

Chapter 19.120 - MEDICAL MARIJUANA DISPENSARIES

Sections:

19.120.010 - Purpose and application.

The purpose of this chapter is to regulate the location, operation and establishment of medical marijuana dispensaries, in order to promote the health, safety, and general welfare of the citizens of the county. Medical marijuana dispensaries have serious secondary effects on the community. These secondary effects include, but are not limited to the following: criminal activity, loitering, increased traffic, noise, litter and a loss of trade for other business located nearby by interference. If not properly regulated, medical marijuana dispensaries are harmful to the welfare of the surrounding community and its residents and can constitute a public nuisance.

Medical marijuana dispensaries shall not be established in any zone district other than the M-2 PD (Medium Industrial - Precise Development Combining District) and M-3 PD (Heavy Industrial - Precise Development Combining District) zone districts. Medical marijuana dispensaries must be fully compliant with all requirements of Chapter 19.80 (Special Development Standards). The establishment of a medical marijuana dispensary in the county that is not in full compliance with the provisions of this title is hereby prohibited and is declared a public nuisance and is subject to abatement under Chapter 8.44 and administrative penalties under Chapter 8.54. No permit or any other applicable license or entitlement for use shall be approved or issued by any county personnel endorsing the establishment of a medical marijuana dispensary within the county.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.020 - Definitions.

For purposes of this chapter, these words and phrases shall be defined as follows:

- A. "County" means the county of Kern or the unincorporated area of the County of Kern as required by the context.
- B. "Marijuana" shall have the same definition as in California Health and Safety Code Section 11018 as it now reads or as amended.
- C. "Medical marijuana" means marijuana used for medical purposes in accordance with California Health and Safety Code Sections 11362.5 et seq.
- D. "Cultivate" or "cultivation" is the planting, growing, harvesting, drying, processing, or storage of one or more marijuana plants or any part thereof in any location.
- E. "Medical marijuana dispensary" or "dispensaries" means any operation, including a store-front facility or structure, mobile facility, or delivery service, wherein medical marijuana is made available, sold, offered for sale, given, distributed, traded, cultivated for, or otherwise provided to primary caregivers or qualified patients, as defined by this chapter.

"Medical marijuana dispensary" or "dispensaries" shall not include the following uses, as long as the location of such uses are otherwise regulated by code or applicable law: (i) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; (ii) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; (iii) a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code; (iv) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; and (v) a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety

Code, as long as any such use complies strictly with applicable law including, but not limited to, California Health and Safety Code Section 11362.7 et seq.

F. "Primary caregiver" shall have the same definition as in California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.

G. "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq. as it now reads or as amended.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.030 - Location requirements.

A. In addition to the zone district restrictions, medical marijuana dispensaries shall not be located within one (1) mile of the following whether or not located within the county:

1. Any public or private school;
2. Any publicly or privately operated daycare center;
3. Any park owned or maintained by a public entity; and
4. Church, chapel, or other recognized place of worship.

B. Medical marijuana dispensaries shall not be located within one (1) mile of any other medical marijuana dispensary. In the event that two (2) medical marijuana dispensaries are within one (1) mile of each other, the medical marijuana dispensary that has submitted a compliant and complete site development plan pursuant to this chapter that has been approved by the planning director in writing will be deemed first in time.

C. The distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building in which the proposed or existing medical marijuana dispensary is established to the nearest property line of a use or zoning district listed above.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.040 - Development and performance standards.

A. Medical marijuana dispensaries compliant with all other provisions of this title must operate under the following conditions and restrictions:

1. No marijuana shall be smoked, ingested, or otherwise consumed on the premises of a medical marijuana dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking area(s), walks or other immediate surroundings.
2. No edible products containing marijuana shall be distributed or sold by or on the premises of the medical marijuana dispensary.
3. No person under the age of eighteen (18) shall be permitted on the premises of the medical marijuana dispensary unless he or she is qualified patient or primary caregiver and is accompanied by a parent or legal guardian.
4. No medical marijuana dispensary shall conduct or engage in the sale of any product, good, or service other than medical marijuana.
5. No medical marijuana dispensary shall engage in the manufacture or processing of marijuana in violation of California Health and Safety Code Section 11379.6.

6. No medical marijuana dispensary shall operate between the hours of eight (8:00) p.m. and ten (10:00) a.m.
7. No alcohol shall be consumed, made available, sold, offered for sale, given, distributed, traded, or otherwise provided to primary caregivers or qualified patients on the premises of the medical marijuana dispensary.
- B. The following performance standards shall apply to all medical marijuana dispensaries:
 1. Medical marijuana dispensaries shall not be located in any temporary or portable structure.
 2. Medical marijuana dispensaries shall not include a private patio or café seating on or appurtenant to its premises.
 3. Trash dumpsters shall be enclosed by a screening enclosure so as not to be accessible to the public.
 4. Off-street parking shall be provided at the ratio of one (1) parking space per two hundred and fifty (250) square feet of gross floor area and as specified in Chapter 19.82.
 5. The entire exterior grounds, including the parking lot and landscaped areas, shall be lighted in such a manner that all areas are clearly visible at all times during business hours.
 6. Signage shall conform to the requirements of Chapter 19.84 and shall not contain pictorial representations, indicate or advertise the presence or availability of medical marijuana.
 7. All entrances to medical marijuana dispensaries shall be clearly and legibly posted by a notice indicating that minors are prohibited from entering the premises.
 8. No residential structure or any other nonconforming structure shall be converted for use as a medical marijuana dispensary.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.050 - Site development plan—Required.

