

ORDINANCE NO. 22-14 N.S.

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND AMENDING
PORTIONS OF CHAPTER 7.102 OF THE RICHMOND MUNICIPAL CODE
RELATING TO MEDICAL MARIJUANA COLLECTIVES**

The City Council of the City of Richmond does ordain as follows:

SECTION 1: Chapter 7.102 of the Richmond Municipal Code is amended to read in its entirety as follows:

Sections:

7.102.010 Purpose and intent.

7.102.020 Definitions.

7.102.030 Permit required; Mandatory permit fee; Failure to commence operations

7.102.040 Location and number.

7.102.050 Permit application process.

7.102.060 Permit approval and operating conditions.

7.102.070 Permit non-transferable.

7.102.075 Modification of permit conditions.

7.102.080 Maintenance of records.

7.102.090 Inspection authority.

7.102.100 Existing medical marijuana operations.

7.102.110 Prohibited activity.

7.102.120 Violation and enforcement.

7.102.130 Appeals

7.102.010 Purpose and intent.

It is the purpose and intent of this chapter to regulate the collective cultivation of medical marijuana in order to ensure the health, safety and welfare of the residents of the City of Richmond. The regulations in this chapter, in compliance with the State Compassionate Use Act and the State Medical Marijuana Program Act ("State Law"), do not interfere with a patient's right to use medical marijuana as authorized under State Law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under State Law. Under State Law, only qualified patients, persons with identification cards, and primary caregivers may legally cultivate medical marijuana collectively. Medical marijuana collectives shall comply with all provisions of the Richmond Municipal Code ("RMC"), State Law, and all other applicable local and state laws. Nothing in this section purports to permit activities that are otherwise illegal under federal, state, or local law.

7.102.020 Definitions.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases as used in this chapter:

- a. "Attending physician" shall have the same definition as given such term in California Health and Safety Code Section 11362.7, as may be amended, and which defines "attending physician" as an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.
- b. "Chief of Police" means the City of Richmond Chief of Police, or her/his designee.
- c. "Concentrated cannabis" shall have the same definition as given such term in California Health and Safety Code Section 11006.5, as may be amended, and which defines "concentrated cannabis" as the separated resin, whether crude or purified, obtained from marijuana.
- d. "Edible medical marijuana" as used in this chapter means any article used for food, drink, confectionery, condiment or chewing gum by human beings whether such article is simple, mixed or compound, which contains physician recommended quantities of medical marijuana, and is produced on-site at a collective permitted pursuant to this chapter within the City of Richmond.
- e. "Identification card" shall have the same definition as given such term in California Health and Safety Code Section 11362.7, as may be amended, and which defines "identification card" as a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana, and identifies the person's designated primary caregiver, if any.
- f. "Management member" means a medical marijuana collective member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a collective, including but not limited to members who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the collective.
- g. "Marijuana" shall have the same definition as given such term in California Health and Safety Code Section 11018, as may be amended, and which defines "marijuana" as 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 resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

- h. "Medical marijuana" means marijuana used for medical purposes in accordance with California Health and Safety Code Sections 11362.5, et seq.
- i. "Medical marijuana collective" ("collective") means an incorporated or unincorporated association, composed of four (4) or more qualified patients and their designated primary caregivers who associate at a particular location or property to collectively or cooperatively cultivate marijuana for medical purposes and distribute said medical marijuana to collective members and management members, in accordance with California Health and Safety Code Sections 11362.5, et seq. For purposes of this chapter, the term medical marijuana "cooperative" shall have the same meaning as medical marijuana collective.
- j. "Medical marijuana collective permit" as used in this chapter means the conditional permit issued by the Chief of Police following a public hearing to allow a medical marijuana collective operation. The permit is deemed "issued" after the approval by the appropriate City Council/Subcommittee and Chief of Police and after expiration of the appeals period regarding the written decision stating whether the applicant is eligible to receive a permit. For purposes of this chapter, "granted" and "issued" have the same meaning.
- k. "Primary caregiver" shall have the same definition as given such term in California Health and Safety Code Sections 11362.5 and 11362.7 (as set forth in Appendix A of this chapter), as may be amended, and which define "primary caregiver" as an individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that qualified patient.
- l. "Property" as used in this chapter means the location at which the medical marijuana collective members and management members associate to collectively or cooperatively cultivate and distribute medical marijuana exclusively for the collective members and management members.
- m. "Qualified patient" means a person who is entitled to the protections of Health and Safety Code Section 11362.5 for patients who obtain and use marijuana for medical purposes upon the recommendation of an attending physician, whether or not that person applied for and received a valid identification card issued pursuant to State Law.
- n. "Reasonable compensation" means compensation commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked. The payment of a bonus shall not be considered "reasonable compensation."
- o. "State Law" means the state regulations set forth in the Compassionate Use Act and the Medical Marijuana Program Act, codified in California Health and Safety Code Sections 11362.5, et seq. and as it may be amended from time to time.

