

Chapter 12D

MEDICAL MARIJUANA DISPENSARIES.

Sec. 12D-1. Findings and purpose.

- A. — In enacting this chapter, it is the intent of the city council of the City of Colusa to protect the safety and welfare of the general public. The federal Controlled Substances Act, 21 USC 841, prohibits the possession, sale and distribution of marijuana, and the city council finds that sanctioning the opening or establishment of medical marijuana collectives, cooperatives and dispensaries would be inconsistent with federal law.
- B. — Furthermore, the city council finds that medical marijuana dispensaries are public nuisances in that many violent crimes have been committed that can be traced back to the proliferation of marijuana dispensaries, including armed robberies and murders. Increased noise and pedestrian traffic, including nonresidents in pursuit of marijuana, and out of area criminals in search of prey, are commonly encountered near outside marijuana collectives, cooperatives and dispensaries.
- C. — Allowing medical marijuana collectives, cooperatives and dispensaries would be inconsistent with the city's mission statement for the City of Colusa "to provide and maintain a progressive, family oriented, safe community" because medical marijuana dispensaries attract crime and detract from legitimate businesses. Therefore, in order to protect the integrity of the city and the goals upon which this city were founded, the city council finds that it is in the best interest of the residents of the city to prohibit marijuana collectives, cooperatives and dispensaries.
- D. — The purpose of this chapter is to prohibit medical marijuana collectives, cooperatives and dispensaries from being opened or established in the City of Colusa. Nothing in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

(Ord. No. 486, § 2, 3-5-2013)

Sec. 12D-2. Definitions.

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms and phrases hereinafter shall have the meaning given them in this section.

- A. — "City" means the City of Colusa.
- B. — "Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code § 11362.5) and the Medical Marijuana Program Act (California Health and Safety Code § 11362.7 et seq.).
- C. — "Medical marijuana dispensary" or "dispensary" means:
- (1) — Any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical marijuana to two or more of the following: a qualified patient or a person with an identification card, or a primary caregiver, in strict accordance with California Health and Safety Code § 11362.5 et seq.; or
 - (2) — Any facility, building, structure or location where three qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate in order to collectively or cooperatively, distribute, sell, dispense, transmit, process, deliver, exchange or give away

marijuana for medicinal purposes pursuant in California Health and Safety Code § 11362.5 et seq. and such group is organized as a medical marijuana cooperative or collective as set forth in the Attorney General guidelines.

The terms "primary caregiver," "qualified patient," and "person with an identification card" shall be as defined in California Health and Safety Code § 11362.5 et seq.

For purposes of this chapter, a "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by applicable law and complies strictly with applicable law, including, but not limited to, California Health and Safety Code § 11362.5 et seq.:

1. ~~A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code;~~
2. ~~A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code;~~
3. ~~A residential care facility for persons with chronic life threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code;~~
4. ~~A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code;~~
5. ~~A residential hospice; or~~
6. ~~A home health agency licensed pursuant to Chapter 8 of the California Health and Safety Code.~~

D. ~~"Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.~~

(Ord. No. 486, § 2, 3-5-2013)

~~Sec. 12D-3. Medical marijuana dispensaries prohibited.~~

~~Medical marijuana dispensaries are prohibited in the city. It shall be unlawful for any person to engage in, conduct, carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the city, the operation of a medical marijuana dispensary.~~

(Ord. No. 486, § 2, 3-5-2013)

~~Sec. 12D-4 Penalty.~~

A. ~~Violation of this chapter is a public nuisance and shall be a misdemeanor.~~

B. ~~Nothing in this chapter in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter. Such additional remedies, include, but are not limited to, injunctive relief, administrative citations, or a cause of action under the California Narcotics Nuisance Abatement Act (Health and Safety Code § 11570).~~

(Ord. No. 486, § 2, 3-5-2013)

CHAPTER 12E. MEDICAL MARIJUANA CULTIVATION.

