

Chapter 8.24

MARIJUANA OR CANNABIS CULTIVATION

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8.24.010 **Legislative Findings and Statement of Purpose.**

A. The City Council finds that an ordinance is necessary to regulate the Cultivation of Marijuana or Cannabis in a manner that protects the health, safety and welfare of the community consistent with Proposition 64, also known as the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”). This Chapter is not intended to interfere with a patient’s right to medical Marijuana or Cannabis, as provided for in California Health & Safety Code Section 11362.5, nor does it criminalize medical Marijuana or Cannabis possession or cultivation by specifically defined classifications of persons, pursuant to state law. This Chapter is not intended to give any person unfettered legal authority to grow Marijuana or Cannabis; it is intended to impose zoning restrictions on the personal indoor Cultivation of Marijuana or

Cannabis permitted under AUMA when it is authorized by California state law for medical or other lawful purposes.

B. No part of this Chapter 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.

8.24.020 Definitions.

As used herein the following definitions shall apply:

A. “Authorized Grower” means a person twenty-one (21) years or older who is authorized by, and in compliance with, federal or state law to Cultivate Marijuana indoors for personal or medical use.

B. “Cannabis” has the same meaning as in Section 19300.5 of the Business and Professions Code.

C. “Fully Enclosed and Secure Structure” means a fully-enclosed space within a building that complies with the California Building Code (“CBSC”), as adopted in the City of Ripon, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way.

D. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Ripon.

E. “Immature Marijuana Plant” means a Marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

F. “Indoors” means within a Fully Enclosed and Secure Structure as that structure is defined above in subsection B.

G. “Marijuana” has the same meaning as in Section 11018 of the Health and Safety Code.

H. “Marijuana or Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of Marijuana or Cannabis plants or any part thereof.

I. “Mature Marijuana Plant” means a Marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

J. “Outdoor” means any location within the City of Ripon that is

not within a Fully Enclosed and Secure Structure.

K. “Parcel” means property assigned a separate parcel number by the San Joaquin County Assessor.

L. “Private Residence” means a house, apartment unit, mobile home, or other similar dwelling unit.

8.24.030 Outdoor cultivation.

It is hereby declared to be unlawful, a public nuisance, and a violation of this Chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City to cause or allow such premises to be used for the outdoor Cultivation of Marijuana or Cannabis plants.

8.24.040 Cultivation of Marijuana or Cannabis for personal use; regulations for residential zones.

A. When authorized by state law, an authorized grower shall be allowed to Cultivate Marijuana or Cannabis only in a Private Residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:

1. The Marijuana or Cannabis Cultivation area shall be located indoors within a residential structure and shall not exceed fifty square feet and not exceed ten feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting. Cultivation in a greenhouse on the property of the residence but not physically part of the home is permitted, as long as it is fully enclosed, secure, not

visible from a public right-of-way and meeting all requirements in this Chapter.

2. The use of gas products such as, but not limited to CO₂, butane, methane, or any other flammable or non-flammable gas for Marijuana or Cannabis Cultivation or processing is prohibited.

3. There shall be no exterior visibility or evidence of Marijuana or Cannabis Cultivation outside the Private Residence from the public right-of-way, including but not limited to any Marijuana or Cannabis plants, equipment used in the growing and Cultivation operation, and any light emanating from Cultivation lighting.

4. The authorized grower shall reside full-time in the residence where the Marijuana or Cannabis cultivation occurs.

5. The Authorized Grower shall not participate in Marijuana or Cannabis Cultivation in any other location within the City.

6. The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for Marijuana or Cannabis Cultivation.

7. The Marijuana or Cannabis Cultivation area shall be in compliance with the current adopted edition of the California Building Code including § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.

8. The building official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

9. The Marijuana or Cannabis Cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

10. No more than six (6) Marijuana or Cannabis plants, mature or immature, are permitted for indoor personal cultivation under this Chapter.

11. Marijuana or Cannabis in excess of twenty-eight and 5/10 (28.5) grams produced by plants kept for indoor personal cultivation under this Chapter must be kept in a locked space on the grounds of the Private Residence not visible from the public right-of-way.

B. Outdoor Cultivation of Marijuana or Cannabis and Cultivation of Marijuana or Cannabis for non-personal uses are expressly prohibited in all zones and districts of the City of Ripon.

8.24.050 Indoor Cultivation of Marijuana or Cannabis restricted to authorized growers.

A. It is hereby declared to be unlawful, a public nuisance and a violation of this Chapter for any person

owning, leasing, occupying, or having charge or possession of any parcel within the City to cause or allow such parcel to be used for the Cultivation of Marijuana or Cannabis, unless the person is authorized by state law to grow Marijuana or Cannabis for a specifically authorized purpose within a Private Residence in a residential zone, and such authorized grower is complying with all requirements of this Chapter.

B. Pursuant to the California Building Code, any person intending to grow Marijuana or Cannabis upon any parcel in compliance with this code, who intends to construct, alter, repair or perform additions to any structure shall be required to obtain a building permit from the City of Ripon Building Department and pay such fees as may be required and set forth by resolution of the City Council.

8.24.060 Public Nuisance.

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to create a public nuisance in the course of Cultivating Marijuana or Cannabis Plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces:

A. Odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public.

B. Responses to the parcel by law enforcement personnel.

C. A disruption to the free passage of persons or vehicles in the neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.

D. Any other impacts on the neighborhood which is disruptive of normal activity in the area including, but not limited to, grow lighting visible outside the dwelling, excessive vehicular traffic or parking occurring at or near the dwelling, and excessive noise emanating from the dwelling.

E. Outdoor growing or Cultivation of Marijuana or Cannabis.

8.24.070 Violations.

A. The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any other criminal, civil, or administrative remedy or penalty authorized by, or set forth in, the Ripon Municipal Code. None of the penalties or remedies authorized by, or set forth in, the Ripon Municipal Code shall prevent the City from using any other penalty or remedy under state statute which may be available to enforce this section or to abate a public nuisance.

B. It shall be unlawful for any Person to violate, or to permit the violation of, any provision of this Chapter. All Owners, Occupants and other Persons at or on the property or premises where a violation of this Chapter occurs may be cited and convicted, provided, however, that an Owner who is not in possession of his/her property, and who has instead permitted another Person(s) to occupy

the property, shall not be convicted of a violation unless: (1) the Owner was in fact present at the property during the time in which the violation occurred; or

(2) the Owner has been previously issued a citation from the City of Ripon describing a violation of this Chapter and has failed to remedy the violation within a reasonable time; or (3) the Owner has actual knowledge of the existence of a violation of this Chapter and failed to take reasonable steps to remedy the violation on his/her property.

C. Violation of this Chapter shall be punishable as a misdemeanor. In the alternative, and in the discretion of the City Attorney, a violation of this chapter may be prosecuted as an infraction pursuant to Chapter 1.08 or Chapter 1.12 of this Code. In addition, the City may abate any public nuisance associated with any violation of this chapter using the abatement procedures set forth in Chapter 1.10.