7.102.030 Permit required; Mandatory permit fee; Failure to commence operations

A. No medical marijuana collective, management member or member shall carry on, maintain or conduct any medical marijuana collective related operations, including cultivation of

marijuana or preparing, giving away or distributing edible marijuana products, in the City without first obtaining a medical marijuana collective permit from the Chief of Police.

B. Mandatory Payment of Fees to Maintain Permit.

Once a collective has been granted/issued a collective permit under this Chapter, it shall remit to the City the annual permit fee that has been set by the Master Fee Schedule, and as amended by resolution. The collective permit fee shall be made in quarterly installments and is due and payable no later than 10-days from the due date. In order to maintain a permit issued under this Chapter, the collective must timely pay every quarterly payment. Failure to remit the quarterly permit fees shall result in Revocation of the permit. The City shall send written notice to the permittee of the revocation for failure to pay the mandatory permit fees. Any appeal of such notice shall be made pursuant to subsection 7.102.130B. No appeal of the revocation for non-payment of permit fees shall be granted unless until the appellant remits the full amount of the delinquent permit fees, including any late penalties or interest imposed by ordinance.

C. Permit Expiration.

If a medical marijuana collective has not opened at the approved location and begun operations within six (6) months of being issued/granted a permit under this Chapter, the permit shall be deemed expired and void. The City shall provide written notice to the collective that the permit has expired and is void. A collective may appeal the permit expiration as set forth in the appeal section of this Chapter. Upon a factual showing of good cause by the the collective for its failure to commence operations within the required time, the hearing body may grant a one-time only 60-day maximum extension based upon its factual finding of good cause for the extension. That determination shall be final.

“Good cause” includes, but is not limited to, termination of the collective’s lease by the property owner; a change in federal, state or local law that now prohibits use of the previously approved location as a medical marijuana collective; foreclosure or sale of the approved location resulting in the collective’s inability to enter into a new lease; damage to or deterioration to the building that prevents the safe use and/or occupation of the structure until all required repairs are made in conformity with a Notice and Order to Repair issued to the property owner by the City’s Building Official pursuant to the California Code of Regulations and the Uniform Code for Abatement of Dangerous Buildings. However, if the collective was responsible for the condition, including any non-permitted construction or alteration of the structure, or non-permitted electrical, mechanical or plumbing, “good cause” shall not be found.

7.102.040 Location and number.

- A. All medical marijuana collectives shall be located in the Regional Commercial (C-3) Zoning District unless, following a public hearing, the City Council makes the following findings to authorize a collective to locate in the General Commercial (C-2) Zoning District:
 - 1. The collective has demonstrated that it considered locations within the Regional Commercial (C-3) Zoning District and found no location meeting the requirements of this chapter that serves the needs of its members.

