

## TITLE 22 - ZONING

### CHAPTER 22.41 MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION

#### **CHAPTER 22.41 MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION** [11](#)

##### [22.41.010 Purpose.](#)

##### [22.41.020 Medical Marijuana Dispensary.](#)

##### [22.41.025 Cultivation of Medical Marijuana.](#)

##### [22.41.030 Effect on Federal Law.](#)

##### [22.41.040 Nonconforming Use.](#)

##### [22.41.050 Conditional Use Permit Required.](#)

##### [22.41.060 Allowed Districts.](#)

##### [22.41.065 Outdoor Cultivation of Marijuana—Restrictions.](#)

##### [22.41.070 Standards for Medical Marijuana Dispensaries.](#)

##### [22.41.080 Findings for Conditional Use Permit.](#)

##### [22.41.090 Conditions.](#)

#### **22.41.010 Purpose.**

The purpose of this Chapter is to protect the public safety, health, and welfare of the citizens of the City by prohibiting the use of residential districts for medical marijuana dispensaries and restricting the operation of medical marijuana dispensaries to specific commercial zones that permit uses most close approximating those of medical marijuana dispensaries.

(Ord. 1277 C.S. § 2 (part), 2000.)

#### **22.41.020 Medical Marijuana Dispensary.**

A "medical marijuana dispensary" ("dispensary") is a facility where marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 (Proposition 215).

(Ord. 1277 C.S. § 2 (part), 2000.)

#### **22.41.025 Cultivation of Medical Marijuana.**

"Cultivation of medical marijuana" shall mean the growing of marijuana for medical purposes pursuant to California Health and Safety Code Section 11362.5, by any person, including but not limited to a qualified patient, person with an identification card or primary caregiver. Cultivation includes the cultivation and possession of both female and male plants at all stages of growth, mature or immature, clones, seedlings, and germinating seeds. "Qualified patient," "primary

## TITLE 22 - ZONING

caregiver," "person with an identification card" and "identification card" shall have the same meaning as set forth in California Health and Safety Code Section 11362.7.

(Ord. No. 1380 C.S., § 6, 5-7-2014)

### **22.41.030 Effect on Federal Law.**

Nothing in this Chapter shall counteract the substance, interpretation, effect, or application of any federal law, statute, regulation, act, administrative or judicial court decision, departmental directive, or guideline promulgated or authorized by any body of the federal government respecting the distribution, use, sale, cultivation or furnishing of marijuana.

(Ord. 1277 C.S. § 2 (part), 2000.)

### **22.41.040 Nonconforming Use.**

No use which purports to have distributed, sold or provided marijuana to persons covered by the definitional categories listed in Proposition 215 prior to the enactment of this Chapter shall be deemed to have been a legally established use under the provisions of this Code and such use shall not to be entitled to claim legal nonconforming status pursuant to Sections 22.38.010 and 22.38.020.

(Ord. 1277 C.S. § 2 (part), 2000.)

### **22.41.050 Conditional Use Permit Required.**

- A. No person shall operate or allow or suffer the operation of a medical marijuana dispensary except in compliance with a Conditional Use Permit issued pursuant to Chapter 22.40.
- B. The application for such Conditional Use Permit may be filed by the operator of the medical marijuana dispensary and shall be countersigned by the owner of the subject lot or parcel, or by the authorized agent of the owner, pursuant to the requirements of Section 22.40.030.
- C. All property owners within 1,000 feet of the proposed marijuana dispensary shall be noticed of the conditional use public hearing as described in Section 22.40.040(B) of this Code.

(Ord. 1277 C.S. § 2 (part), 2000.)

### **22.41.060 Allowed Districts.**

Medical marijuana dispensaries may be permitted only in the Neighborhood Commercial (NC) District, Central Commercial (CC) District, Service Commercial (SC) District, and Thoroughfare Commercial (TC) District.

(Ord. 1277 C.S. § 2 (part), 2000.)