~~Sec. 12E-1. Findings and purpose.~~

- ~~A. In enacting this chapter, it is the intent of the City Council of the City of Colusa to protect the safety and welfare of the general public. The Federal Controlled Substances Act, 21 U.S.C. Section 841, prohibits the possession, sale and distribution of marijuana, and the city council finds that sanctioning the cultivation of medical marijuana would be inconsistent with federal law.~~
- ~~B. Allowing medical marijuana cultivation would be inconsistent with the city's mission statement, for the City of Colusa "to provide and maintain a progressive, family-oriented, safe community." Therefore, in order to protect the integrity of the city and the goals upon which this city were founded, the city council finds that it is in the best interest of the residents of the city to prohibit the cultivation of marijuana.~~
- ~~C. Prior to the enactment of this chapter, there were no regulations addressing Cultivation of Medical Marijuana. Neither Proposition 215 nor Senate Bill 420, nor the California Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use ("guidelines") provide comprehensive civil regulation of premises used for marijuana cultivation.~~
- ~~D. The police department, city residents and other public entities have reported adverse impacts from medical marijuana cultivation, including disagreeable odors; increased risk of burglary and other property crimes; and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.~~
- ~~E. The creation of persistent strong odors as marijuana plants mature and flower is offensive to many people and creates an attractive nuisance, alerting persons to the location of valuable marijuana plants and creating an increased risk of crime.~~
- ~~F. The unregulated cultivation of marijuana can adversely affect the health, safety and well-being of the city and its residents. Comprehensive regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, smells and indoor electrical fire hazards that may result from unregulated marijuana cultivation, especially if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana can be cultivated in a concentrated place.~~
- ~~G. The indoor cultivation of substantial amounts of marijuana also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.~~
- ~~H. Children are particularly vulnerable to the effects of marijuana use, and the presence of marijuana plants has proven to be an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including hospitals, schools, church parks or playgrounds, childcare centers, recreation centers or youth centers. Cultivation of any amount of marijuana at, or near these sensitive uses presents unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.~~

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- I. ~~As recognized in the California Attorney General's "guidelines," the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.~~
 - J. ~~The limited right of qualified patients and their primary caregivers under state law to cultivate marijuana plants for medical purposes does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this chapter, the city will achieve a significant reduction in the harms caused or threatened by the cultivation of marijuana.~~
 - K. ~~The purpose of this chapter is to prohibit medical marijuana cultivation in the City of Colusa. Nothing in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.~~
 - L. ~~Staff and residents of the city have observed that the smell associated with marijuana cultivation is severe enough that it interferes with the use and enjoyment of property in the city.~~
 - M. ~~The cultivation of marijuana in other cities has resulted in calls for service to the police department, including calls for robberies, thefts and physical assaults from marijuana that is grown outdoors.~~
 - N. ~~Medical marijuana growth poses significant safety risks for surrounding neighbors, including but not limited to, risks of violent confrontation in connection with attempts to steal marijuana, risk of fire from improperly wired electrical lights within structures growing marijuana, risk of guard dogs and security measures associated with structures and properties growing marijuana.~~

~~(Ord. No. 497, § 2, 5-6-2014)~~

~~Sec. 12E-2. Definitions.~~

~~For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms and phrases hereinafter shall have the meaning given them in this section.~~

- A. ~~"City" means the City of Colusa.~~
- B. ~~"Marijuana cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.~~
- C. ~~"Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health & Safety Code § 11362.5) and the Medical Marijuana Program Act (California Health & Safety Code § 11362.7 et seq.).~~
- D. ~~"Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.~~

~~(Ord. No. 497, § 2, 5-6-2014)~~

~~Sec. 12E-3. Medical marijuana cultivation prohibited.~~

~~Marijuana cultivation by any person, including primary caregivers, qualified patients, and dispensaries, is prohibited in the city.~~

~~(Ord. No. 497, § 2, 5-6-2014)~~

Sec. 12E-4. Penalty.

~~A. — Violation of this chapter is a public nuisance.~~

~~B. — Nothing in this chapter in any way limits any other remedy that may be available to the city, or any penalty that may be imposed by the city, for violations of this chapter. Such additional remedies, include, but are not limited to, injunctive relief, administrative citations, or a cause of action under the California Narcotics Nuisance Abatement Act (Health & Safety Code § 11570).~~

~~(Ord. No. 497, § 2, 5-6-2014)~~

Sec. 32.11. Medical marijuana dispensaries.

