

## Chapter 8.24

### CULTIVATION AND POSSESSION OF MEDICAL MARIJUANA

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#### **8.24.010 Findings.**

The City Council adopts this Chapter based upon the following findings:

A. The voters of the State of California approved proposition 215 (codified as California Health and Safety Code §11362.5 et seq. and entitled “The Compassionate Use Act of 1996”).

B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.

C. The State enacted SB 420 in 2004 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.

D. To protect the public health, safety and welfare, it is the desire of the City Council to modify the Ripon Municipal Code consistent with SB 420, regarding amount of medical marijuana that may be cultivated and possessed as well as the locations and manners in which medical marijuana may be cultivated.

E. It is the City Council’s intention that nothing in 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.

F. It is the City Council’s intention that nothing in this ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of marijuana for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal.

G. Pursuant to California Health and Safety Code §11362.71 et seq., the State Department of Health is responsible for establishing and maintaining a voluntary identification card program.

H. California Health and Safety Code §11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the matter set forth in §11362.71 et seq.

I. This ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines §15061(b)(3).

J. It is the City Council’s intention that nothing in this chapter shall be construed to conflict with Ripon Municipal Code §§ 9.10 or 16.111. (Ord. 739 § 1, 2006)

#### **8.24.020 Purpose and Intent**

A. It is the purpose and intent of this chapter to require that marijuana be cultivated in appropriately secured enclosed structures so as not to be visible to the public domain, to provide for the health, safety and welfare of the public. It is also the purpose and intent of this chapter to require that collective cultivation of marijuana be conducted in non-residential districts to provide for the health, safety and welfare of the public.

B. It is the purpose and intent of this chapter to limit cultivation and possession of medical marijuana to those limits established by California Health & Safety Code § 11362.77.

C. This ordinance, in compliance with California Health & Safety Code Section 11362, does not interfere with a patient's right to medical marijuana, nor does it criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, pursuant to state law. (Ord. 739 § 1, 2006)

#### **8.24.030 Definitions**

A. Whenever the word "City" is used in this Chapter, it shall mean the City of Ripon.

B. Whenever the words "qualified patient" are used in this Chapter, they shall have the same definition as set forth in California Health and Safety Code §11362.7, and as may be amended.

C. Whenever the words "person with an identification card" are used in this Chapter, they shall have the same definition as set forth in California Health and Safety Code §11362.7, and as may be amended.

D. Whenever the words "attending physician" are used in this Chapter, they shall have the same definition as set forth in California Health and Safety Code §11362.7, and as may be amended.

E. Whenever the words "primary caregiver" are used in this Chapter, they shall have the same definition as set forth in California Health and Safety Code §11362.7, and as may be amended.

F. Whenever the words "Medical Marijuana Collective" or "Collective" are used in this Chapter, they shall mean a location where marijuana is cultivated collectively by more than one Qualified Patient, Person with Identification Card or Primary Caregiver. (Ord. 739 § 1, 2006)

#### **8.24.040 Cultivation Restrictions**

A. Only Qualified Patients, Persons with Identification Cards and Primary Caregivers may cultivate Medical Marijuana.

B. Secure enclosed structure. The cultivation of medical marijuana shall at all times occur in a

secure, locked, and fully enclosed structure, including a ceiling, roof or top. No outdoor growing shall be permitted within the city.

C. Maximum of twenty-four (24) plants except where collective cultivation 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 cooperative cultivation is permitted.

D. Patient cultivation. For qualified patients and persons with identification cards, the following shall apply: each qualified patient and person with an identification card may cultivate in any zone six (6) mature or twelve (12) immature marijuana plants, or as otherwise recommended by a doctor in accordance with Section 11362.77, subject to the limits specified in this section.

E. Primary caregiver cultivation. For primary caregivers, the following shall apply: each primary caregiver may cultivate in any zone six (6) mature or twelve (12) immature marijuana plants, or as otherwise recommended by a doctor, for each qualified patient in accordance with Section 11362.77, subject to the limits specified in this section and subject to the medical marijuana dispensary restrictions in Ripon Municipal Code §§ 9.10 and 16.111.

