

ORDINANCE NO. 2450

AN ORDINANCE OF THE CITY OF REDDING AMENDING TITLE 18 (ZONING) BY ADDING SUBSECTION 18.15.030(V); AMENDING SCHEDULE 18.33.020-A (USE REGULATIONS—"COMMERCIAL" DISTRICTS); BY ADDING SECTION 18.43.100 (MEDICAL MARIJUANA CULTIVATION AT PRIVATE RESIDENCES); AND BY AMENDING CHAPTER 18.61 (LIST OF TERMS AND DEFINITIONS); ALL RELATING TO ZONING RESTRICTIONS PERTAINING TO MEDICAL MARIJUANA

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, entitled the Compassionate Use Act of 1996, codified as Health and Safety Code Section 11362.5, *et seq.*, which created a limited exception from state criminal liability under Health and Safety Code sections 11357 and 11358 for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances; and

WHEREAS, California state legislature Health and Safety Code Section 11362.7, *et seq.* (Medical Marijuana Program), clarifies the scope of the Compassionate Use Act and allows cities and counties to adopt and enforce rules and regulations consistent therewith (Health and Safety Code 11362.83); and

WHEREAS, on December 1, 2009, the Redding City Council adopted Chapter 6.12 of the Redding Municipal Code establishing standards, criteria, and licensing procedures of the establishment of Marijuana Cooperatives and Collectives; and

WHEREAS, the appropriate zoning district in which medical marijuana cooperatives and collectives may be lawfully established were not defined in Chapter 6.12; and

WHEREAS, the cultivation of marijuana for personal use within a private residence and on residentially occupied properties can result in unforeseen consequences related to public safety, public nuisance, and property crime; and

WHEREAS, on December 8, 2009, the Redding Planning Commission conducted a public hearing to consider amendments of the City of Redding Zoning Code (RZ-5-09) to address the dispensing and cultivation for personal use of medical marijuana and recommended that the City Council adopt an Addendum to the Mitigated Negative Declaration prepared for the Zoning Code and certain amendments to the text of the Zoning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF REDDING AS FOLLOWS:

Section 1. The City Council hereby adopts the Addendum to the Zoning Code Mitigated Negative Declaration prepared for the attached amendments to portions of Redding Municipal Code Title 18, Zoning Ordinance.

Section 2. Title 18 (Zoning), Chapter 18.15 is hereby amended by adding subsection 18.15.030(V) to Section 18.15.030 to read as follows:

V. **Medical Marijuana Cultivation.** The Director may grant limited exceptions to the maximum allowed cultivation area and/or minimum cultivation area setback provisions of Section 18.43.100 in accordance with the following:

Maximum Cultivation Area. The Director may approve an increase in the maximum allowed cultivation area for a qualified patient or primary caregiver based on a written recommendation of a physician that the medical needs of a qualified patient require a greater quantity of medical marijuana than can be cultivated within the limitations established by Section 18.43.100. In no case shall the approval increase the maximum permissible area of cultivation on an individual property by more than 20 percent.

Minimum Cultivation Area Setbacks. The Director may approve a decrease in a minimum required setback by no more than 20 percent upon determining that any of the following are in evidence:

1. The deviation is necessary due to special circumstances or conditions pertaining to the property, including, but not limited to:
 - a. The size, shape, topography, or other unique characteristics of the lot.
 - b. Location of the residence relative to existing lot lines.
 - c. The location of improvements on the property, such as accessory structures, swimming pools, trees, and similar improvements.