No medical marijuana dispensary shall be established, change or altered until an application for a medical marijuana dispensary site development plan review has been submitted to and approved by the planning director in accordance with the procedures set out in this chapter.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.060 - Site development plan—Application contents.

An application for site development plan review shall include the following:

- A. Name and address of applicant;
- B. Name(s) and address(es) of the property owner(s);
- C. Assessor's parcel number(s);
- D. Legal description of the property;
- E. A site development plan drawn at the scale specified by the planning director, which includes the following information:
 1. Topography and proposed grading;
 2. The width, location, and names of surrounding streets;
 3. The location, dimensions, ground floor area, and uses of all existing and proposed buildings and structures on the subject property;

4. Proposed landscaping;
 5. Streets and parking areas;
 6. Signs, including location, size, and height;
 7. Proposed dedications and improvements in accordance with applicable subdivision improvement standards for the area;
 8. Location, height, and material of walls and fences;
 9. Other specified uses of the property; and
 10. North arrow and scale.
- F. A narrative description of the proposed development, including the following:
1. Acreage or square footage of the property;
 2. Height, ground floor area, and total floor area of each building;
 3. Building coverage expressed as a percent of the total area of the property;
 4. Area of land devoted to landscaping and/or open space usable for recreation purposes and its percentage of the total land area;
 5. Method of sewage disposal;
 6. Water supply, both domestic and fire;
 7. Proposed on-site drainage facilities; and
 8. Methods of flood control, where appropriate.
- G. A narrative description of the nature of the proposed use or development and an explanation of how the proposed medical marijuana dispensary will satisfy the applicable requirements set forth in Sections 19.120.020 through 19.120.040 of this chapter.
- H. Signatures or letter of consent from all property owners.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.070 - Site development plan—Review and approval.

- A. An applicant for a medical marijuana dispensary pursuant to this chapter shall submit an application to the planning director in the format and number of copies specified by the planning director. The application shall contain all the information specified for the application in accordance with this chapter.
- B. The planning director shall inform the applicant either verbally or in writing within seven (7) calendar days of receipt that the application is complete or that additional information is needed to complete the application.
- C. Within seven (7) calendar days of determining the application is complete, the planning director shall approve the plan if he/she determines that the proposed use or development standards meets the development standards and conditions specified in the applicable section or sections of this title or deny the plan if he/she determines that the proposed use or development does not meet the standards and conditions specified in the applicable section or sections of this title.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.080 - Site development plan—Denial and appeal.

If the planning director denies a plan pursuant to this chapter, the applicant may appeal such action to the board of supervisors.

- A. The applicant may file with the planning director a notice of appeal to the action of the planning director indicating the basis of appeal within seven (7) calendar days of such action.
- B. The board of supervisors shall consider the appeal within thirty (30) days of the filing of such appeal. No public hearing or notice shall be required.
- C. The board of supervisors may reverse or affirm the action of the planning director. The action of the board shall constitute a ministerial action and shall be based solely on whether or not the proposed use or development meets the development standards and conditions specified in or established pursuant to the applicable section or sections of this title.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.090 - Site development plan—Revocation.

Any site development plan approval issued pursuant to this chapter may be revoked by the official or decision-making body that originally approved the plan by the same procedure under which the approval was issued for any of the following causes:

- A. That any term or condition of the plan has not been complied with.
- B. That the property or portion thereof subject to the plan is used or maintained in violation of any statute, ordinance, law, or regulation.
- C. That the use for which the plan was granted has been so exercised as to be detrimental to the public health or safety or as to constitute a nuisance.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.100 - Time limit on development approval.

Any site development plan approved pursuant to this chapter shall expire one (1) year after the date of approval, except where building permits have been issued for construction authorized under the approved plot plan, in which case the approved plot plan shall expire after the construction has been completed or on the date building permits are cancelled.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.110 - Penalties for violation.

- A. Any person or responsible party violating any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a maximum penalty of six (6) months' imprisonment in county jail or a fine of one thousand dollars (\$1,000.00). Violators shall also be subject to any other enforcement remedies, including but not limited to those available to the county under Chapter 19.114 of this title, any applicable state or federal statute, or other lawful power the county may possess.
- B. Each day a violation is allowed to continue and every violation of the chapter shall constitute a separate violation and shall be subject to all remedies.
- C. In the event any civil suit or action is brought by the county to enforce the provisions of this chapter, the person responsible for such violation shall be liable to the county for costs of the suit, including, but not limited to, attorney's fees.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.120 - Severability.

If any part of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

(Ord. No. G-8299, § 2, election date 6-5-12)

19.120.130 - Amendment or repeal.

This chapter may be amended or repealed at any time by the board of supervisors without having to seek approval of the voters of the county.

(Ord. No. G-8299, § 2, election date 6-5-12)