

**ORDINANCE NO. 1155**  
**AN ORDINANCE OF THE CITY OF FOLSOM**  
**ADDING CHAPTER 17.114 TO TITLE 17 OF THE FOLSOM MUNICIPAL CODE**  
**PERTAINING TO MARIJUANA CULTIVATION**

The City Council of the City of Folsom does hereby ordain as follows:

**SECTION 1 PURPOSE**

The purpose of this ordinance is to amend the Folsom Municipal Code to establish regulations pertaining to the cultivation of marijuana within the City in a manner that protects the health, safety and welfare of the community.

**SECTION 2**

Chapter 17.114 is hereby added to the Folsom Municipal Code to read as follows:

**Chapter 17.114 - MARIJUANA CULTIVATION**

**Sections:**

- 17.114.010 Purpose and intent.**
- 17.114.020 Definitions.**
- 17.114.030 Outdoor Cultivation.**
- 17.114.040 Cultivation of marijuana; regulations for residential zones.**
- 17.114.050 Indoor cultivation restricted to Authorized Growers; Permit.**
- 17.114.060 Public nuisance prohibited.**
- 17.114.070 Penalties not exclusive; violation a crime.**

**17.114.010 Purpose and intent.**

The City Council finds as follows:

A. Purpose. The purpose and intent of this section is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a patient's right to medical marijuana, as provided for in California Health & Safety Code Section 11362, nor does it criminalize medical marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law. This section is not intended to give any person independent legal authority to grow marijuana; it is intended simply to impose zoning restrictions on the cultivation of marijuana when it is authorized by California state law for medical or other purposes, and to restrict that cultivation to indoor portions of single-family residential structures.

B. Applicability. No part of this ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. §§ 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule or regulation. The cultivation of marijuana in the City is controlled by the provisions of this section of the Zoning Code.

The foregoing instrument is a correct copy of the original on file in this office.

ATTEST: Christa Saunders  
City Clerk of the City of Folsom, California

#### **17.114.020 Definitions.**

As used herein the following definitions shall apply:

A. "Authorized Grower" means a person who is authorized by, and in compliance with, federal or state law to grow marijuana for personal or medical use.

B. "Cultivation" means the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.

C. "Enforcement Official" means the Community Development Director, Chief of Police, or Code Enforcement Officer, or his or her designee respectively.

D. "Fully enclosed and secure structure" means a space within a Dwelling that complies with the California Building Code ("CBSC"), as adopted in the city of Folsom, or if exempt from the permit requirements of the CBSC, that has a complete 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 nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products does not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the city of Folsom.

E. "Indoor" means within a Fully Enclosed and Secure Structure as defined above in subsection D.

F. "Outdoor" means any location within the city of Folsom that is not Indoor. I. "Parcel" means property, premises, or land assigned a separate parcel number by the Sacramento County assessor.

#### **17.114.030 Outdoor cultivation.**

It is hereby declared to be unlawful, a public nuisance, and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the City to cause or allow such parcel, or any portion thereof, to be used for the outdoor cultivation of marijuana plants.

#### **17.114.040 Cultivation of marijuana; regulations for residential zones.**

When authorized by state law, an Authorized Grower shall be allowed to cultivate marijuana only inside a Dwelling in residential zones, and subject to the following regulations:

1. The marijuana cultivation area shall be internally located within a residential Dwelling and shall not exceed fifty square feet and 10 feet in height, nor shall it come within twelve (12) inches of the ceiling or any cultivation lighting.

2. Marijuana cultivation lighting shall not exceed 1200 watts total for the entire cultivation area within the Dwelling.

3. The use of gas products such as, but not limited to, CO<sub>2</sub>, butane, methane, or any other flammable or non-flammable gas for marijuana cultivation or processing is prohibited.

4. The growing operation in the Dwelling shall not be visible from outside the Dwelling, including the ability to see any marijuana plants, any equipment used in the growing operation, and any light emanating from cultivation lighting.

5. The Authorized Grower shall reside full-time in the Dwelling where the marijuana cultivation occurs.

6. The Authorized Grower shall not participate in marijuana cultivation in any other location within the City.

7. The residence shall include a fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident Authorized Grower, and the premises shall not be used primarily or exclusively for marijuana cultivation.

8. The marijuana cultivation area shall comply with the current adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or equivalent).

9. The Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

10. The marijuana cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.

**17.114.050 Indoor cultivation of marijuana restricted to Authorized Growers; Permit.**

A. It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to cause or allow such parcel to be used for the cultivation of marijuana, unless the person is authorized by state law to grow marijuana, and such Authorized Grower is complying with all requirements of this Chapter.

B. No person shall grow marijuana upon any parcel until and unless they first secure a permit from the Building Department and pay such fee as may be required and set forth by resolution of the City Council.

**17.114.060 Public nuisance prohibited.**

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the City to create a public nuisance in the course of cultivating marijuana plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if:

A. Odors are present which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public.

B. Repeated responses to the parcel by law enforcement personnel are required.

C. A repeated disruption to the free passage of persons or vehicles in the neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public occurs.

D. Any other impacts on the neighborhood which are disruptive of normal activity in the area occur, including, but not limited to, grow lighting visible outside the Dwelling, excessive vehicular traffic or parking occurring at or near the Dwelling, and excessive noise emanating from the Dwelling.

E. Marijuana is being grown outdoors.

**17.114.070 Penalties not exclusive; violation constitutes a crime.**

The remedies and penalties provided herein are cumulative, alternative and nonexclusive. The use of one does not prevent the use of any other criminal, civil, or administrative remedy or penalty authorized by, or set forth in, the Folsom Municipal Code. None of the penalties or

remedies authorized by, or set forth in, the Folsom Municipal Code shall prevent the city from using any other penalty or remedy under state statute which may be available to enforce this section or to abate a public nuisance. Violation of this Chapter shall constitute a crime punishable as a misdemeanor or infraction in the discretion of the City Attorney.

### **SECTION 3**

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

### **SECTION 4 SEVERABILITY**

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

### **SECTION 5 EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on December 13, 2011 and the second reading occurred at the regular meeting of the City Council on January 10, 2012.

On a motion by Council Member Starsky seconded by Council Member Morin, the foregoing was passed and adopted by the City Council of the City of Folsom, at a regular meeting thereof, this 10<sup>th</sup> day of January 2012, by the following vote to wit:

<b>AYES:</b>	Council Member(s):	Starsky, Morin, Sheldon, Howell
<b>NOES:</b>	Council Member(s):	None
<b>ABSENT:</b>	Council Member(s):	Miklos
<b>ABSTAIN:</b>	Council Member(s):	None

  
Kerri M. Howell, MAYOR

ATTEST:

  
Christa Saunders, CITY CLERK

Effective: February 9, 2012