

# Elk Grove Cannabis Regulations

## Code Enforcement

### Cannabis Use and Cultivation

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## Cannabis Use and Cultivation



### Information about Cannabis Use and Cultivation in Elk Grove

Proposition 64 was passed by the California voters on November 8, 2016. Proposition 64 legalized recreational use of marijuana for persons 21 and older, as of January 1, 2018. Marijuana use remains illegal in public places; where smoking tobacco is prohibited; within 1,000 feet of schools, day care, or youth center; and while driving or riding in a car.

### City Land Use and Cultivation Regulation

State law allows cities to regulate and/or prohibit commercial marijuana businesses, medical marijuana dispensaries, and outdoor marijuana cultivation. The City has prohibited all of these uses by local ordinance.

Consistent with the new state law, the City only allows personal cultivation of up to six marijuana plants in a private residence, or associated accessory structure. In March of 2017, the City of Elk Grove made changes to its Municipal Code (Chapter 23.83) to impose regulations on personal indoor marijuana cultivation and clarify permissible land uses. The City's regulations include the following:

- Marijuana may not be cultivated or accessible to persons under 21 years of age
- Commercial cultivation, testing, or retail sale of marijuana within the City of Elk Grove is prohibited
- Indoor personal cultivation of marijuana is limited to no more than six marijuana plants per residence
- The person cultivating marijuana must be a full-time resident at the location where the marijuana is being grown
- All outdoor cultivation of marijuana is prohibited in the City of Elk Grove
- Personal cultivation is only permitted in a private residence or associated accessory structure
- No marijuana growing operation can be constructed in violation of applicable codes governing structures, including the City Zoning Code, the Building Code, Electrical Code, and Fire Code
- Grow lighting in excess of 1,200 watts per residence is prohibited
- Indoor use of generators or gas products in the cultivation activity is prohibited

- Indoor use of generators or gas products in the cultivation activity is prohibited
- Personal cultivation performed in a residence must be done in a manner that does not alter the primary use of any kitchen, bathroom, or bedroom
- Private residences or accessory structures in which the marijuana is cultivated must be locked except when in use
- Cultivation activity cannot be visible from the public right-of way
- Marijuana cultivation in any rented residence is prohibited without express consent of the owner
- Emission of odors in violation of the City's Code is prohibited

## More than Six Plants is Still Illegal

State and local law still make it illegal to violate the six marijuana plant allowances. Violations of these laws are subject to administrative, civil, and criminal penalties. The Elk Grove Police Department and Elk Grove Code Enforcement Division coordinate the investigation of possible marijuana violations and may pursue prosecutions of violations, which could include imprisonment, fines, and/or civil liability.

## Marijuana is Still Illegal under Federal Law

Marijuana remains an illegal controlled substance under the Federal Controlled Substance Act. Under federal law, marijuana is illegal to use or possess, and there is no federally accepted medical use. As a matter of policy, the federal government has chosen not to enforce the Federal Controlled Substance Act against medical marijuana users for those states allowing medical marijuana, including California, provided the user complies strictly with state medical marijuana laws. No such federal prosecution exemption applies for non-medical, recreational use of marijuana. Acting in compliance with state marijuana laws does not necessarily insulate you from prosecution under federal law.

## Spotting a Marijuana Grow House

There is a difference between those abiding by the indoor cultivation laws and an illegal growing operation. A marijuana grow house is a house which has been significantly physically altered to produce marijuana beyond that allowed by law. These alterations include tapping into the electric lines in order to steal electricity, attaching filtering devices to hide the skunky-scent produced by marijuana plants, or installing high-wattage lights which can be a fire hazard. Typically, large scale sophisticated marijuana grow houses are linked to organized crime. Organized crime rings purchase or rent a house and buy the equipment required to grow the marijuana. The harvested marijuana is then sold on the streets with the profit going back into the criminal organization. Marijuana grow operations can be located in any rural, urban or industrial area. Indications of an illegal growing operation include:

