

Clovis Municipal CodeTitle 5 PUBLIC WELFARE, MORALS AND CONDUCTChapter 5.22 MEDICAL MARIJUANA

**Chapter 5.22  
MEDICAL MARIJUANA\***

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\* Code reviser's note: Ordinance 05-40 adds the provisions of this chapter as Chapter 5.21. The provisions have been editorially renumbered to prevent duplication of numbering.

**5.22.01 Purpose and intent.**

It is the purpose and intent of this chapter to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating the cultivation, distribution, and consumption of medical marijuana. (§ 2, Ord. 05-40, eff. January 5, 2006)

**5.22.02 Definitions.**

For purposes of this chapter, the following definitions shall apply:

- (a) "Medical marijuana" is defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.
- (b) "Cultivation of medical marijuana" means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.
- (c) "Collective or cooperative cultivation" means the association within California of qualified patients, persons with valid identification cards, and designated primary caregivers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.
- (d) "Medical marijuana dispensary" means any facility or location, whether fixed or mobile, and any building or structure: (1) where medical marijuana is made available to, distributed by, or distributed to more than two (2) qualified patients, persons with an identification card, or primary caregivers where those persons are not immediate family members residing in the same household; and (2) where medical marijuana is made available to, distributed by, or distributed to more than four (4) qualified patients, persons with an identification card, or primary caregivers where those persons are immediate family members residing in the same household. The terms "qualified patients," "persons with an identification card," or "primary caregivers" are defined in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.

A medical marijuana dispensary shall not include the following uses, as long as these uses comply strictly with Health and Safety Code Sections 11362.5 and 11362.7 et seq., and all other State and local laws pertaining to the uses, including zoning, permitting, and licensing requirements:

- (1) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code;
- (2) A health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code;
- (3) A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code;
- (4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code;
- (5) A residential hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.
- (e) "Immediate family member" means spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, stepfather, grandmother, or grandfather. (§ 2, Ord. 05-40, eff. January 5, 2006)

### **5.22.03 Regulations applicable to the cultivation of medical marijuana.**

To the extent that the City is required to allow the cultivation of medical marijuana under State law, the rules set forth herein shall apply. Nothing in this section shall be interpreted to permit medical marijuana dispensaries otherwise prohibited by this chapter or the City's Unchaptered Health, Safety and Welfare Ordinance pertaining to medical marijuana dispensaries.