Section 3. Title 18 (Zoning), Schedule 18.33.020-A (Use Regulations—"Commercial" Districts) is hereby amended to add a Use Classification for Medical Marijuana Cooperatives & Collectives to read as follows:

Schedule 18.33.020-A: Use Regulations—"Commercial" Districts

| Use Classifications | "NC" | "SC" | "RC" | "GC" | "GC-VR" | "HC" | Additional Regulations |
|---|------|------|------|------|---------|------|---------------------------------------|
| Residential Uses | | | | | | | |
| Single-Family | L7 | — | — | L7 | — | L6 | |
| Multiple-Family | L7 | L7 | L7 | S | S | — | See Sec. 18.33.050 |
| Supportive Housing Facilities | — | — | — | S | S | S | Multiple-Family Only |
| Transitional Housing Facilities | — | — | — | S | S | S | Multiple-Family Only |
| Public and Semipublic Uses | | | | | | | |
| Clinics | L8 | L8 | P | P | Sd | P | |
| Clubs and Lodges | — | — | — | P | — | — | |
| Colleges and Trade Schools, Public or Private | — | S | S | P | — | S | |
| Community Centers | U | U | U | U | — | S | |
| Community Social Service Facilities | — | — | — | — | — | U | |
| Cultural Institutions | L8 | L8 | P | P | Sd | Sd | |
| Day Care Center (14 or More) | P | P | P | P | — | S | |
| Government Offices | L8 | L8 | P | P | P | P | |
| Hospitals | — | — | — | S | — | — | |
| Medical Marijuana Cooperatives & Collectives | — | — | — | P | — | P | Permit required. See RMC Chapter 6.12 |

| Use Classifications | "NC" | "SC" | "RC" | "GC" | "GC-VR" | "HC" | Additional Regulations |
|---|------|------|------|------|---------|-------|--|
| Park and Recreation Facilities | S | S | S | S | S | - | |
| Parking, Public | - | S | S | S | S | S | |
| Public Maintenance and Service Facilities | - | - | - | - | - | S | |
| Public Safety Facilities | L8 | P | L8 | P | U | U | |
| Religious Facilities | S | S | S | P | S | S | |
| Residential Care, General | S | - | - | Sd | - | - | |
| Schools, Public or Private | S | S | S | S | - | S | |
| Commercial Uses | | | | | | | |
| Adult Business Establishments | - | - | - | - | - | U | See Sec. 18.43.030 |
| Animal Sales and Services | L8 | P | P | P | S | P | Adjacent to an "R" District, outdoor kennels prohibited |
| Large Animal Veterinary Services | - | - | - | P | - | P | |
| Banks and Savings and Loans | L4 | L4 | L4 | L4 | Sd | L4 | |
| Bed and Breakfast Establishments | - | - | - | Sd | Sd | - | See Sec. 18.43.060 |
| Building Materials and Services | - | - | S | S | - | P | |
| Business Services | L8 | P | P | P | P | P | |
| Commercial Recreation | S | S | S | S | S | S | |
| Commercial Entertainment | - | P | P | P | P | - | |
| Convenience Gas Mart | S | S | S | S | S | S | See Sec. 18.43.090 |
| Eating and Drinking Establishments | | | | | | | Site development permit-Director required for outdoor seating |
| Bars/Nightclubs/Lounges | U | S | S | S | S | S | |
| Restaurants, Full Service | P | P | P | P | P | P | |
| Drive-Up/Drive-Through Service | L3 | Sd | Sd | Sd | Sd | Sd | See Sec. 18.43.080 |
| Food and Beverage Sales | P | P | P | P | P | P | |
| Food Preparation | P | P | P | P | P | P | |
| Funeral Parlors and Mortuaries | - | - | - | P | - | P | |
| Home Improvement Sales and Services | L8 | L8 | P | P | - | P | |
| Homeless Shelters | - | - | - | - | - | P | See Sec. 18.43.160 |
| Hotels and Motels | - | - | S | S | S | S | |
| Hotel, Residential | - | - | - | U | U | U | Must meet Calif Building Code requirement for efficiency dwelling unit |
| Laboratories | - | P | P | P | P | P | |
| Maintenance and Repair Services | L9 | L9 | L9 | L9 | L9 | L9 | See Section 18.43.050 |
| Offices, Business and Professional | L8 | P | P | P | P | P | |
| Offices, Medical & Dental | L8 | P | P | P | P | P | |
| Parking Facilities, Commercial | - | S | S | S | S | S | |
| Personal Improvement Services | P | P | P | P | P | P | |
| Recreational Vehicle Parks | - | - | - | U | - | U | |
| Personal Services | P | P | P | P | P | P | |
| Retail Sales | P | P | P | P | P | P/L10 | See Section 18.43.130 |
| Recycling Station | L7 | L7 | L7 | L7 | L7 | L7 | |
| Travel Services | P | P | P | P | P | P | |
| Vehicle Equipment Sales and Services | | | | | | | |
| Automobile Rentals | - | - | S | Sd | - | Sd | |
| Automobile/vehicle Repair, Major | - | - | - | L11 | L13 | L11 | See Sec. 18.43.050 |
| Automobile/Vehicle Repair, Minor | - | L11 | L11 | L11 | L13 | L11 | See Sec. 18.43.050 |
| Automobile/Vehicle Sales and Leasing | - | - | S | Sd | L13 | Sd | |
| Automobile Washing | - | S | S | Sd | L7 | Sd | |
| Heavy Equipment Sales, Service, & Rental | - | - | - | U | | S | |