- The house does not appear lived in. Someone occasionally enters the residence, but only stays for short period of times.
- Activity inside the house seems to take place at odd hours. Items are moved in and out of the residence at odd times.
- The exterior appearance of the property is not cared for on a regular basis.
- Persons often back into the garage and enter the house this way.
- Garbage is minimal and may contain used soil and plant material.
- Windows are constantly covered with dark sheets, plastic, or other opaque materials.
- Bright light can be seen escaping from windows.
- Windows are often covered with condensation.
- Sounds of interior construction may be heard.
- Timers may be set inside the residence.
- The area around the property may have a strong skunk- like odor.
- Items being brought into the house include soil, planters, fans and large lights.

- Garbage bags are being taken out of the house and transported away.

## Reporting a Violation

The City of Elk Grove strives to maintain a high quality of life for our residents and businesses, all consistent with state and local law. If you suspect a violation, you can report it to the City for investigation through any of the following contacts:

Elk Grove Police Department Tip Line: **(916) 627-3333**

Elk Grove Code Enforcement Line: **(916) 687-3023**

Ask Elk Grove: **(916) 691-CITY (2489)**

### Submit A Request

**Disclaimer:** *This information is provided here is for general information purposes only and to permit you to learn more about this topic. The information presented is not legal advice or representation from the City, is not to be acted or relied upon as such, may not be current in light of changing laws, and is subject to change without notice. The City encourages you to conduct your own independent research and analysis into the topics addressed herein. If you have any questions concerning this topic, the City encourages you to seek legal advice from an attorney of your choosing. The City Attorney's Office represents City officials and staff and cannot provide private legal advice to private individuals or entities.*

## City of Elk Grove

📍 8401 Laguna Palms Way, Elk Grove, CA 95758

📞 (916) 691-2489

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## **ORDINANCE NO. 3-2012**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE ADDING ELK GROVE MUNICIPAL CODE CHAPTER 23.83 CONCERNING THE CULTIVATION OF MEDICAL MARIJUANA**

**WHEREAS**, with certain limited exceptions provided for under state law concerning marijuana used for medical purposes, the possession and cultivation of marijuana remains illegal under state and federal law; and

**WHEREAS**, improper medical marijuana cultivation poses an environmental health risk to the public and may create a public nuisance, including, without limitation, offensive and irritating odor, degradation of air quality, excessive noise, risk of criminal activity, improper and / or dangerous electrical alterations, and impairment of the general quality of life of property owners and occupants adjoining medical marijuana cultivation sites.

**NOW, THEREFORE**, the City Council of the City of Elk Grove does hereby ordain as follows:

#### **Section 1: Purpose and Authority.**

This Ordinance is adopted consistent with the City's police power provided by Article XI, section 7 of the California Constitution. The purpose of this Ordinance is to require that medical marijuana be cultivated only in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the general public, to provide for the health, safety and welfare of the public, to prevent odor created by marijuana plants from impacting adjacent properties, and to ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets. Nothing in this chapter is intended to impair any viable legal defense available to a person using or in possession of medical marijuana pursuant to the Compassionate Use Act (Health and Safety Code Section 11362.5) or the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et. seq.) Nothing in this chapter is intended to authorize the cultivation, possession, or use of marijuana for non-medical purposes in violation of state or federal law.

#### **Section 2: Addition of Elk Grove Municipal Code Chapter 23.83 titled "Marijuana Cultivation".**

Elk Grove Municipal Code (EGMC) Chapter 23.83 titled "Marijuana Cultivation" is hereby added to EGMC Title 23 attached as Exhibit A.

#### **Section 3: No Mandatory Duty of Care.**

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

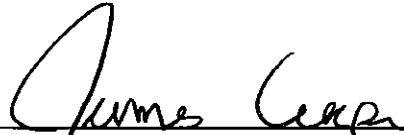
Section 5: Savings Clause.