2. The proposed location within the General Commercial (C-2) Zoning District would complement the surrounding community while providing necessary services to its members.
 3. The proposed location is not abutting a residential use.
- B. All medical marijuana collectives shall be a minimum of one thousand five hundred feet (1,500') from any public or private high school and a minimum of six hundred feet (600') from any, kindergarten, elementary, middle or junior high school, pursuant to State law. All collectives shall be a minimum of five-hundred feet (500') from any park, community center, youth center, public or private child-care center or nursery school, unless, following a public hearing, the City Council makes all of the following findings based on specific facts, stated in writing:
1. The location, design and proposed operating characteristics of the collective are such that it is highly improbable persons on, in or travelling to or from nearby - parks, community centers, youth centers, or child-care centers would be able to view persons in, entering, or leaving the collective.
 2. Allowing the collective to locate within one thousand five hundred feet (1,500') of a public or private high school or within five hundred feet (500') of a park, community center, youth center, public or private child-care center or nursery school, will not grant the collective a special privilege not available to other medical marijuana collectives within the City of Richmond.
 3. The collective has demonstrated that it considered other locations and selected the location that would have the minimum negative impact on the surrounding community while providing necessary services to its members.
- C. No more than three (3) medical marijuana collectives shall be located within any square mile within the City limits.
- D. The City Council shall permit no more than six (6) medical marijuana collectives to operate in the City of Richmond. When there are fewer than six (6) permitted collectives operating within the City, the Chief of Police shall publish an Invitation for Applications on the City's website, stating the period during which applications will be accepted.

7.102.050 Permit application process.

Any medical marijuana collective desiring a permit required by this chapter shall complete and file an application on a form supplied by the Chief of Police, and shall submit with the completed application payment of a nonrefundable processing and notification fee, as established by the City Council by resolution. The medical marijuana collective permit application is established to provide a review process for each proposed medical marijuana collective operation within the City.

- A. Filing. The medical marijuana collective shall provide the following information:
1. The address of the property where the proposed medical marijuana collective will operate.

2. A site plan describing the property with fully dimensioned interior and exterior floor plans including electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the State of California Code of Regulations and the federally mandated Americans with Disabilities Act. The site plan shall demonstrate that there are separate rooms or partitioned areas within the collective for the receipt of supplies and for the distribution of medical marijuana to qualified patients and/or primary caregivers.
3. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the proposed property.
4. Photographs depicting the entire interior of the proposed property.
5. A security plan including procedures for verifying identification of qualified patients and primary caregivers both before entering the collective and again before receiving medical marijuana; the number, location and hours of security guards; and a theft prevention plan.
6. If the property is being rented or leased or is being purchased under contract, a copy of such lease or contract. If the property is not being rented or leased, written proof that the property owner has been notified that the property will be used as a medical marijuana collective.
7. If the property is being rented or leased, written proof that the property owner, and landlord if applicable, were given notice that the property will be used as a medical marijuana collective, and that the property owner, and landlord if applicable, agree(s) to said operations. If the collective is to be a subtenant, then "landlord" shall mean the primary tenant.
8. The name, address, telephone number, title and function(s) of each management member.
9. For each management member, a fully legible copy of one (1) valid government-issued form of photo identification, such as a driver's license.
10. For each management member, a summary criminal history ("LiveScan") prepared by the Richmond Police Department not more than two weeks prior to the date of application and demonstrating that there are no pending charges nor convictions for crimes of moral turpitude (such as theft, fraud, or assault) within the previous ten years, and that the subject is not currently on parole or probation for the sale or distribution of a controlled substance.
11. Written confirmation as to whether the medical marijuana collective, or a collective with one or more management members in common with the applicant, previously operated in this or any other county, city or state under a similar license/permit, and whether the collective applicant ever had such a license/permit revoked or suspended and the reason(s) therefore.
12. Either (a) if the collective is incorporated, a certified copy of the collective's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information and a copy of the collective's bylaws demonstrating that the collective is organized as a non-profit entity; or (b) if the collective is

unincorporated, a copy of the collective's notarized creating document demonstrating that the collective is organized as a non-profit entity. A creating document may include articles of association, bylaws, constitution, or other documents that set forth how the collective will operate.