| Use Classifications | "NC" | "SC" | "RC" | "GC" | "GC-VR" | "HC" | Additional Regulations |
|--|---|------|------|------|---------|------|------------------------|
| Large Vehicle Sales, Service, & Rental | - | - | - | S | L13 | S | |
| Vehicle Storage | - | - | - | S | - | S | |
| Industrial Uses | | | | | | | |
| Contractors' Office & Shop Buildings | - | - | - | - | - | S | |
| Contractors' Storage Yards | - | - | - | - | - | S | See Sec. 18.43.130 |
| Handicraft/Custom Manufacturing | - | L8 | L8 | L8 | L8 | P | |
| Industry, General | - | - | - | - | - | U | |
| Self-Storage Warehouses | - | - | - | S | - | S | See Sec. 18.43.150 |
| Warehousing and Storage | - | - | - | - | - | S | |
| Transportation, Communication, and Utilities Uses | | | | | | | |
| Communication Antennae/Transmsn Towers | - | U | U | U | U | U | See Sec. 18.40.010 |
| Communication Facilities Within Buildings | - | Sd | P | P | - | P | |
| Freight/truck Terminals and Warehouses | - | - | - | - | - | S | |
| Transportation Passenger Terminals | S | S | S | S | S | S | |
| Truck Weigh Stations | - | - | - | - | - | S | |
| Utilities, Major | - | - | U | U | - | U | |
| Accessory Uses and Structures | | | | | | | See Sec. 18.43.020 |
| Temporary Uses | | | | | | | See Chapter 18.17 |
| Nonconforming Uses | | | | | | | See Chapter 18.46 |
| Specific Limitations: | | | | | | | |
| L3 | No drive-through service except for establishments not exceeding 150 square feet in developed neighborhood commercial projects exceeding 2 acres in area. Site development permit required. | | | | | | |
| L4 | Site development permit required for drive-through. | | | | | | |
| L6 | Caretakers' quarters only, not to exceed 1,000 square feet. Site Development Permit-Director required. | | | | | | |
| L7 | Only as an accessory use subject to approval of a site development permit. | | | | | | |
| L8 | Small-scale only (5,000 square feet or less). | | | | | | |
| L9 | No outdoor storage unless a site development permit is approved by the Director. | | | | | | |
| L10 | No shopping centers, power centers, or similar uses allowed. | | | | | | |
| L11 | Site development permit required if site abuts an "R" district. | | | | | | |
| L12 | Reserved | | | | | | |
| L13 | Establishment of new uses is prohibited. Enlargements of existing facilities up to 10 percent are allowed by site development permit issued by the Director. Other expansions/enlargements, including expansions affecting more than a single parcel, shall require approval of a use permit. Such expansions shall not be approved if they involve property not owned or legally controlled by the business entity prior to adoption of this section. Proof of compliance shall be submitted at the time of application for the expansion/enlargements. Such intensifications shall be subject to compliance with all adopted site and building design criteria and development standards applicable within the zoning district and such other site and building design elements determined necessary by the approving authority to ensure compatibility with surrounding conforming uses. | | | | | | |