The provisions of this Chapter shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 6: Effective Date and Publication.

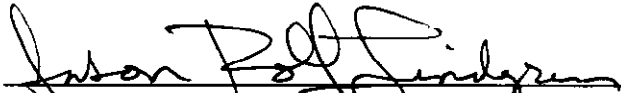
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

**ORDINANCE:** 3-2012  
**INTRODUCED:** February 8, 2012  
**ADOPTED:** February 22, 2012  
**EFFECTIVE:** March 23, 2012

  
JAMES COOPER, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

  
JASON LINDGREN, CITY CLERK

  
JONATHAN HOBBS,  
INTERIM CITY ATTORNEY

Date signed: February 24, 2012

# **EXHIBIT A**

## **Chapter 23.83**

### **MARIJUANA CULTIVATION**

#### **Sections:**

- 23.83.010 Purpose and intent
- 23.83.020 Definitions
- 23.83.030 Cultivation of medical marijuana
- 23.83.040 Cultivation Permit.
- 23.83.050 Enforcement
- 23.83.060 Appeals

#### **23.83.010 Purpose and intent**

It is the purpose and intent of this chapter to require that medical marijuana be cultivated only in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the general public, to provide for the health, safety and welfare of the public, to prevent odor created by marijuana plants from impacting adjacent properties, and to ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets. Nothing in this chapter is intended to impair any viable legal defense available to a person using or in possession of medical marijuana pursuant to the Compassionate Use Act (Health and Safety Code Section 11362.5) or the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et. seq.) Nothing in this chapter is intended to authorize the cultivation, possession, or use of marijuana for non-medical purposes in violation of state or federal law.

#### **23.83.020 Definitions**

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this chapter, the common and ordinary meaning of the word shall apply.

A. Reserved for future use.

B. "B" Definitions.

1. "Bedroom:" A room inside a residential building being utilized by any person for sleeping purposes.

C. "C" Definitions.

1. "Child Care Center:" Any licensed child care center, daycare center, or childcare home, or any preschool.
2. "Cultivation:" The planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof for medical use consistent with the Compassionate Use Act (Health and Safety Code Section 11362.5) or the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et. seq.).

D. "D" Definitions.

1. "Detached, fully-enclosed and secure structure:" A building completely detached from a residence that complies with the Elk Grove Building Code and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, 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 materials that cannot be easily broken through, such as two inch by four inch (2" x 4") or thicker studs overlaid with three-eighths (3/8") inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

E. Reserved for future use.

F. Reserved for future use.

G. Reserved for future use.

H. Reserved for future use.

I. "I" Definitions.

1. "Indoors:" Within a fully enclosed and secure building.

J. Reserved for future use.

K. Reserved for future use.

L. "L" Definitions.

1. "Legal parcel:" Any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Gov't Code §§ 66410 et. seq.).

M. Reserved for future use.

N. Reserved for future use.

O. "O" Definitions.



1. "Outdoor:" Any location within the City that is not within a fully enclosed and secure structure.

P. "P" Definitions.

1. "Premises:" A single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall constitute a single "premises" for purposes of this chapter.
2. "Primary caregiver:" A "primary caregiver" as defined in Health and Safety Code section 11362.7(d).

Q. "Q" Definitions.

1. "Qualified patient:" A "qualified patient" as defined in Health and Safety Code section 11362.7(f).

R. "R" Definitions.

1. "Rear yard:" The rear open space portion of any premises, whether fenced or unfenced.
2. "Residential structure:" Any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking and sanitation on a premises or legal parcel located within a residential or agricultural-residential zoning district.

S. "S" Definitions.

1. "School:" An institution of learning for persons under twenty-one (21) years of age, whether public or private, offering regular course of instruction including, without limitation, a kindergarten, elementary school, middle or junior high school, or senior high school.
2. "Solid fence:" A fence constructed of substantial material (such as wood) that prevents viewing the contents from one side to the other.