13. A seller's permit from the California Board of Equalization.
 14. The name and address of the applicant's current Agent for Service of Process.
 15. A copy of the medical marijuana collective operating conditions, containing a statement dated and signed by each management member, under penalty of perjury, that they read, understand and shall ensure compliance with all operating conditions.
 16. A copy of the Prohibited Activity Checklist, available from the Richmond Police Department, containing a statement dated and signed by each management member, under penalty of perjury, that they read, understand and shall ensure that neither the collective nor its members and management members shall engage in the aforementioned prohibited activity.
 17. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the supervision of the management member(s).
 18. A statement of whether Edible Medical Marijuana will be prepared at the proposed property and, if so, a certificate from the Contra Costa County Department of Health Services demonstrating compliance with the Food Services Facilities Inspection Program.
 19. Evidence of a computerized or telephonic system for communicating with all other permitted collectives within the City of Richmond in order to ensure that a qualified patient, directly or through his or her primary caregiver(s), does not purchase, obtain, or otherwise receive a total of more than one ounce of medical marijuana per day.
 20. Whether it is anticipated that cultivation may occur onsite and if so, documentation and evidence showing such cultivation operation will be in full conformity and compliance with this Chapter, the Richmond Municipal Code, and State law.
- B. After the closing of the application period, the Chief of Police will evaluate all applications for completeness. The Chief of Police shall ensure that applications are complete as follows:
1. Within twenty (20) business days of the close of the application period, except where circumstances beyond the control of the City justifiably delay such response, the Chief of Police shall determine whether the applications are complete. If it is determined an application is incomplete, the applicant shall be notified in writing that the application is not complete and the reasons therefore, including any additional information necessary to render the application complete.

2. The applicant shall have thirty (30) calendar days from the date of a notice of incomplete application to complete the application. Failure to do so within the thirty (30) day period shall render the application null and void. The determination that an application is null and void is not an appealable decision.
 3. Within ten (10) business days following the receipt of an amended application or supplemental information, except where circumstances beyond the control of the City justifiably delay such response, the Chief of Police shall again determine whether the application is complete and shall inform the applicant whether additional materials are required to complete the application. Evaluation and notification shall occur as provided above up to three times until such time as the application is found to be complete or in the alternative null and void. If, after three opportunities to complete an application, the applicant fails to provide all necessary information, the application shall be null and void. The determination that an application is null and void is not an appealable decision.
 4. All notices required by this chapter shall be deemed issued upon the date they are either deposited in the United States Postal Service mail or the date upon which personal service of such notice is provided.
- C. All complete applications will be circulated to the Planning and Building Services, Fire and Code Enforcement Departments with a rating matrix and directions for evaluating and scoring applications based on criteria to be adopted by separate Resolution of the Council.
 - D. Except where circumstances justify delay, not later than sixty (60) days from the date the completed permit applications are circulated for staff review, all complete applications will be considered at a noticed public hearing or series of noticed public hearings conducted by the Chief of Police. Prior to publication of notice of the public hearing(s), the City Council may choose to have the hearing(s) conducted by the Council or a subcommittee thereof. If the Council does not choose to have the hearing(s) conducted by the Council or a subcommittee thereof, then the Chief of Police shall cause the public hearing(s) to be conducted before a rating body consisting of the Chief of Police and representatives of the Planning and Building Services Fire and Code Enforcement Departments. In reviewing and scoring permit applications, the rating body, City Council, or subcommittee thereof shall consider those criteria to be adopted by separate Resolution of the Council.
 - E. The Chief of Police shall cause the applicants and the owners of property located within seven-hundred-and-fifty-feet (750') of every proposed collective location to be sent notice of the date, time, and place of the hearing(s) at least ten (10) business days in advance of the opening of such hearing(s).
 - F. The Chief of Police or City Council/Subcommittee shall open the public hearing(s) at the date, time, and place specified in the notice, but may continue the hearing(s), and may change the place of any or all hearing(s), as necessary to accommodate all interested parties.
 - G. The Chief of Police or City Council/Subcommittee shall issue a written report of the decision on all permit applications not later than fifteen (15) business days after the

hearing or series of hearings is closed. The report shall be in writing and shall include findings of fact, a summary of the relevant evidence, a statement of the issues, and a decision regarding whether each applicant is eligible to receive a permit. The report will also include any conditions to be imposed on a permit in addition to the conditions established in Section 7.102.060 and the facts supporting imposition of those conditions. A copy of the report shall be mailed or delivered to every applicant, and to any person who has requested notice of the decision and has paid the required fees for copying and mailing.

