

ORDINANCE NO. 2012-045

Adopted by the Sacramento City Council

November 20, 2012

AN ORDINANCE AMENDING SECTION 8.04.100 OF, AND ADDING CHAPTER 8.132 TO, TITLE 8 OF THE SACRAMENTO CITY CODE RELATING TO CULTIVATION OF MEDICAL MARIJUANA

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

A. Subdivision P is added to Section 8.04.100 of the Sacramento City Code to read as follows:

P. Any condition in violation of Chapter 8.132 of this code (cultivation of medical marijuana).

B. Except as specifically amended to add subdivision P, Section 8.04.100 remains unchanged and in full force and effect.

SECTION 2.

Chapter 8.132 is added to Title 8 of the Sacramento City Code to read as follows:

Chapter 8.132

CULTIVATION OF MEDICAL MARIJUANA

8.132.010 Purpose and intent.

In 1996 California voters approved Proposition 215, entitled "The Compassionate Use Act," that was later codified at Health and Safety Code section 11362.5. The Compassionate Use Act provides that qualified patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction under state law. In 2003 the state enacted Senate Bill 420, known as the Medical Marijuana Program Act, codified at Health and Safety Code sections 11362.7 et seq. The Medical Marijuana Program Act was intended to supplement the provisions and clarify the intent and scope of the Compassionate Use Act and to allow cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program Act.

It is the purpose and intent of the city council to implement state law by regulating the cultivation of medical marijuana and requiring that it be cultivated in secured, enclosed, and

ventilated structures, so as not be visible to the public; to prevent odors created by marijuana plants from impacting adjacent properties; to protect the health, safety, and welfare of the residents of the City of Sacramento; and to ensure that medical marijuana grown for medical purposes does not result in the diversion of marijuana for nonmedical purposes.

The regulations in this chapter do not interfere with a qualified patient's right to obtain and use marijuana as authorized under state law, nor do they criminalize the possession of marijuana by qualified patients or their primary caregivers. It is neither the intent nor the effect of this chapter to condone or legitimize the illegal use, consumption, or cultivation of marijuana under federal, state, or local law.

8.132.020 Definitions.

As used in this chapter:

"Allowable structure" means a building or other structure that is fully-enclosed and secure; complies with the city's building and zoning code; has a complete roof enclosure supported by connecting walls extending from the ground to the roof; has a foundation, slab, or equivalent base to which the floor is secured by bolts or similar attachments; is secure against unauthorized entry; and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid, non-transparent material, that cannot be easily breached, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting or similar products, regardless of gauge, do not satisfy this requirement.

"Cultivation" means the planting, growing, harvesting, drying, or processing of one or more marijuana plants or any part thereof in any location, indoor or outdoor, including within an allowable structure.

"Identification card" has the same definition as set forth in California Health and Safety Code section 11362.7.

"Juvenile" means a person under the age of eighteen years.

"Marijuana" has the same definition as set forth in California Health and Safety Code section 11018.

"Marijuana plant" means any mature or immature marijuana plant, or any marijuana seedling.

"Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (California Health and Safety Code section 11362.5) and the Medical Marijuana Program Act (California Health and Safety Code sections 11362.7 et seq.).

“Outdoor” means any location in the city that is within a residential zone or parcel used for residential use, and that is not within an allowable structure.

“Person with an identification card” has the same definition as set forth in California Health and Safety Code section 11362.7.

“Premises” means a single parcel of property or contiguous parcels under common ownership or control.

“Primary caregiver” has the same definition as set forth in California Health and Safety Code section 11362.7.

“Qualified patient” has the same definition as set forth in California Health and Safety Code section 11362.7.

8.132.030 Cultivation of medical marijuana.

A. Prohibitions. A person owning, leasing, occupying, or having charge or possession of any premises within a residential zone or used for residential purposes, shall not cause, allow, or permit the premises to be used for the following:

1. The outdoor cultivation of marijuana plants.

2. The cultivation of marijuana plants, unless the person cultivating the plants is a qualified patient, primary caregiver, or person with an identification card and that person resides full-time on the premises where the marijuana cultivation occurs.

B. Indoor cultivation. The indoor cultivation of medical marijuana in residential zones or on premises used for residential use shall be conducted only within an allowable structure and shall conform to the following minimum standards:

1. Regardless of how many qualified patients, primary caregivers, or persons with identification cards are residing at the premises, the cumulative area used for cultivation on the premises shall not exceed 400 square feet.

2. Indoor grow lighting systems shall:

- a. Not exceed 3,800 watts.

- b. Be shielded to confine light and glare to the interior of the allowable structure.

- c. Comply with the city building code and fire prevention code.

3. Allowable structures shall have ventilation and filtration systems installed that prevent medical marijuana plant odors from exiting the interior of the structure. The

ventilation and filtration system shall be approved by the building official and installed prior to commencing cultivation within the allowable structure.

4. Medical marijuana cultivation shall be concealed from public view at all stages of growth and there shall be no exterior evidence of cultivation occurring at the premises from a public right-of-way or from an adjacent parcel.

5. The medical marijuana cultivation shall not create offensive odors; create excessive dust, heat, noise, smoke, traffic, or other impacts that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; or be hazardous due to use or storage of materials, processes, products, or wastes.

6. Medical marijuana cultivation areas, whether in a detached building or inside a residence, shall not be accessible to juveniles who are not qualified patients, primary caregivers, or persons with an identification card.

8.132.040 Violations.

A. Any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties pursuant to chapter 1.28 of this code.

B. Violations of this chapter are declared to be public nuisances and may be abated in accordance with the procedures and remedies specified in Article I through Article VIII of chapter 8.04 of this code.

C. Any person who violates a provision of this chapter is liable for civil penalties of not less than \$250.00 or more than \$25,000.00 for each day the violation continues.

D. Any person who violates any provision of this chapter is guilty of a misdemeanor.

8.132.050 Remedies cumulative.

All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

SECTION 3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections,

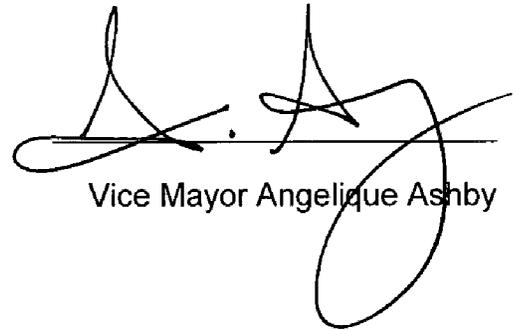
Adopted by the City of Sacramento City Council on November 20, 2012 by the following vote:

Ayes: Councilmembers Ashby, D Fong, R Fong, McCarty, Pannell, and Sheedy,

Noes: Councilmembers J. Schenirer and Cohn

Abstain: None.

Absent: Mayor Johnson



Vice Mayor Angelique Ashby

Attest:



Shirley Concolino, City Clerk

Published in Full: November 26, 2012

Effective: December 20, 2012