T. Reserved for future use.

U. Reserved for future use.

V. Reserved for future use.

W. Reserved for future use.

X. Reserved for future use.

Y. Reserved for future use.

Z. Reserved for future use.

### **23.83.030 Cultivation of medical marijuana**

The following regulations shall apply to the cultivation of medical marijuana within the City.

- A. No person other than a qualified patient or primary caregiver may engage in cultivation of medical marijuana. It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City to cultivate medical marijuana except as provided for in EGMC Chapter 23.83.
- B. Residency Requirement. Either a qualified patient or primary caregiver shall reside full-time on the premises where the marijuana cultivation occurs.
- C. Outdoor Cultivation. It is unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City to cause or allow such parcel or premises to be used for the outdoor cultivation of marijuana plants
- D. Residential Structure Cultivation. It is unlawful and a public nuisance for any person to cultivate medical marijuana inside any residential structure or building without a medical marijuana cultivation permit issued by the City Chief of Police or his or her designee, as provided herein.
- E. Cultivation in Non-Residential Zones. Cultivation of medical marijuana is prohibited in all agricultural (except agricultural-residential), commercial, office, industrial, open space, special purpose, and overlay / combining zoning districts.
- F. Proximity to Schools, Child Care Centers, and Parks. It is unlawful and a public nuisance to cultivate medical marijuana on any legal parcel or premises within one thousand (1,000' 00") feet of any school, child care center, or public park. The one thousand (1,000' 00") feet shall be measured from the closest property line of the school, child care center, or park to the closest property line of the cultivation parcel.
- G. Cultivation Area. It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City to cultivate medical marijuana, within a detached structure greater than one hundred twenty (120 ft<sup>2</sup>) square feet in size.
- H. Indoor Cultivation in Residential Zones. The indoor cultivation of medical marijuana in a residential zone shall only be conducted within a detached, fully-enclosed and secure structure no greater than one hundred twenty (120 ft<sup>2</sup>) square feet in size or within a Residential structure conforming to the following minimum standards:
  - 1. Any detached structure, regardless of square footage, constructed, altered or used for the cultivation of medical marijuana must have a valid building permit duly issued by the Building Official. The Building Official shall consult with the Planning Director and Chief of Police in consideration of any building permit application seeking a building permit for the construction or alteration of any structure to be used for medical marijuana cultivation.
  - 2. Indoor grow lights shall not exceed one thousand two hundred (1,200 W) watts and shall comply with the California Building, Electrical and Fire Codes as adopted by the City. Gas products (including, without limitation, CO<sub>2</sub>, butane,

propane, and natural gas), or generators shall not be used within any detached structure used for the cultivation of medical marijuana.

3. Any detached, fully-enclosed and secure structure or residential structure used for the cultivation of medical marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with the California Building Code Section 402.3 Mechanical Ventilation. The ventilation and filtration system must be approved by the Building Official and installed prior to commencing cultivation within the detached, fully-enclosed and secure structure or residential structure.
4. A detached, fully-enclosed and secure structure used for the cultivation of marijuana shall be located in the rear yard area of a legal parcel or premises, maintain a minimum ten (10' 00") foot setback from any property line, and the area surrounding the structure must be enclosed by a solid fence at least six (6' 00") feet in height.
5. Adequate mechanical or electronic security systems approved by the Building Official and Chief of Police must be installed in and around the detached structure or the residential structure prior to the commencement of cultivation.
6. Marijuana cultivation occurring within a residence shall be in an area no larger than fifty (50 ft<sup>2</sup>) square feet, regardless of how many qualified patients or primary caregivers are residing at the premises.
7. Cultivation of marijuana shall not take place in the kitchen, bathrooms, or bedrooms of any building.
8. Cultivation of marijuana shall not take place on any carpeted surface.
9. Medical marijuana cultivation for sale is prohibited.
10. Medical marijuana cultivation may not occur in both a detached structure and inside a residence on the same parcel.
11. Medical marijuana cultivation areas, whether in a detached building or inside a residence, shall not be accessible to persons under eighteen (18) years of age.