~~(a) — Purpose and Intent. The section identifies that medical marijuana dispensaries are not permitted uses in any zone of the city, and therefore, such use will not be listed as an allowed use anywhere in the city.~~

~~(b) — Medical Marijuana Dispensary as a Prohibited Use. A medical marijuana dispensary, as defined in section 4-100 is prohibited in all zones of the city. No permit or any other applicable license or entitlement for use, nor any business license, shall be approved or issued for the establishment, maintenance or operation of a medical marijuana dispensary.~~

~~(Ord. No. 485, § 2, 3-5-2013)~~

Article 33. Use Permits.

Sec. 33.01. Major use permits.

Major use permits, which may be revocable, conditional or valid for a term period, may be issued by the planning commission for any of the uses or purposes for which such permits are required or permitted by the terms of this ordinance. Guarantees to insure compliance with terms and conditions may be required by the commission.

(a) Major Use Permit Application and Fee.

1. Application for a major use permit shall be made to the city planning department in writing on a form prescribed by the city and shall be accompanied by plans and elevations necessary to show details of the proposed use or building. Such application shall be accompanied by a fee in an amount as established from time to time by resolution of the city council and of which no part shall be returnable to the applicant.
2. The planning commission shall hold a public hearing within sixty days after filing of an application for a major use permit. Notice of use shall be given by one publication in a newspaper of general circulation published in the City of Colusa and by mailing notice to the applicant and owners of all property within three hundred feet of any boundary of the lot or parcel for which the use permit has been filed, as such owners are shown on the last equalized assessment roll of the County of Colusa. Notice in each case to be given at least ten days prior to such hearing for categorically exempt applications under CEQA, and twenty-one days for applications under CEQA for negative declarations and/or environmental impact reports prior to such hearing.

(b) Action by the Planning Commission.

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1. The findings of the planning commission shall be that the establishment, maintenance or operation of the use or building applied for will or will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or to be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
 2. After making findings the planning commission shall either approve, with or without conditions, or deny said major use permit.
- (c) Revocation.
1. In any case where the conditions of the granting of a major use permit have not been, or are not, complied with, the planning commission shall give notice to the permittee of intention to revoke such permit at least ten days prior to a hearing thereon. Following such hearing the planning commission may revoke such permit.
 2. In any case where a major use permit has not been used within one year after the date of granting thereof, then without further action by the planning commission the use permit granted shall be null and void.
- (d) Appeal.
- Appeal from any finding or action of the planning commission may be made in, writing to the city council within ten days from the date of the commission's action. Such application shall be accompanied by a fee in an amount as established from time to time by resolution of the city council.
- (e) Whenever a major use permit is granted, the county assessor shall be so notified within thirty days of such action.

Sec. 33.02. Minor or administrative use permits.

Minor use permits, which may be revocable, conditional, or valid for a term period, may be issued by the planning director for any of the uses or purposes for which such permits are required or permitted by the terms of this ordinance. Guarantees to insure compliance with terms and conditions may be required by the director.

- (a) Minor Use Permit Application and Fee.
1. Application for a minor use permit shall be made to the city planning department in writing on a form prescribed by the city and shall be accompanied by plans and elevations necessary to show details of the proposed use or building. Such application shall be accompanied by a fee in an amount as established from time to time by resolution of the city council.
 2. The planning director shall hold an administrative hearing within sixty days after filing of an application for a minor use permit, notice of which shall be given by one publication in a newspaper of general circulation published in the City of Colusa and by mailing notice to the applicant and owners of all property within three hundred feet of any boundary of the lot or parcel for which the minor use permit has been filed, as such owners are shown on the last equalized assessment roll of the County of Colusa. Notice in each case to be given at least ten days prior to such hearing for categorically exempt applications under CEQA, and twenty-one days for application for negative declaration and/or environmental impact reports prior to such hearing.
- (b) Action by the Planning Director.