7.102.060 Permit approval and operating conditions.

Any permit issued pursuant to this chapter shall include, and each permittee shall continually comply with, all of the following conditions of operation, provided that additional conditions may be imposed as necessary to preserve the public health, safety, and welfare.

- A. The property satisfies all locational and zoning criteria.
- B. Exterior building and parking area lighting at the property are in compliance with all applicable provisions of this Code, as determined by the Planning Division.
- C. Windows and roof hatches at the property shall be secured so as to prevent unauthorized entry; equipped with latches that may be released quickly from the inside to allow exit in the event of emergency; and comply with all applicable Building and Fire Code provisions.
- D. The property provides a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the property is not detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the medical marijuana collective.
- E. The property is monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the property. The recordings shall be maintained at the property for a period of not less than thirty (30) days.
- F. The property has a centrally-monitored fire and burglar alarm system.
- G. A sign is posted in a conspicuous location inside the property advising:
 1. The diversion of marijuana for non-medical purposes is a violation of State law.
 2. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.
 3. Loitering at the location of a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(h).
 4. This medical marijuana collective is permitted in accordance with the laws of the City of Richmond.
- H. Each collective distributing edible medical marijuana or other manufactured infused products for the sole consumption by qualified patient members and qualified patient

management members of the collective shall ensure that the products are manufactured, packaged and labeled in compliance with all applicable state and local laws.

- I. The medical marijuana collective meets all applicable state and local laws to ensure that the operations of the collective are consistent with the protection of the health, safety and welfare of the community, qualified patients and their primary caregivers, and will not adversely affect surrounding uses.
- J. No collective shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by management members and members towards the collective's actual expenses of the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with state law. All such cash and in-kind amounts and items shall be fully documented. The site of cultivation for all in-kind contributions shall be noted and addresses shall be made available to Fire and Building Inspectors upon request.
- K. Prior to distributing any crop, batch or bundle of medical marijuana that it cultivates or acquires for distribution or any edible medical marijuana or other manufactured infused products, a collective shall submit samples of that crop, batch or bundle to an independent laboratory to be tested using standard analytical methodology for the presence of mold, pesticides, and other additives or adulterants that could be harmful if ingested or applied topically. The medical marijuana or manufactured infused product shall not be distributed or consumed before laboratory results demonstrate that it is safe for consumption.
- L. Prior to hiring any prospective employee or management member, the Richmond Police Department shall prepare a summary criminal history ("LiveScan") demonstrating that there are no pending charges nor convictions for crimes of moral turpitude (such as theft, fraud, or assault) within the previous ten years, and that the subject is not currently on parole or probation for the sale or distribution of a controlled substance.

7.102.070 Permit non-transferable.

A medical marijuana collective permit issued pursuant to this chapter shall become null and void upon the cessation of the collective and/or the unauthorized relocation of the collective to a different property.

- A. The following shall be deemed an unauthorized change in location if undertaken without approval of a permit modification in accordance with Section 7.102.075
 - 1. Any relocation or expansion that includes a separate piece of property or parcel of land from the initially permitted property.
 - 2. Any expansion of the initially permitted property which represents a greater than fifty percent (50%) increase in the square footage of occupancy or in the square footage that is open to the public.
- B. The lawful conduct of activity regulated by this chapter by a permittee shall be limited to those activities expressly indicated on the medical marijuana collective permit and in the application materials.

- C. The holder of a medical marijuana collective permit shall not allow others to use or rent the permitted property. An exception shall be made for persons who are not collective members or management members and who possess a valid City issued business license which authorizes the "place to place" sale of materials (other than seed stock) for the collective cultivation of medical marijuana by members and/or management members of the collective.

