qualified patient to enable that person to use marijuana, shall not, on the sole basis of those payments, be deemed to be a seller of marijuana for purposes of this chapter.

(Ord. No. 1410, § 1, 2-2-2016)

8.10.060 - Public nuisance.

Any violation of this chapter is a public nuisance.

(Ord. No. 1410, § 1, 2-2-2016)

8.10.070 - Violations and penalties.

Any violation of this chapter shall be subject to abatement and penalties as provided in Chapters 1.20 and 1.28 of this code or any successor chapters thereto.

(Ord. No. 1410, § 1, 2-2-2016)