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1. The findings of the planning director shall be that the establishment, maintenance or operation of the use or building applied for will or will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or to be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
- (c) Revocation.
1. In any case where the conditions of the granting of a minor use permit have not been, or are not, complied with, the planning director shall give notice to the permittee of intention to revoke such permit at least ten days prior to a hearing thereon. Following such hearing the planning director may revoke such permit.
 2. In any case where a minor use permit has not been used within one year after the date of granting thereof, then without further action by the planning director said permit granted shall be null and void.
- (d) Appeal.
- Appeal from any finding of action of the planning director may be made in writing to the city planning commission within ten days from the date of the director's action. Such application shall be accompanied by a fee in an amount as established from time to time by resolution of the city council.
- Appeal from any finding or action of the planning commission may be made in writing to the city council within ten days from the date of the commission's action. Such application shall be accompanied by a fee in an amount as established from time to time by resolution of the city council.
- (e) Whenever a minor use permit is granted, the county assessor shall be so notified within thirty days of such action.

Sec. 33.03 Cannabis manufacturing special use permit application and fee.

Cannabis **cultivation, manufacturing, processing, lab/lab testing, distribution (retail dispensary/delivery)** special use permits, which may be revocable, conditional or valid for a term period, may be issued by the city council for any of the uses or purposes for which such permits are required or permitted by the terms of this ordinance. Guarantees to insure compliance with terms and conditions may be required by the city council.

- (a) Cannabis **Manufacturing** Special Use Permits Application and Fee.
1. Application for a cannabis **manufacturing**-special use permit shall be made to the city planning department in writing on a form prescribed by the city and shall be accompanied by plans and elevations necessary to show details of the proposed use or building. **A separate application is required for each type of Cannabis, including but not limited to: cultivation/nursery, manufacturing, processing, lab/lab testing, and distribution.** Such application(s) shall be accompanied by a fee in an amount as established from time to time by resolution of the city council and of which no part shall be returnable to the applicant. The application shall be presented directly to the city council for action.
 2. The city council shall hold a public hearing within sixty days after filing of an application for a cannabis manufacturing special use permit. Notice of use shall be given by one publication in a newspaper of general circulation published in the City of Colusa and by mailing notice to the applicant and owners of all property within three hundred feet of any boundary of the lot or parcel for which the cannabis manufacturing special use permit has been filed, as such owners are shown on the last equalized assessment roll of the County of Colusa. Notice in each case to be given at least ten days prior to such hearing for categorically exempt applications under CEQA,

and twenty-one days for applications under CEQA for negative declarations and/or environmental impact reports prior to such hearing.

(b) Action by the City Council.

1. The findings of the city council shall be that the establishment, maintenance or operation of the use or building applied for will or will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use, or to be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the city.
2. After making findings the city council shall either approve, with or without conditions, or deny said cannabis manufacturing special use permit.

(c) Revocation.

1. In any case where the conditions of the granting of a cannabis ~~manufacturing~~ special use permit have not been, or are not, complied with, the city council shall give notice to the permittee of intention to revoke such permit at least ten days prior to a hearing thereon. Following such hearing the city council may revoke such permit.
2. In any case where a cannabis ~~manufacturing~~-special use permit has not been used within one year after the date of granting thereof, then without further action by the city council the use permit granted shall be null and void.

(d) Decision of the City Council Final. The decision of the city council shall be a final decision and appeal from said action shall be by writ of mandate in superior court.

- (e) Whenever a cannabis ~~manufacturing~~-special use permit is granted, the county assessor shall be so notified within thirty days of such action.
- (f) The cannabis ~~manufacturing~~-special use permit shall be issued to the business operator, be conditional upon issuance and holding of a valid cannabis manufacturing regulatory permit, and shall not run with the land.
- (g) No cannabis ~~manufacturing~~-special ~~use~~ permit shall be issued until either the city council approves a development agreement for the site, an operations agreement for the site approved directly by the city council, or until after the effective date of an approved ballot measure authorizing the taxation of commercial cannabis cultivation in the city.
- (h) The cannabis ~~manufacturing~~ special use permit shall run with the regulatory permit and not the land.

(Ord. No. 519, § 6, 7-18-2017)