7.102.075 Modification of permit conditions.

- A. A medical marijuana collective may request a modification of permit condition(s) by submitting a written request to the Chief of Police stating the condition(s) to be modified and the reason(s) for the request. A request must be accompanied by the fee for an appeal as set forth in the City Council resolution establishing fees for medical marijuana collective permits. The request should be accompanied by all supporting documents.
- B. Upon receipt of a request to modify permit condition(s) and payment of the required fee, the Chief of Police, or his or her designee, shall schedule a public hearing before the Public Safety/Public Services Committee at its next regularly scheduled meeting unless the request is to relocate to the General Commercial (C-2) Zoning District. If the request is to relocate to the General Commercial (C-2) Zoning District, the public hearing shall be scheduled before the City Council at a regular meeting within forty-five (45) days after receipt of the request and payment of the required fee.
- C. Notice of the hearing shall be published and mailed in accordance with Section 7.102.050.D.
- D. A decision of the Public Safety/Public Services Committee to grant or deny a permit modification shall be appealable to the City Council by filing a written appeal with the Chief of Police and paying the appeal fee within fourteen (14) days of the Committee's decision. The appeal procedure shall be in accordance with Section 7.102.055, except that the appellate body shall be the City Council.
- E. A decision of the City Council to grant or deny a request to relocate in the General Commercial (C-2) Zoning District shall be final.

7.102.080 Maintenance of records.

- A. A medical marijuana collective shall maintain the following accurate and truthful records on the property:
 - 1. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the property.
 - 2. The full name, address, and telephone number(s) of each collective member engaged in the management of the collective and the exact nature of the participation in the management of the collective.
 - 3. The full name, address, and telephone number(s) of each collective member and management member who participates in the collective cultivation of medical marijuana.

4. The current address of all sites at which marijuana is cultivated on behalf of the collective.
 5. The full name, date of birth, residential address, and telephone number(s) of each collective member and management member; the date each member and management member joined the collective; the exact nature of each member's and management member's participation in the collective; and the status of each member and management member as a qualified patient or primary caregiver.
 6. A written accounting of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the collective management members and members to the collective, and all expenditures and costs incurred by the collective.
 7. An inventory record documenting the dates and amounts of medical marijuana cultivated at the property, and the daily amounts of marijuana stored on the property.
 8. Proof of a valid medical marijuana collective permit issued by the Chief of Police in conformance with this chapter.
 9. Copies of the prohibited activity checklist, available from the Richmond Police Department, containing a statement dated and signed by each collective member and management member, under penalty of perjury, that they read, understand and shall not engage in the aforementioned prohibited activity.
 10. Evidence of: (a) verification that all edible medical marijuana and other manufactured infused products are manufactured, packaged, and labeled in compliance with all applicable state and local laws; and (b) laboratory testing as required by Section 7.102.060
- B. These records shall be maintained by the medical marijuana collective for a period of five (5) years and shall be made available by the collective to the City upon request, subject to the authority set forth in Section 7.102.090

7.102.090 Inspection authority.

City representatives may enter and inspect the property of every medical marijuana collective between the hours of ten o'clock (10:00) a.m. and eight o'clock (8:00) p.m., or at any reasonable time to ensure compliance and enforcement of the provisions of this chapter, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any property owner, landlord, lessee, medical marijuana collective member or management member or any other person having any responsibility over the operation of the medical marijuana collective to refuse to allow, impede, obstruct or interfere with an inspection.

7.102.100 Existing medical marijuana operations.

Any existing medical marijuana collective, dispensary, operator, establishment, or provider that does not comply with the requirements of this chapter must immediately cease operation until such time, if any, when it complies fully with the requirements of this chapter. No medical marijuana collective, dispensary, operator, establishment, or provider that existed prior to the

enactment of this chapter shall be deemed to be a legally established use or a legal non-conforming use under the provisions of this chapter or the Code. Any medical marijuana collective, dispensary, operator, establishment or provider that operates without a permit after December 31, 2010 shall be ineligible to apply for a permit.