#### **23.83.040 Cultivation Permit**

- A. Prior to commencing any medical marijuana cultivation the person(s) owning, leasing, occupying, or having charge or possession of any legal parcel or premises where medical marijuana cultivation is proposed to occur must obtain a medical marijuana cultivation permit from the Chief of Police or his or her designee. The following information will be required with the initial permit application and subsequent permit extensions:
  1. A notarized signature from the owner of the property consenting to the cultivation of marijuana at the premises on a form acceptable to the City.
  2. The name of each person, owning, leasing, occupying, or having charge of any legal parcel or premises where medical marijuana will be cultivated.
  3. The name of each qualified patient or primary caregiver who participates in the medical marijuana cultivation.
  4. A copy of a current valid medical recommendation or county issued medical marijuana card for each qualified patient identified as required above, and for

each qualified patient for whom any person identified as required above is the primary caregiver.

5. The physical site address of where the marijuana will be cultivated.
  6. A signed consent form, acceptable to the City, authorizing City staff, including the police department, authority to conduct an inspection of the detached, fully-enclosed and secure structure or area of the residence used for the cultivation of marijuana upon twenty-four (24) hours' notice.
- B. The initial permit shall be valid for no more than two (2) years and may be extended in increments of two (2) years.
  - C. To the extent permitted by law, any personal or medical information submitted with a medical marijuana cultivation permit application or permit extension shall be kept confidential and shall only be used for purposes of administering this chapter.
  - D. The Chief of Police, or his or her designee, may, in his or her discretion deny any application for a medical marijuana cultivation permit, or extension thereof, where he or she finds, based on articulated facts, that the issuance of such permit, or extension thereof, would be detrimental to the public health, safety, or welfare. The Chief of Police shall deny an application for a medical marijuana cultivation permit, or extension thereof, that does not demonstrate satisfaction of the minimum requirements of this Chapter. The denial of any permit application, or permit extension, shall be subject to appeal pursuant to EGMC Chapter 1.11.
  - E. The Finance Director may establish a fee or fees required to be paid upon filing of an application for permit(s) as provided by this chapter, which fees shall not exceed the reasonable cost of administering this chapter.

### **23.83.050 Enforcement**

Violations of this chapter shall constitute a public nuisance and may be enforced pursuant to the provisions of EGMC Chapters 1.12 and 16.18.

### **23.83.060 Appeals**

Any person aggrieved by any of the requirements of this section may appeal in so far as such appeals are allowed pursuant to EGMC Chapter 1.11.

**CERTIFICATION**  
**ELK GROVE CITY COUNCIL ORDINANCE NO. 3-2012**

STATE OF CALIFORNIA       )  
COUNTY OF SACRAMENTO    )       ss  
CITY OF ELK GROVE         )

*I, Jason Lindgren, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on February 8, 2012 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on February 22, 2012 by the following vote:*


**AYES :**       **COUNCILMEMBERS:**       *Cooper, Hume, Detrick*

**NOES:**       **COUNCILMEMBERS:**       *Scherman*

**ABSTAIN:**   **COUNCILMEMBERS:**       *None*

**ABSENT:**    **COUNCILMEMBERS:**       *Davis*

***A summary of the ordinance was published pursuant to GC 36933(c) (1).***

  
\_\_\_\_\_  
**Jason Lindgren, City Clerk**  
**City of Elk Grove, California**

## Chapter 23.83 INDOOR PERSONAL MARIJUANA CULTIVATION

Sections:

- 23.83.010 Purpose and intent.**
- 23.83.020 Definitions.**
- 23.83.030 Cultivation of marijuana for personal use.**
- 23.83.040 Enforcement.**

