

Sutter Creek Municipal Code

CHAPTER 10.42: Marijuana Ordinance

10.42.010 - Title of ordinance.

This chapter shall be referred to as the "Marijuana Ordinance."

(Ord. 365 §2, 2017)

10.42.020 - Definitions.

- A. For purposes of this chapter, the term "cultivation" shall mean the planting, growing, harvesting, drying, storage of, or creation of products involving, one or more marijuana plants or any part of such plants for any purpose, including for medical or recreational use.
- B. For purposes of this chapter, "marijuana" refers to any type of cannabis plant, including cannabis sativa, cannabis indica, cannabis ruderalis, and any hybrids of different types of cannabis plants.
- C. For purposes of this chapter, "transfer" shall mean to make available, transmit, give, distribute, or otherwise provide.

(Ord. 365 §2, 2017)

10.42.030 - Outdoor cultivation of marijuana.

- A. It is unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel in the city, to cause or allow such parcel to be used for outdoor marijuana cultivation, except in compliance with this section.
- B. Outdoor marijuana cultivation shall strictly comply with the following standards:
 - 1. Subject to the additional limitation stated in section [10.42.045](#), no person shall cultivate more than six plants outdoors at any residence at any time.
 - 2. Marijuana cultivated outdoors shall not be visible from any public right-of-way or adjacent property.
 - 3. Marijuana cultivated outdoors shall be enclosed within a secured, locked fence enclosure to prevent minors and other unauthorized parties from accessing the marijuana.
 - 4. Shall not occur within ten feet of any property line of the private residence or within any other applicable set-back requirement in this Code.
 - 5. The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare,

heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes.

6. Use, storage, or discharge into city wastewater facilities shall strictly comply with section [14.04.230](#) of this Code.
7. Water usage for cultivation of marijuana under this section shall not exceed any limitations imposed by federal, state, or local water restrictions.

(Ord. 365 §2, 2017)

10.42.040 - Indoor cultivation of marijuana.

- A. It is unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel in the city, to cause or allow such parcel to be used for marijuana cultivation within a fully enclosed structure on the parcel, except in compliance with this section.
- B. All marijuana cultivation authorized by authorized by Health and Safety Code Section 11362.1 shall be conducted indoors only and is subject to the restrictions set forth in Health and Safety Code Section 11362.2, all other state regulations, and the following city regulations:
 1. Subject to the additional limitation stated in section [10.42.045](#), no person shall cultivate more than six plants indoors within any residence at any time, and no person shall cultivate marijuana on any parcel not improved with a lawful inhabited residence.
 2. Marijuana cultivation is permitted only within fully enclosed structures. A fully enclosed and secure structure used for the cultivation of marijuana that is separate from the main residence on a premises must maintain a minimum ten-foot setback from any property line or the minimum set-back required under any other applicable provision of this Code if such set-backs exceed ten feet.
 3. Marijuana cultivation areas in a structure shall not be accessible to persons under eighteen years of age. Cultivation areas shall be secured by lock and key or other security device that prevents unauthorized entry.
 4. Marijuana cultivation lighting shall not exceed a total of one thousand two hundred watts and shall be shielded to confine

light and glare to the interior of the allowable structure. All lighting use in the cultivation of marijuana shall comply with the California Building, Electrical and Fire Codes as adopted by the city.

5. The use of gas products (e.g., CO₂, butane, etc.) or generators for marijuana cultivation or processing is prohibited.
6. No exterior evidence of marijuana cultivation shall be observable from any public right-of-way or adjacent property.
7. Marijuana cultivation shall not occur in any kitchen, bathroom, or bedroom of the residence.
8. Any structure used for marijuana cultivation must have proper ventilation to prevent mold damage and to prevent marijuana plant odors or particles from becoming a public nuisance to surrounding properties or the public. A public nuisance may be deemed to exist if the cultivation produces odors that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public.
9. The marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.
10. Use, storage, or discharge into city wastewater facilities shall strictly comply with section [14.04.230](#) of this Code.
11. Water usage for cultivation of marijuana under this section shall not exceed any limitations imposed by federal, state, or local water restrictions.

(Ord. 365 §2, 2017)

10.42.045 - Limitation on plants.

No person shall cultivate more than six plants per private residence at any time, regardless of whether the six plants are all grown indoors, all grown outdoors, or some plants are grown indoors at the same time others are grown outdoors.

(Ord. 365 §2, 2017)

10.42.050 - Sales, transfers, and deliveries prohibited.

Sales, transfers, or deliveries of marijuana for any purpose, whether medical or non-medical, to any person at any residence or public place within city limits are prohibited with the exception of up to one retail cannabis dispensary, which may be approved and governed through: (i) a Development Agreement, approved by the City Council in its sole discretion; and (ii) a Conditional Use Permit.

(Ord. 365 §2, 2017)

10.42.060 - Commercial activity prohibited.

No commercial, office, industrial, or other non-residential building or structure within city limits may be used to allow, transact, or facilitate the cultivation, sale, processing, storage, or transfer of marijuana for any purpose, whether medical or non-medical with the exception of up to one retail cannabis dispensary, which may be approved and governed through: (i) a Development Agreement, approved by the City Council in its sole discretion; and (ii) a Conditional Use Permit. The permitted retail dispensary use shall comply with all other applicable zoning regulations and land use requirements under Title 18 of this Code, unless expressly modified through the approved Development Agreement or Conditional Use Permit.