7.102.110 Prohibited activity.

- A. It is unlawful for any person to cause, permit or engage in the cultivation, possession, distribution, exchange or giving away of marijuana or products containing marijuana in any form, for medical or non-medical purposes except as provided in this chapter, and pursuant to any and all other applicable local and state law.
- B. It is unlawful for any person to cause, permit or engage in any activity related to medical marijuana except as provided in this chapter and in Health and Safety Code Sections 11362.5 et seq., and pursuant to any and all other applicable local and state law.
- C. It is unlawful for any person knowingly to make any false, misleading or inaccurate statement or representation in any form, record, filing or documentation required to be maintained, filed or provided to the City under this chapter.
- D. No medical marijuana collective, management member or member shall cause or permit the sale, distribution or exchange of medical marijuana cultivated at the property or of any edible medical marijuana product manufactured, processed, prepared, or packaged at the property to any person who is not a member or a management member of the permitted collective.
- E. No medical marijuana collective, management member or member shall allow or permit the commercial sale of any product, good or service, including but not limited to drug paraphernalia identified in Health and Safety Code Section 11364, on or at the medical marijuana collective, in the parking area of the property. An exception shall be made for persons who are not collective members or management members and who possess a valid City issued business license which authorizes the "place to place" sale of materials (other than seed stock) the collective cultivation of medical marijuana by management members and members of the collective.
- F. No cultivation of medical marijuana at the property shall be visible with the naked eye from any public or other private property, nor shall cultivated medical marijuana or dried medical marijuana be visible from the building exterior. No cultivation shall occur at the collective's location unless the area devoted to the cultivation is secured from public access by means of a locked gate, and any other security measures necessary to prevent unauthorized entry, and has been inspected and approved by the City of Richmond Fire and Building Departments.
- G. No manufacture of concentrated cannabis in violation of California Health and Safety Code Section 11379.6 is allowed.
- H. No medical marijuana collective shall be open to or provide medical marijuana, in any form, to its members or management members between the hours of eight o'clock (8:00) p.m. and ten o'clock (10:00) a.m.

- I. No person under the age of eighteen (18) shall be allowed at the property, unless that minor is a qualified patient and is accompanied by his or her licensed attending physician, parent(s) or documented legal guardian.
- J. No medical marijuana collective shall possess marijuana that was not cultivated by its management members or members either at the collective's approved dispensary location or at a location outside the City of Richmond territorial limits. Any cultivation site within the City must be fully documented, inspected by the City. No cultivation or processing operation within the City of Richmond shall be permitted unless the operation is in possession of a City business license and a medical marijuana collective permit issued in accordance with this chapter and in compliance with chapter 7.04, and all permit and inspection requirements of the California Code of Regulations.
- K. No medical marijuana collective, management member or member shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the property or in the parking area of the property.
- L. No dried medical marijuana or marijuana containing products shall be stored at the property in structures that are not completely enclosed, in an unlocked vault or safe, in any other unsecured storage structure, or in a safe or vault that is not bolted to the floor of the property.
- M. Medical marijuana may not be inhaled, smoked, eaten, ingested, or otherwise consumed on the property, in the parking areas of the property, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79, which include:
 - a. Any place where smoking is prohibited by law;
 - b. Within one thousand feet (1,000') of the grounds of a school, recreation center, or youth center;
 - c. While on a school bus;
 - d. While in a motor vehicle that is being operated; or
 - e. While operating a boat.
- N. No person who is currently charged with or has been convicted within the previous ten (10) years of a crime of moral turpitude (such as theft, fraud, or assault), or who is currently on parole or probation for the sale or distribution of a controlled substance, shall be engaged directly or indirectly in the management of the medical marijuana collective nor, further, shall manage or handle the receipts and expenses of the collective.
- O. No medical marijuana cultivation operation shall operate within the City, except at the collective's approved location, with a valid medical marijuana collective permit, and in connection with a single permitted collective operation. This includes operators of any cultivation operation that does not qualify as "primary caregiver" under State law or that is not directly operated by members of a properly permitted collective.