Section 4. Title 18 (Zoning), Chapter 18.43 (Standards for Specific Land Uses) is hereby amended by adding Section 18.43.100 (Medical Marijuana Cultivation at Privates Residences) as follows:

18.43.100 Medical Marijuana Cultivation at Private Residences

- A. **Purpose.** To regulate the cultivation of medical marijuana for personal use in a manner that protects the health, safety, and welfare of the community and minimizes or eliminates the potential nuisances associated with marijuana cultivation. This section is not intended to interfere with a patient's right to medical marijuana, as provided in California Health and Safety Code Section 11362.
- B. **Allowable Accessory Use.** Qualified patients and designated primary caregivers shall be allowed to cultivate marijuana at their private residences in accordance with a physician's recommendation

for up to three qualified patients. Cultivation activities shall be at a scale that is accessory to the primary use of the property and must be consistent with the standards established below.

- C. **Cultivation Area.** Maximum of 100 square feet of canopy area for each qualified patient, not to exceed cultivation for three qualified patients at any individual address or on any individual parcel. An exception to the maximum canopy area per patient may be granted based on the specific recommendation of a physician as addressed in Subsection G below. As used in this section, "canopy area" shall mean the total combined canopy area for all locations on a property where medical marijuana is being cultivated, including indoor areas, outdoor areas, or a combination of both, as measured by the horizontal extent of the plant or combination of plants at the widest point and measured in a straight line.

D. Outdoor Cultivation Standards

1. **Cultivation Setbacks.** The following minimum cultivation-area setbacks apply to open cultivation areas, as well as those located within enclosed accessory structures and shall be adhered to unless a Zoning Exception is granted by the Director as specified below.
 - a. *Front yard.* Cultivation areas shall not be located forward of the rear foundation of the primary residence, including any attached garage or similar attached structure.
 - b. *Street side yard.* 15 feet.
 - c. *Interior side and rear yard.* 10 feet.
 - d. *Distance from the nearest residence which is not located on the same parcel.* 30 feet.
2. **Security.** Outdoor cultivation areas shall be contained within a non-climbable minimum 6-foot-high fence equipped with a locking gate.
3. **Screening.** Outdoor cultivation areas shall not be visible from a public street, park, school, or other public area, except where topographic conditions prevent reasonable screening. Maximum plant height shall not exceed eight feet above ground level at the base of the plant(s).
4. **Proximity to Schools.** No outdoor cultivation shall be allowed on property located within 300 feet of the grounds of a library, public or private school, or park, or youth-oriented establishment as defined in Redding Municipal Code Chapter 6.12.

E. In-Residence Cultivation

1. A maximum of 10 percent or 100 square feet, whichever is larger, of the total floor area of a residence may be used for cultivation purposes provided that the total cultivation area does not exceed the limits established by this section. Total floor area of a residence does not include garage, attic, or other spaces not customarily used for living purposes.
2. Total electrical loads for the cultivation of marijuana shall not exceed 1,200 watts, unless a licensed electrical contractor certifies in a form acceptable to the Building Official, that the additional lighting loads meet the requirements of the currently adopted California Electrical Code.

3. The use of gas products (CO₂, butane, etc.) for medical marijuana cultivation is prohibited.
4. The qualified patient and/or a designated primary caregiver shall reside in the residence where the medical marijuana cultivation occurs.
5. The residence shall maintain a fully functional kitchen, bathroom(s), and primary bedroom. These rooms shall not be used for medical marijuana cultivation where such cultivation will prevent their primary use for sleeping, bathing, and preparation of meals.
6. Proper ventilation shall be provided as necessary to ensure that indoor medical marijuana cultivation area(s) will not create a humidity, mold, or odor problem. A building permit shall be obtained, as necessary, for the installation of required equipment.