## TITLE 22 - ZONING

### **22.41.065 Outdoor Cultivation of Marijuana—Restrictions.**

- A. Notwithstanding any other provision of this code to the contrary, no person owning, renting, leasing, occupying, or having charge or possession of any parcel of real property in the City shall cause or allow such parcel to be used for the cultivation of medical marijuana of any kind or type outdoors, or within public view, within any zoning district in the City.
- B. Notwithstanding any other provision of this code to the contrary, no person owning, renting, leasing, occupying, or having charge or possession of any parcel of real property in the City shall cause or allow such parcel to be used for the cultivation of marijuana plants of any kind or type, outdoors, or within public view, within any zoning district in the City. Cultivation includes the cultivation and possession of both female and male plants at all stages of growth, mature or immature, clones, seedlings, and germinating seeds.

(Ord. No. 1380 C.S., § 7, 5-7-2014)

### **22.41.070 Standards for Medical Marijuana Dispensaries.**

- A. No dispensary shall be located less than 1,000 feet from any park, elementary or secondary school; child daycare center or church which includes a elementary or secondary school or child daycare center, 300 feet from property used for residential purposes.
- B. Distance shall be measured from the building which contains the dispensary to the property line of the enumerated use using the most direct vehicular or pedestrian access route, whichever is shorter.

(Ord. 1277 C.S. § 2 (part), 2000.)

### **22.41.080 Findings for Conditional Use Permit.**

- A. The Planning Commission or City Council, on appeal, shall grant a Conditional Use Permit for a dispensary located a permissible distance from each of the sites listed in Section 22.31.070 only if the applicable criteria specified in Section 22.41.070 are met and each of the findings specified in subsection B of this Section can be made as to the proposed dispensary.
- B. In addition to the findings required pursuant to Section 22.40.070, a Conditional Use Permit for a medical marijuana dispensary shall be granted only if the Planning Commission, or the City Council, on appeal, makes all of the following additional findings of fact:
  - 1. The medical marijuana dispensary, as proposed and at the location requested, will not create a potentially adverse impact on surrounding uses; and
  - 2. The medical marijuana dispensary, as proposed and at the location requested, will be compatible with the adjacent zoning districts; and
  - 3. The proposed medical marijuana dispensary will not result in the substantial aggravation of crime problems or make law enforcement unduly difficult.

## TITLE 22 - ZONING

- C. The Planning Commission, or City Council, on appeal, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate each such finding.

(Ord. 1277 C.S. § 2 (part), 2000.)

### **22.41.090 Conditions.**

In addition to any conditions imposed pursuant to Chapter 22.40, a Conditional Use Permit for a medical marijuana dispensary shall include such of the following additional conditions:

- A. The use shall be conducted in compliance with the provisions of Health and Safety Code Section 11362.5.
- B. No persons under the age of 18 shall be permitted in the dispensary at any time.
- C. No retail sales of any products other than medical marijuana are permitted at the dispensary.
- D. The dispensary shall be operated in strict compliance with regulations adopted by the Chief of Police:
  - 1. The regulations shall address, but are not limited to, such issues as record keeping, proper identification for patients, storage of marijuana on the site, on-site cultivation, delivery and maximum amount dispensed in any single transaction;
  - 2. The regulations may be amended from time to time by the Chief. The dispensary shall be operated in strict compliance with the most currently adopted regulations sent by registered mail to the operator of the dispensary.
- E. All transactions shall occur at the dispensary and all medical marijuana shall be dispensed directly to the patient or the designated caregiver. No employee, owner or volunteer of the dispensary may provide medical marijuana to any patient or designated caregiver at any location other than inside the building of the dispensary.
- F. Cultivation of medical marijuana on-site is only allowed if specifically authorized by the Conditional Use Permit.
- G. Hours of operation shall be limited to the hours between 9:00 a.m. and 8:00 p.m. 7 days a week.
- H. The operator and/or property owner shall be required to report any illegal activity occurring on the site or associated with the dispensary.
- I. Each dispensary shall display in a manner legible and visible to its clientele:
  - 1. Notice that persons under the age of 18 are not allowed in the dispensary; and
  - 2. Notice that all illegal activity will be reported to the police; and
  - 3. A request that there be no smoking of medical marijuana in the vicinity of the dispensary.

(Ord. 1277 C.S. § 2 (part), 2000.)

TITLE 22 - ZONING

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FOOTNOTE(S):

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**Editor's note**— Ord. No. 1380, § 5, adopted May 7, 2014, amended the Code by renaming Ch. 22.41. ([Back](#))