(Ord. 365 §2, 2017)

10.42.070 - Enforcement.

- A. Any violation of this chapter is hereby declared to be a public nuisance.
- B. This chapter shall be enforced by any civil means available by law, including but not limited to the prosecution of a civil action for injunctive, monetary, or equitable relief, by the abatement procedure set forth in [chapter 1.16](#) of this Code, or by imposition of penalties under [chapter 1.17](#) of this Code.
- C. The remedies provided herein are cumulative, alternative, and nonexclusive. The use of one remedy does not prevent the use of any others, and none of these remedies prevents the city from using any other remedy at law or in equity which may be available to enforce this chapter or to abate a public nuisance.

(Ord. 365 §2, 2017)

Chapter [18.60](#) - CONDITIONAL USE PERMITS

18.60.010 - Conditional use permits.

The following regulations apply to the granting of conditional use permits.

Uses may be permitted by the planning commission and city council in zones from which they are prohibited by this title where such uses are deemed desirable to the public convenience or welfare, and are in harmony with the various elements or objectives of the comprehensive general plan. The procedure for filing applications, filing fees, investigation, notices, public hearings, findings and appeal shall be as specified in [chapter 18.06](#), except that the city council upon recommendation of the planning commission may waive public hearings on an application for conditional use permits for public utility or public service uses or public buildings, when found to be necessary for the public health, safety, convenience or welfare.

(Ord. 373, §31(a), 2023)

18.060.020 - Uses permitted in any zone.

The following uses may be permitted in any zone unless limited to specific zones, and upon the granting of a conditional use permit:

- A. Bed and breakfast inns;
- B. Cemeteries, columbariums, mausoleums and mortuaries;
- C. Day care centers (adult/child);
- D. Churches or other places used exclusively for religious worship;
- E. Educational institutions including public and private schools;
- F. Establishments or enterprises involving large assemblages of people or vehicles including: amusement parks, circuses, carnivals, expositions, fair grounds, open air theaters, recreational and sports centers, and recreation vehicle parks;
- G. Hospitals and sanitariums;
- H. Institutions of a philanthropic (benevolent) or eleemosynary (charitable) nature;
- I. Libraries, museums and private clubs;
- J. Large scale neighborhood housing projects having a minimum gross area of five acres;
- K. Mining and natural resources development together with the necessary buildings, apparatus or appurtenances incidental thereto;
- L. Outdoor retail sales;
- M. Parks, playgrounds, parking lots or structures, and community buildings;
- N. Public utility or public service buildings, structures and uses, except as otherwise provided in this ordinance;

- O. New or remodeled residential structures in a commercial or industrial zone;
- P. Existing structures converted to residential uses in a commercial or industrial zone;
and
- Q. Golf courses, driving ranges and country clubs.
- R. Special events.
- S. Up to one retail cannabis dispensary, which may be approved and governed through a Development Agreement, approved by the City Council in its sole discretion.

(Ord. 373, §31(b), 2023)

18.60.025 - Reserved.

Editor's note— Ord. 338 §1, adopted Sept. 20, 2010, repealed §18.60.025, which pertained to medical cannabis dispensaries and derived from Ord. 304 §5, adopted Nov. 15, 2004.

18.60.030 - Conditions.

In approving a use permit, the commission may include such conditions as the commission deems reasonable and necessary under the circumstances to preserve the integrity and character of the district and to secure the general purposes of this title and the general plan. Such conditions, without limiting the discretion and authority of the commission in this regard, may include time limitations, architectural and site approval, street dedication, and street and drainage improvements.

18.60.035 - Reserved.

Editor's note— Ord. 338 §1, adopted Sept. 20, 2010, repealed §18.60.035, which pertained to use permits for medical cannabis dispensaries and derived from Ord. 304 §6, adopted Nov. 15, 2004.

18.60.040 - Findings and decisions.

The commission, on the basis of the evidence submitted at the hearing, may grant use permits required by the provisions of this title when it finds that:

- A. The proposed uses of the property are desirable to the public convenience or welfare;
- B. The proposed uses will not impair the integrity and character of the area in which it is located or the zoning district;
- C. The proposed uses would not be detrimental to public health, safety, or general welfare;
- D. There are adequate public utilities and services available for the proposed uses;
and

- E. The proposed uses of the property are in harmony with the various elements or objectives of the general plan and the purposes of this title.

(Ord. 373, §31(c), 2023)

18.60.050 - Home occupation use permits.

- A. Applications for a home occupation use permit shall be processed administratively by the planning department.
- B. Home occupation use permits may be granted if the planning department finds:
 - 1. There are no added vehicle trips;
 - 2. There is no signage pertaining to the home occupation;
 - 3. There is no exterior evidence of a home occupation and all equipment, supplies, and materials used in business are stored inside the dwelling or accessory structures;
 - 4. There is only up to one employee from outside the residence;
 - 5. The floor area used for the home occupation is no greater than twenty-five percent of the gross floor area.
 - 6. Products produced by the home occupation are not displayed so as to be visible outside the dwelling unit.
 - 7. There are no public health or safety risks associated with the home occupation;
 - 8. There are no limitations to public utilities or services resulting from operation of the home occupation;
 - 9. The home occupation is secondary to the principal use a residence.
 - 10. There is only one home occupation per dwelling unit.

(Ord. 373, §31(d), 2023)