- (a) Secure enclosed structure. The cultivation of medical marijuana shall at all times occur in a secure, locked, and fully enclosed structure, including a ceiling, roof or top.
- (b) Maximum of ninety-nine (99) plants. The individual, collective, or cooperative cultivation of more than ninety-nine (99) marijuana plants, whether mature or immature, is a prohibited use in all zones of the City.
- (c) Maximum of twenty-four (24) plants except where cooperative growing is allowed. The individual, collective, or cooperative cultivation of more than twenty-four (24) marijuana plants, whether mature or immature, shall occur only in zones where cooperative cultivation is permitted.
- (d) Patient cultivation. For qualified patients and persons with identification cards, the following shall apply: each qualified patient and person with an identification card may cultivate in any zone six (6) mature or twelve (12) immature marijuana plants, or as otherwise recommended by a doctor in accordance with Section 11362.77, subject to the limits specified in this section.
- (e) Primary caregiver cultivation. For primary caregivers, the following shall apply: each primary caregiver may cultivate in any zone six (6) mature or twelve (12) immature marijuana plants, or as otherwise recommended by a doctor, for each qualified patient in accordance with Section 11362.77, subject to the limits specified in this section and subject to the medical marijuana dispensary prohibition.
- (f) Collective or cooperative cultivation. For the collective or cooperative cultivation, such cultivation shall be confined to the M-1 (Light Industrial) or the R-A (Rural Residential) District within the City and be subject to the following additional requirements:
  - (1) Requirements in R-A District. The collective or cooperative cultivation in R-A Districts within the City shall occur within an area not exceeding twenty feet (20') by twenty feet (20') and be not less than twenty-five feet (25') from the nearest side and rear property line and not less than one hundred feet (100') from the front property line.
  - (2) Required participation in the cultivation: No employees. All persons who associate together for the collective or cooperative cultivation must participate in the cultivation and the cultivation must occur solely among members of the association. No employees, independent contractors, or other persons may be utilized for the cultivation.
  - (3) No compensation or sales: Distribution only among members. No member may compensate any other member to cultivate on its behalf. All distribution of the cultivated marijuana shall be solely among members of the association and shall be without compensation of any kind. Nothing in this subsection shall be deemed to prevent a primary caregiver from subsequently providing the cultivated marijuana to one of his or her qualified patients.
  - (4) No on-site consumption. No on-site consumption of medical marijuana shall occur except by qualified patients or persons with identification cards who live on the property as their principal place of residence.
  - (5) No cultivation in conjunction with a business: No sales of goods or services. The cultivation shall not occur in conjunction with any business. No products or services shall be sold from the property where the cultivation occurs.
  - (6) Record requirements. The owner or lessee of the property upon which the cooperative or collective growing occurs shall provide the following information to the Police Department in a form and manner approved by the Police Department: (a) full name, address, and telephone number(s) of the owner or lessee, including all alias names used in the previous ten (10) years; (b) the address where correspondence is to be mailed; (c) a list of all qualified patients, persons with identification cards, and primary caregivers participating in the cultivation; (d) a copy of all participant physician recommendations, identification cards, and primary caregiver evidence; (e) a sketch or diagram showing the property with the location of the cultivation and all buildings on the property, including a statement showing the total area occupied by the cultivation and the distance from the property lines; (f) a statement setting forth the number of plants to be cultivated and demonstrating that the cultivation does not exceed the maximums set forth under State law or this chapter, namely patient maximums and the cap of ninety-nine (99) plants; (g) a statement identifying all persons who will be tending to the cultivation and describing the cultivation process; (h) such other information as the Police Department determines is necessary to ensure compliance with State law and this chapter. This information shall be provided prior to the commencement of the collective or cooperative cultivation, except that for existing collective or cooperative cultivation operations, the information shall be provided within ten (10) days of the effective date of the ordinance codified in this chapter. The information provided shall be updated upon any change within ten (10) days. The Police Department shall keep patient information confidential to the extent required by law.
  - (7) Inspections. The cultivation operation shall be open for inspection by any law enforcement officer or City code enforcement officer between the hours of 8:00 a.m. and 9:00 p.m. seven (7) days a week, or at any time upon responding to a call for service related to the property where the cultivation is occurring.
  - (8) Violations. In addition to the remedies provided in this chapter, if the collective or cooperative cultivation occurs in violation of this chapter or any other local or State law or regulation, the owner or lessee shall be prohibited from further collective or cooperative cultivation at any location within the City for a period of one year after notice by the City of the violation. Subsequent violations shall result in a three (3) year prohibition. (§ 2, Ord. 05-40, eff. January 5, 2006)

### **5.22.04 Regulations applicable to medical marijuana dispensaries.**

Medical marijuana dispensaries as defined in Section [5.22.02](#) are prohibited. (§ 2, Ord. 05-40, eff. January 5, 2006)

**5.22.05 Regulations applicable to the consumption of medical marijuana.**

No person shall smoke, ingest, or otherwise consume medical marijuana in the City of Clovis unless such smoking, ingesting or consumption occurs entirely within a private residence or on the premises of a private residence but out of public view. "Out of public view" shall mean out of view from public rights-of-way where members of the public are lawfully entitled to be. "Inside a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings. Consumption in garages and other accessory buildings shall be outside of public view. (§ 2, Ord. 05-40, eff. January 5, 2006)

**5.22.06 Penalties and enforcement.**

Violations of this chapter shall be considered misdemeanors and are punishable in accordance with Chapter [1.2](#) of the municipal code. Each and every day, or portion thereof, a violation exists is a separate offense. The City may also pursue all applicable civil and administrative remedies, including but not limited to injunctive relief and administrative citations.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders this chapter unlawful, the City intends that the misdemeanor provision be severable from the remaining penalty provisions and the City will only pursue noncriminal remedies for violations of this chapter. (§ 2, Ord. 05-40, eff. January 5, 2006)

**5.22.07 Judicial review.**

Judicial review of a decision made under this chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions. (§ 2, Ord. 05-40, eff. January 5, 2006)

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