7.102.120 Violation and enforcement.

- A. Any person, including any corporation or other legal entity violating any provision of this chapter or knowingly or intentionally misrepresenting any material fact in procuring the permit herein provided for, shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.
- B. Any person who engages in any medical marijuana collective operations without first obtaining a valid medical marijuana collective permit, or after a medical marijuana collective permit application has been denied, surrendered, relinquished, declared null and void, or has been suspended or revoked, and before a new permit is issued, shall be subject to civil prosecution and fines of up to one thousand dollars (\$1,000) per day for each day of unpermitted operation.
- C. As a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state law for any violations committed by the medical marijuana collective, its management members, members or any person related or associated with the collective.
- D. Any violation of the terms and conditions of the medical marijuana collective permit, of this chapter, including failure to remit the quarterly annual permit fee required to maintain the permit and/or failure to remit the quarterly gross receipt taxes, or of applicable local or state regulations and laws shall be grounds for permit suspension or revocation.

7.102.130 Appeals.

1. Appeals from decisions to grant or deny a permit
 - A. If the decision on one or more permit applications is made by the City Council or a subcommittee thereof, the decision is final.
 - B. If the decision on one or more permit applications is made by a rating body empanelled by the Chief of Police, it may be appealed to the Public Safety/Public Services Committee within fourteen (14) days from the date the written notice of permit decision was mailed or delivered by personal service. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it is based and shall be submitted to the Chief of Police along with an appeal fee in an amount determined by the City Council by resolution.
 - C. The Public Safety/Public Services Committee shall conduct a hearing on all appeals at its next regularly scheduled meeting after the close of the appeal period, except where good cause exists to extend this period. **Notice of the date, time and place of the hearing shall be given to the appellant at least ten (10) business days in advance of the hearing** The hearing and rules of evidence shall be conducted pursuant to Chapter 2.62.105 of this Code. The determination of the Public Safety/Public Services Committee on the appeal(s) shall be final.

D. No permits shall be issued prior to the expiration of the appeals period without the filing of an appeal or, in the event of one or more appeals, the final decision of the Public Safety/Services Committee on all appeals.

2, Appeals from Revocation or Suspension

A. If a City department determines that the permittee failed to comply with any provision of this chapter, or with any other provision or requirement of law, the Chief of Police shall revoke or suspend the medical marijuana collective permit. The City may also pursue any and all remedies and actions available and applicable under local and state law for any violations committed by the medical marijuana collective, its management members, members or any person related or associated with the collective.

B. The Chief of Police shall notify the permittee of the permit revocation or suspension by dated written notice. Said notice shall advise the permittee of the right to appeal the decision to the Public Safety/Public Services Committee within fourteen (14) days from the date of the notice. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it is based and shall be submitted to the Chief of Police, along with the appeal fee deposit in the same amount as that determined by the City Council by resolution for appeals from decisions to grant or deny a permit.

C. The appeal shall be considered by the Public Safety/Public Services Committee as set forth above in subsection 1 The decision of the Public Safety/Public Services Committee shall be final.

D. Whenever a medical marijuana collective permit has been revoked or suspended, no permit application by any of the managing members of that collective shall be considered for a period of three (3) years from either the date notice of the revocation or suspension was mailed, or the date of the final decision of the Public Safety/Public Services Committee, whichever is later.

3. Any appeal that would require making a policy decision or determination to grant or deny shall be forwarded directly to the City Council as a whole to hear the appeal. The City Attorney, in conjunction with the City Manager, shall make the determination if the granting or denying of an appeal requires a policy decision or determination and as such must be made by a majority of the Council. Such determination is not appealable and the appeal shall be sent to the Council upon such determination.

SECTION 2. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, the remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, paragraph, sentence, clause or phrase.

SECTION 3. Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinance or the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 4. CEQA

Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), the City Council finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b) (3).

This Ordinance becomes effective 30 days after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond held on November 18, 2014, and finally passed and adopted at a regular meeting thereof held on December 2, 2014, by the following vote:

AYES:	Councilmembers Bates, Butt, Boozé, Myrick, Rogers, Vice Mayor Beckles, and Mayor McLaughlin.
NOES:	None.
ABSTENTIONS:	None.
ABSENT:	None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa } : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Ordinance No. 22-14 N.S.**, finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 2, 2014.