### **23.83.010 Purpose and intent.**

It is the purpose and intent of this chapter to enact and enforce reasonable regulations to reasonably regulate the ability of an individual twenty-one (21) years of age or older to possess, plant, cultivate, harvest, dry, or process, for personal noncommercial use, not more than six (6) living marijuana plants indoors and to possess the marijuana produced by the plants, all in accordance with the Adult Use of Marijuana Act of 2016 and, specifically, Sections [11362.1](#) and [11362.2](#) of the Health and Safety Code. The cultivation of marijuana for personal noncommercial use may only take place in accordance with this chapter. Nothing herein is intended to alter or amend any other local, State, or Federal law or regulations concerning marijuana. [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]

### **23.83.020 Definitions.**

Consistent with the definitions set forth in the Adult Use of Marijuana Act of 2016, for the purposes of this chapter, the following words shall have the following meanings. If a word is not defined in this chapter, the common and ordinary meaning of the word shall apply.

- A. “Accessory structure” means a legally existing fully enclosed detached structure no larger than one hundred twenty (120 ft<sup>2</sup>) square feet in size that is fully enclosed with walls for all perimeters of the building, including, without limitation, a storage shed located on the same legal parcel as a private residence.
- B. “Commercial marijuana activity” means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, or sale of marijuana and marijuana products for commercial purposes, whether or not conducted with a license issued in accordance with Division 10 of the Business and Professions Code (Business and Professions Code Section [26000](#) et seq.).
- C. “Cultivate” or “cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
- D. “Distribution” means the commercial procurement, sale, and transport of marijuana and marijuana products whether or not conducted with a license issued in accordance with Division 10 of the Business and Professions Code (Business and Professions Code Section [26000](#) et seq.).
- E. “Indoor” means inside a private residence, residential structure, or accessory structure.
- F. “Legal parcel” means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Government Code Section [66410](#) et seq.).
- G. “Manufacture” means the commercial production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extractions and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or relabels its container.
- H. “Marijuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resins. Marijuana does not include:

1. Industrial hemp, as defined in Health and Safety Code Section [11018.5](#); or

2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

The terms “marijuana” and “cannabis” shall be synonymous and have the same meaning.

I. “Marijuana products” means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

J. “Outdoor” means any location within the City of Elk Grove that is not within a fully enclosed structure.

K. “Premises” means a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall constitute a single “premises” for purposes of this chapter.

L. “Private residence” means a legally existing house, apartment unit, mobile home, or other similar dwelling. A legally existing accessory structure located on the same legal parcel as a private residence shall be considered a part of that private residence.

M. “Residential structure” means any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking and sanitation on a premises or legal parcel located within a zoning district authorizing such use and which may be legally occupied by persons. [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]

### **23.83.030 Cultivation of marijuana for personal use.**

The following regulations shall apply to the cultivation of marijuana for personal use within the City:

A. It shall be unlawful and a public nuisance for any person under twenty-one (21) years of age to cultivate marijuana.

B. It shall be unlawful and a public nuisance for any person to cultivate marijuana for any commercial marijuana activity. Notwithstanding the foregoing, nothing herein is intended to prohibit the transportation of marijuana or marijuana products on public roads by a licensee duly licensed and acting in compliance with Division 10 of the Business and Professions Code (Business and Professions Code Section 26000 et seq.). Commercial delivery of marijuana in the City is prohibited.

C. It shall be unlawful and a public nuisance for any person twenty-one (21) years of age or older who owns, leases, occupies, or has charge or possession of any legal parcel or premises within any zoning district in the City of Elk Grove to cultivate marijuana for personal use except as provided for in this chapter.

D. Limitations on Cultivation. Not more than a total of six (6) living marijuana plants may be planted, cultivated, harvested, dried, or processed inside a single private residence and/or inside an accessory structure located on the grounds where the private residence is located, at any one time. The living marijuana plants and any marijuana produced by the plants in excess of twenty-eight and one-half (28.5) grams shall be kept within the private residence or accessory structure located upon the premises, in a locked space, and not visible by normal unaided vision from a public view.