F. Other Requirements

1. Medical marijuana cultivation is prohibited as a Home Occupation.
2. The medical marijuana cultivation area(s) shall not adversely affect the health or safety of nearby residents, or cause annoyance or discomfort to any reasonable person of normal sensitiveness, by creating glare, heat, noxious gasses, odor, smoke, vibration, or other impacts, or be hazardous due to the use or storage of materials, processes, products, or wastes.

G. Exceptions

The Director may grant limited exceptions to the maximum allowed cultivation area for a qualified patient or designated caregiver and/or the minimum cultivation area setbacks established by this section, in accordance with the provisions of Section 18.15.030(V) (Zoning Exceptions, Medical Marijuana Cultivation).

H. Medicinal Marijuana Cultivation Affidavit

Persons residing in a residence who cultivate medical marijuana for their sole personal use in quantities recommended by their physician may do so in accordance with the regulations of this section without submitting a Medicinal Marijuana Cultivation Affidavit to the Director. Persons cultivating medical marijuana for distribution to his or her cooperative or collective for the use of other members of said cooperative or collective shall do so in accordance with the requirements of this section and shall sign and file with the City a Medical Marijuana Cultivation Affidavit available from the Development Services Director. The affidavit shall include the name of the collective for which the medical marijuana is being supplied and the quantity of medical marijuana agreed to be supplied on a calendar-year basis. Should either the cooperative, collective, or quantities to be provided change, a new affidavit shall be signed and filed with the City. The affidavit shall include the signature of the property owner if the property on which cultivation is to occur is not owned by the qualified patient or primary caregiver.

Section 5. Title 18 (Zoning), Chapter 18.61 (List of Terms and Definitions) of the Redding Municipal Code is amended by adding the following definitions:

Medical Marijuana Cooperative or Collective. Any not-for-profit site, facility, or location where ten or more Qualified Patients and/or Persons with Identification Cards associate, meet or congregate in order to collectively or cooperatively distribute, sell, dispense, transmit, process, deliver, exchange, or give away marijuana for medicinal purposes pursuant to Health and Safety Code Section 11362.5, *et seq.*, and the Guidelines. A Medical Marijuana Cooperative or Collective must be organized as a Collective or Cooperative, as those terms are defined by the Guidelines, as amended from time to time. A "Medical Marijuana Cooperative or Collective" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health-care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential hospice, or home-health agency licensed pursuant to Chapter 8 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5, *et seq.*

Primary Caregiver. Shall have the meaning given that term by Health and Safety Code §§ 11362.5 and 11362.7, as amended from time to time. A person asserting primary caregiver status must establish that: (1) he or she has been designated as such by the medical marijuana patient and (2) he or she must be a person "who has consistently assumed responsibility for the housing, health, or safety of" the patient.

Qualified Patient. Shall have the meaning given that term by Health and Safety Code § 11362.7, as amended from time to time.

Section 6. SEVERABILITY. If any section, subsection subdivision paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any person or circumstance. The City Council of the City of Redding hereby declares that it would have adopted each section, subsection subdivision paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections subdivisions paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 7. This ordinance shall take effect thirty (30) days after the date of its adoption, and the City Clerk shall certify to the adoption thereof and cause its publication according to law.

I HEREBY CERTIFY that the foregoing ordinance was introduced and read by the City Council at a regular meeting on the 5th day of January, 2010, and was duly read and adopted at a regular meeting on the 19th day of January, 2010, by the following vote:

| | | |
|-----------------|-------------------------|--|
| AYES: | COUNCIL MEMBERS: | Bosetti, Dickerson, McArthur, and Stegall |
| NOES: | COUNCIL MEMBERS: | Jones |
| ABSENT: | COUNCIL MEMBERS: | None |
| ABSTAIN: | COUNCIL MEMBERS: | None |

/s/ Patrick Jones
PATRICK JONES, Mayor

Attest:

Form Approved:

/s/ Pamela Mize
PAMELA MIZE, Deputy City Clerk

/s/ Richard A. Duvernay
RICHARD A. DUVERNAY, City Attorney