

P18-0337 Attachment 7
Replaces Chapter 19.342 – Marijuana Cultivation in whole.

Chapter 19.342

MARIJUANA USES AND ACTIVITIES

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19.342.010 Purpose

The City Council finds that prohibitions on all commercial and non-commercial marijuana processing, delivery, cultivation, sale and distribution are necessary for the preservation and protection of the public health, safety and welfare for the City and its resident.

19.342.020 Prohibition

- A. All marijuana cultivation, processing, delivery, sales and dispensaries, or any similar use, shall be prohibited activities in all zones and all specific plan areas in the City. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation, processing, delivery, sales, the establishment or operation of a marijuana dispensary or retail store, or any similar use, in the City, and no person shall otherwise establish or conduct such activities in the City.
- B. This section is meant to prohibit all activities for which a State license is required. Accordingly, the City shall not issue any permit, license, except for testing laboratories, or other entitlement for any activity for which a State license is required under the Medicinal and Adult Use Cannabis Regulation and Safety Act.
- C. Except as set forth in section 19.342.040 below, cultivation of marijuana for medical purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones and all specific plan areas in the City. No person, including a qualified patient or primary caregiver, shall cultivate any amount of marijuana in the City, even for medical purposes.

19.342.030 Cultivation

- A. Outdoor. No individual or entity may plant, cultivate, harvest, dry, or process marijuana plants outdoors in any zone or specific plan area of the City. No use permit, building

permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

- B. Indoor. No individual or entity may plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, in excess of the limitations imposed by Health and Safety Code section 11362.2. No individual or entity may plant, cultivate, harvest, dry, or process marijuana plants inside any enclosed structure within any zone or specific plan area of the City which is not either a private residence or an accessory structure to a private residence located upon the grounds of a private residence.

19.342.040 Personal Use

Pursuant to Health and Safety Code sections 11362.1 and 11362.2, an individual may cultivate marijuana for personal use only within a residential structure or other fully enclosed and locked accessory structure located entirely on residential property owned or legally possessed by him or her, pursuant to the following regulations:

- A. The cultivation of marijuana may take place only inside a lawfully existing and fully enclosed and secure private residence, or inside a lawfully existing and fully enclosed and secure accessory structure to a private residence that is located on the same parcel as the private residence. No cultivation shall occur outside of a fully enclosed structure.
- B. The primary use of the property shall be for a residence and cultivation is to be considered an incidental use.
- C. All areas used for cultivation of marijuana shall comply with all Buildings Codes and Regulations of the Riverside Municipal Code and the State of California, as well as all other applicable laws.
- D. Indoor grow lights are not allowed in any structure used for human habitation. Indoor grow lights in any other structure shall not exceed 1,000 watts per light, and shall comply with the California Building, Electrical and Fire Codes as adopted by the City.
- E. The use of gas products or volatile solvents, or dangerous poisons, toxins or carcinogens (including but not limited to CO₂, butane, propane, natural gas, xylene, styrene, gasoline, kerosene, O₂ H₂, methanol, iso-propyl alcohol, methylene chloride, acetone, benzene, toluene, and trichloro-ethylene,) or generators for cultivation of marijuana is prohibited.
- F. Any structure used for the cultivation of marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence and cultivating the marijuana. This ventilation shall at a minimum consist of a system meeting the requirements of the

current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)).

- G. Any accessory structure used for the cultivation of marijuana shall be located in the rear yard area of the parcel or premises and must maintain a minimum setback equal to the greater of (1) the setback imposed pursuant to the applicable zoning provisions of this Code, or (2) ten-feet from any property line. The yard where the structure is maintained must be enclosed by a solid fence at least six feet in height.
- H. Adequate mechanical locking or electronic security systems must be installed as part of the structure prior to the commencement of cultivation.
- I. Marijuana cultivation shall be limited to six (6) marijuana plants per private residence, regardless of whether the marijuana is cultivated inside the residence or in an accessory structure. The limit of six (6) plants per private residence shall apply regardless of how many individuals reside at the private residence.
- J. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress. No room used for cooking of meals, sleeping or bathing shall be used for cultivation.
- K. Cultivation of marijuana shall take place only on impervious surfaces.
- L. There shall be no exterior evidence of marijuana cultivation occurring on the parcel.
- M. No more than one room in any structure may be used for cultivation.
- N. The marijuana cultivation area shall not exceed thirty-two square feet and not exceed ten feet in height per residence. This limit applies regardless of the number of individuals residing in the residence.
- O. No room or area in a structure that is used for cultivation shall be accessible to persons under twenty-one years of age.
- P. Written consent of the property owner to cultivate marijuana within the residential structure shall be obtained and shall be kept on the premises, and available for inspection by agents of the City.
- Q. A portable fire extinguisher, that complies with the regulations and standards adopted by the State Fire Marshal and applicable law, shall be kept in any room used for cultivation of marijuana.

- R. No one other than a full-time resident of the residence shall be involved or take part in the cultivation and said full-time resident may not participate in cultivation in any other location within the City.
- S. No chemical fertilizers, pesticides, or other chemical agents shall be used for marijuana cultivation.
- T. 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; and shall not be conducted in a manner that is hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.
- U. For the protection of local groundwater resources and indoor air quality, and to avoid disposal of harmful substances into sewers or septic systems, no chemical shall be used for marijuana cultivation that contains any substance on the list prepared pursuant to Health and Safety Code section 25249.8; provided, that any chemical specifically approved by the California Department of Pesticide Regulation for indoor use on marijuana may be used in amounts prescribed by the Department. No chemical used for marijuana cultivation shall be stored in a manner visible from neighboring residences or to individuals located outside the property line or in the public right-of-way.
- V. Cultivation shall be limited exclusively for the personal use of lawful residents of the property on which the cultivation is occurring.

19.342.050 Medical Use

The outdoor cultivation of medical marijuana, the establishment or operation of any medical marijuana collective, cooperative, dispensary, delivery service, operator, establishment, or provider shall be considered a prohibited use in all zones and specific plan areas of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the cultivation of medical marijuana or the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, or provider in any zone or specific plan area of the City, and no person shall otherwise establish such businesses or operations in any zone or specific plan area of the City.

19.342.060 Public Nuisance

Any use or condition caused, or permitted to exist in violation of this Chapter, and each and every violation of the provisions of this Chapter shall be and are hereby declared to be deemed unlawful and a public nuisance and may be summarily abated by the City.

19.342.070 Penalties

In addition to any other enforcement permitted by State law, a civil action for injunctive relief and civil penalties pursuant to Chapter 1.17 of this Code may be brought against any person or entity

that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.

19.342.080 Severability

If any provision of this ordinance or Chapter or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this ordinance or Chapter which can be implemented without the invalid provision or application and to this end the provisions of this ordinance and Chapter are declared to be severable.

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