E. Residency Requirement. Any person who cultivates marijuana for personal use shall reside full-time on the premises where the marijuana cultivation occurs.

F. Outdoor Cultivation Prohibited. It shall be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City of Elk Grove to cause, or allow such parcel or premises to be used for, the outdoor cultivation of marijuana or marijuana products.

G. Cultivation in Private Residences Only. Personal cultivation of marijuana is prohibited in all zoning districts except inside a private residence or inside an accessory structure located on the same legal parcel as a private residence,

as permitted under EGMC Section 23.27.020 and Use Table 23.27-1, and all subject to the regulations set forth in this chapter.

H. Indoor Personal Cultivation. The indoor personal cultivation of marijuana inside a private residence or inside an accessory structure located on the same legal parcel as a private residence, as permitted herein, shall only be conducted consistent with the following minimum standards:

1. Structures shall comply with all laws concerning building and construction of structures, including, without limitation, and as applicable, the Zoning Code, the California Building Code, Electrical Code, and Fire Code, as adopted by the City of Elk Grove.
2. Marijuana cultivation lighting shall not exceed a total of one thousand two hundred (1,200) watts for the cultivation area within the private residence.
3. The indoor use of generators and/or the indoor use of gas products, including, without limitation, CO<sub>2</sub>, butane, propane, and natural gas shall be prohibited for the cultivation of marijuana.
4. The private residence shall maintain fully functional kitchen, bathroom, and bedroom facilities for use by the residents and guests, and the private residence shall not be used primarily for marijuana cultivation.
5. Marijuana cultivation areas shall not be readily accessible to persons under twenty-one (21) years of age.
6. Any private residence or accessory structure used for marijuana cultivation shall contain a lock on the entry door, which shall remain locked at all times, except when the accessory structure is in use or occupied by a person twenty-one (21) years of age or older authorized to cultivate marijuana pursuant to this chapter.
7. Marijuana cultivation activities, including marijuana plants and equipment, shall not be visible from a public right-of-way.
8. No marijuana may be cultivated in a rented private residence without the express consent of the property owner.
9. Marijuana cultivation shall not be conducted in such a manner as to emit detrimental odorous emissions outside of the private residence in violation of EGMC Section 23.60.050. [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]

#### **23.83.040 Enforcement.**

A. Violations of this chapter shall constitute a public nuisance and may be enforced pursuant to the provisions of EGMC Title 1 and EGMC Chapter 16.18.

B. Consistent with the restrictions set forth in California Health and Safety Code Section 11362.2(a)(3), the City may seize and destroy any living marijuana plants found in excess of the six (6) plants allowed under EGMC Section 23.83.030(D). Any marijuana plants seized pursuant to this section shall be held by the City for not less than fifteen (15) days to allow the owner of the marijuana plants to pursue an administrative appeal pursuant to EGMC Chapter 1.11. If an appeal is not properly filed (including the payment of any applicable appeal fee) within this time period, the City may thereafter destroy the seized marijuana plants.

C. Upon discovery of a violation of this chapter, the City may require all marijuana plants and marijuana in excess of twenty-eight and one-half (28.5) grams to be removed from the premises upon twenty-four (24) hours' notice from the City, or immediately if the City determines such action is necessary to protect the health, welfare and/or safety of the public and/or occupants of the premises.

D. The remedies set forth in this chapter shall be cumulative and in addition to any and all other remedies, civil, equitable or criminal, afforded to the City under the law. Pursuit of one remedy under this chapter, or any other provision of law, shall not preclude pursuit of any other remedy provided herein or any other provision of law.



E. Any notice of violation of this chapter may be appealed pursuant to EGMC Chapter [1.11](#). [Ord. 10-2017 §3 (Exh. A), eff. 5-12-2017]

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