

## **CHAPTER 11. POSSESSION, CONSUMPTION, DISTRIBUTION, TRANSPORTATION, CULTIVATION AND GROWING OF MEDICAL MARIJUANA**

### **5-11-1000 REGULATIONS APPLICABLE TO MEDICAL MARIJUANA:**

(a) The possession, consumption, distribution, transportation, cultivation and growing of medical marijuana in the unincorporated areas of the County of Tulare shall comply with federal law, state law and local ordinances and regulations, including County ordinances and regulations. Upon such compliance, this Chapter shall apply and shall require continued compliance.

(b) The definitions set forth in Part VI of the Ordinance Code of the County of Tulare, Chapter 21, pertaining to medical marijuana collectives and cooperatives, shall apply to this Chapter.

(c) No person shall smoke, ingest, or otherwise consume medical marijuana in the County of Tulare unless such smoking, ingesting or consumption occurs entirely within a private residence or on the premises of a private residence but out of public view. "Out of public view" shall mean out of view from public rights-of-way where members of the public are lawfully entitled to be. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings. Marijuana-related smoke shall not invade adjacent properties or public areas.

(d) Cultivation, growing or distribution standards: The cultivation, growing or distribution of medical marijuana within the County shall at all times occur within a secure, locked, and fully enclosed structure, including a ceiling, roof or top, and shall meet the following requirements:

1. That the exterior appearance of the structure is compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the immediate area; and
2. Exterior signage is limited to site addressing only; and
3. An alarm system that is monitored at all times for security purposes; and
4. Interior building lighting, exterior building lighting and parking area lighting will be of sufficient foot-candles and color rendition so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet; and
5. Windows and roof hatches will be secured with bars on the windows so as to prevent unauthorized entry, and be equipped with latches that may be released quickly from the inside to allow exit in the event of emergency; and

6. No cultivated marijuana or dried marijuana product may be visible from the building exterior; and
7. The building must be secured from public access, and not be visible to the public domain. All cultivated marijuana must be secured in structures consisting of at least four walls and a roof, and conform to specific Security Standards as to locks, deadbolts and additional security measures; and
8. The structure shall be designed to restrict smell, odor, smoke, or other airborne odors and smells related to marijuana from being transmitted to an adjoining property or public areas.
9. Maximum of ninety-nine (99) plants. The individual, collective or cooperative cultivation of more than ninety-nine (99) marijuana plants, whether mature or immature, is a prohibited use in all zones of the County.
10. Maximum of twenty-four (24) plants except where collective or cooperative is allowed. The individual, collective or cooperative cultivation of more than twenty-four (24) marijuana plants, whether mature or immature, shall occur only in zones where collective or cooperative cultivation is permitted pursuant to Tulare County Ordinance No. 352, the Zoning Ordinance of Tulare County.
11. Distribution of medical marijuana to two (2) or more qualified patients, persons with an identification card or primary caregivers, combined, is unlawful in the unincorporated areas of the County of Tulare unless the distribution is from and within a collective or cooperative pursuant to Part VI, Chapter 21, pertaining to medical marijuana collective and cooperative business licenses.
12. Patient cultivation. For qualified patients and persons with an identification card, the following shall apply: each qualified patient or person with an identification card may maintain up to six (6) mature or twelve (12) immature marijuana plants, and possess no more than eight (8) ounces of dried marijuana, or as otherwise recommended by a doctor in accordance with Section 11362.77, subject to the limits specified in this Chapter. Cultivation of plants shall be within the main structure, shall not be visible from the public domain, shall be secured, and plants shall not be transported in or out of the main structure. Consumption shall be limited to the main structure and shall be prohibited in any accessory structure and residue smoke or smell related to marijuana shall not invade adjacent properties or public areas.
13. Primary caregiver cultivation. For primary caregivers of two (2) more patients, the following shall apply: each primary caregiver may maintain up to six (6) mature or twelve (12) immature marijuana plants, and possess no more than eight (8) ounces of dried marijuana, or as otherwise recommended by a doctor, for each qualified patient or person with an identification card in accordance with Section 11362.77, subject to the limits specified in this section and this Chapter. The primary caregiver must not maintain marijuana plants or

possess dried marijuana in amounts that exceed the limits for each qualified patient or person with an identification card, factoring in the amounts already maintained or possessed by the qualified patients or persons with an identification card. Cultivation of plants shall be within the main structure and plants shall not be transported in or out of the main structure and said structure shall meet the requirements of this subparagraph (d).

14. Any requirements set forth in local or state laws, ordinances, resolutions or regulations.

15. Cultivation: No employees, independent contractors, or other persons may be utilized for the cultivation except pursuant to Health and Safety Code Section 11362.765, as amended.

(Added by Ord. No. 3396, effective 12-10-09)

#### **5-11-1010 RECOVERY OF COSTS:**

(a) The Board of Supervisors of the County of Tulare may set fees by resolution from time to time as necessary to recover the County's costs for processing violations of section 5-11-1000, including administrative, investigative and code enforcement costs.

(b) All other procedures including the establishment of a hearing officer and procedures for the hearings and other administrative steps herein may be established by resolution of the Board of Supervisors of the County of Tulare.

(c) The remedy in this section is cumulative and does not preclude other remedies under the Tulare County Ordinance Code or other state, federal and local laws. Nothing herein shall preclude the county from seeking other legal or equitable remedies available to it by law.

(d) The provisions of this section shall be considered cumulative to all other laws, rules and regulations regulating medical marijuana.

(Added by Ord. No. 3396, effective 12-10-09)

#### **5-11-1020 PUBLIC NUISANCE:**

Any violation of this Chapter, after appeal as provided in this Chapter, is hereby declared to be a public nuisance, and is subject to abatement as provided in Article 11 of Chapter 1 of Part IV of this Code.

(Added by Ord. No. 3396, effective 12-10-09)

#### **5-11-1030 VIOLATIONS:**

Any person violating any of the provisions of section 5-11-1000 shall be guilty of a misdemeanor and shall be punishable as provided in section 125 of this Ordinance Code.

(Added by Ord. No. 3396, effective 12-10-09)

**5-11-1040 SEPARATE AND DISTINCT PROVISIONS:**

If any section, subdivision, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion of this Chapter.

(Added by Ord. No. 3396, effective 12-10-09)

**This page of the Tulare County Code is current through Ordinance 3436, passed February 28, 2012.**

Disclaimer: The Clerk of the Board's Office has the official version of the Tulare County Code. Users should contact the Clerk of the Board's Office for ordinances passed subsequent to the ordinance cited above.

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