F. 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 City.

G. Collective or cooperative cultivation. For the collective or cooperative cultivation, such cultivation shall be prohibited within any residential districts as defined by Ripon Municipal Code § 16.16 or within 1000 feet of such districts. Collective or cooperative cultivation shall also be subject to the following additional requirements:

1. Record requirements. The owner or lessee of the property upon which the cooperative or collective growing occurs shall

provide the following information to the Police Department in a form and manner approved by the Police Department: (a) full name, address, and telephone number(s) of the owner or lessee, including all alias names used in the previous ten (10) years; (b) the address where correspondence is to be mailed; (c) a list of all qualified patients, persons with identification cards, and primary caregivers participating in the cultivation; (d) a copy of all participant physician recommendations, identification cards, and primary caregiver evidence; (e) a sketch or diagram showing the property with the location of the cultivation and all buildings on the property, including a statement showing the total area occupied by the cultivation and the distance from the property lines; (f) a statement setting forth the number of plants to be cultivated and demonstrating that the cultivation does not exceed the maximums set forth under State law or this article, namely patient maximums and the cap of ninety-nine (99) plants; (g) a statement identifying all persons who will be tending to the cultivation and describing the cultivation process; (h) such other information as the Police Department determines is necessary to ensure compliance with State law and this article. This information shall be provided prior to the commencement of the collective or cooperative cultivation, except that for existing collective or cooperative cultivation operations, the information shall be provided within ten (10) days of the effective date of the ordinance codified in this article. The information provided shall be updated upon any change within ten (10) days. The Police Department shall keep patient information confidential to the extent required by law.

2. No cultivation in conjunction with a business: No sales of goods or services. The cultivation shall not occur in conjunction with any business. No products or services shall be sold from the property where the cultivation occurs.

3. Required participation in the cultivation: No employees. All persons who associate together for the collective or cooperative

cultivation must participate in the cultivation and the cultivation must occur solely among members of the association. No employees, independent contractors, or other persons may be utilized for the cultivation.

4. No on-site consumption. No on-site consumption of medical marijuana shall occur except by qualified patients or persons with identification cards who live on the property as their principal place of residence.

5. Inspections. The collective cultivation operation shall be open for inspection by any law enforcement officer or City code enforcement officer between the hours of 8:00 a.m. and 9:00 p.m. seven (7) days a week, or at any time upon responding to a call for service related to the property where the cultivation is occurring.

6. Violations. In addition to the remedies provided in this article, if the collective or cooperative cultivation occurs in violation of this article or any other local or State law or regulation, the owner or lessee shall be prohibited from further collective or cooperative cultivation at any location within the City for a period of one year after notice by the City of the violation. Subsequent violations shall result in a three (3) year prohibition. (Ord. 739 § 1, 2006)

#### **8.24.050 Primary Caregiver Restrictions**

A. As it is reasonable that Primary Caregivers other than those listed in §11362.7(d)(1) are unable to consistently assume responsibility for the housing, health or safety of an unlimited number of persons, the number of Qualified Patients or Persons with Identification Cards to Primary Caregiver is limited to no more than ten (10) Qualified Patients or Persons with an Identification Card.

B. The Primary Caregiver must keep a list of his or her assigned Qualified Patients or Persons with an Identification Card; such a list must minimally contain those persons' contact information, such that it may be immediately provided to the Chief of Police upon request, for the purposes of determining the proper legal

amounts of cultivated and/or dried marijuana that may be possessed at the collective. (Ord. 739 § 1, 2006)

#### **8.24.060 Possession Restrictions**

A. Qualified Patients or Person with Identification Card: A qualified patient or person with identification card may possess no more than eight ounces of dried marijuana. If a qualified patient or Person with identification card has a doctor's recommendation that this quantity does not meet the qualified patient's or person with identification card's medical needs, the qualified patient or person with identification card may possess an amount of marijuana consistent with the patient's needs.

B. Primary Caregiver: A primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient. If a qualified patient has a doctor's recommendation that this quantity does not meet his or her qualified patient's medical needs, the primary caregiver may possess an amount of marijuana consistent with his or her patient's needs.

C. Medical Marijuana Collective: A medical marijuana collective may possess no more than eight ounces of dried marijuana per qualified patient, person with identification card, or primary caregiver that is a member of the collective. If a qualified patient, person with identification card, or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the medical marijuana collective may possess an amount of marijuana consistent with the patient's needs.

D. Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section. (Ord. 739 § 1, 2006)

#### **8.24.070 Public Nuisance**

Any use or condition caused, or permitted to exist, in violation of any of provision of this Chapter shall be, and hereby is, declared a public nuisance and may be summarily abated by the City pursuant to Section 731 of the California Code of Civil Procedure. (Ord. 739 § 1, 2006)

#### **8.24.080 Criminal Penalties**

Any person who violates, causes or permits another person to violate any provision of this Chapter commits a misdemeanor, and upon conviction thereof, shall be punished as provided in Chapter 1.08 of the Ripon Municipal Code. (Ord. 739 § 1, 2006)

#### **8.24.090 Civil Injunction**

The violation of any provision of this Chapter shall be, and hereby is, declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief. (Ord. 739 § 1, 2006)

#### **8.24.100 Administrative Remedies**

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies as set forth by City ordinance. (Ord. 739 § 1, 2006)

#### **8.24.110 Judicial Review**

Judicial review of a decision made under this article may be had by filing a petition for a writ of mandate with the San Joaquin County Superior Court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions. (Ord. 739 § 1, 2006)