

**ORDINANCE NO. 28-10 N.S.**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND ADDING  
CHAPTER 7.102 (MEDICAL MARIJUANA COLLECTIVES) TO THE RICHMOND  
MUNICIPAL CODE**

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**THE CITY COUNCIL OF THE CITY OF RICHMOND** does ordain as follows:

**SECTION 1.** Richmond Municipal Code Chapter 7.102 is hereby added to read as follows:

**Chapter 7.102 Medical Marijuana Collectives**

- 7.102.010     Purpose and Intent
- 7.102.020     Definitions
- 7.102.030.    Permit required.
- 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.
- 7.102.080     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     Appeal process.

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” as used in this Chapter is defined to mean 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 is defined to mean 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 is defined to mean the conditional permit issued by the Chief of Police following a public hearing to allow a Medical Marijuana Collective operation.

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.*

7.102.030 Permit required. No Medical Marijuana Collective, Management Member or member shall carry on, maintain or conduct any Medical Marijuana Collective related operations in the City without first obtaining a Medical Marijuana Collective Permit from the Chief of Police.

7.102.040 Location and number.

A. All Medical Marijuana Collections shall be located in the Regional Commercial (C-3) Zoning District. Furthermore, all Medical Marijuana Collectives shall be minimum of one thousand five hundred feet (1,500’) from any public or private high school and a minimum of five hundred feet (500’) from any park, community center, youth center, public or private child-care center, nursery school, kindergarten, elementary, middle or junior high school, unless, following a public hearing, the Chief of Police makes all of the following findings based on specific facts, stated in writing:

i. 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 schools, parks, community centers, youth centers, or child-care centers would be able to view persons in, entering, or leaving the Collective.

ii. 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, nursery school, kindergarten, elementary, middle or junior high school will not grant the Collective a special privilege not available to other Medical Marijuana Collectives within the City of Richmond.

iii. 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.

B. The Chief of Police shall permit no more than three (3) Medical Marijuana Collectives to operate in the City of Richmond. When there are fewer than three (3) 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. After the closing of the application period, the Chief of Police will evaluate all applications for completeness. All complete applications will be circulated to City Departments in accordance with Section 7.102.050.C, below, with a rating matrix and directions for evaluating and scoring applications based on criteria to be adopted by separate Resolution of the Council. Rating matrices will be tallied and each application will be assigned a numeric score.

i. All complete applications will be considered at a public hearing or series of public hearings. Following the close of the public hearing(s), the Chief of Police shall issue a written determination stating which, if any, of the applicants shall be granted permits and the conditions attached thereto, and the reasoning for the determination.

ii. At the discretion of the City Council, the public hearing or series of public hearings may be conducted before the Council or a subcommittee thereof.

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 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. 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.

13. A Determination Letter from the Franchise Tax Board indicating that the Collective is exempt from income taxes.

14. A Seller's Permit from the California Board of Equalization.

15. The name and address of the applicant's current Agent for Service of Process.

16. 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 the aforementioned operating conditions.

17. 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.

18. 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).

19. 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.

20. 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.

B. The Chief of Police shall ensure that the application is complete as follows:

1. Within ten (10) business days of receipt of a Medical Marijuana Collective Permit application, except where circumstances beyond the control of the City justifiably delay such response, the Chief of Police shall determine whether the application is complete.

2. If it is determined the application is incomplete, the applicant shall be notified in writing within ten (10) business days of the date the application is determined to be incomplete, except where circumstances beyond the control of the City justifiably delay such response, that the application is not complete and the reasons therefore, including any additional information necessary to render the application complete.

3. The Collective 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.

4. 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 in accordance with the procedures set forth above. 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 Collective fails to provide all necessary information, the application shall be null and void.

5. Once the application is found to be complete, the applicant shall be notified within ten (10) business days, except where circumstances beyond the control of the City justifiably delay such response.

6. All notices required by this Chapter shall be deemed issued upon the date they are either deposited in the United States mail or the date upon which personal service of such notice is provided.

C. On receipt of the completed Medical Marijuana Collective Permit application, the Chief of Police shall refer the application to all concerned City departments, including, but not limited to Planning and Building, Fire, and Code Enforcement for investigation. Such departments shall file a report providing recommendations regarding the approval or denial of the permit with the Chief of Police within thirty (30) calendar days after the completed application is filed, except where circumstances beyond the control of the City justifiably delay such response.

D. The Chief of Police shall cause a hearing to be conducted not later than sixty (60) days from the date the completed Permit application was submitted, except where circumstances beyond the control of the City justifiably delay said timeframe, and shall cause the applicant and the owners of property located within seven-hundred-and-fifty-feet (750') of the proposed Property to be sent advance notice of the date, time, and place of the hearing at least ten (10) business days in advance of such hearing.

E. The Chief of Police shall open the public hearing at the date, time, and place specified in the

notice described in Subparagraph D, above, but may continue the hearing, and may change the place of the hearing, as necessary to accommodate all interested parties. The Chief of Police shall render her/his decision not later than fifteen (15) days after the hearing is closed. The report shall be in writing and shall include findings of fact, including but not limited to each operating condition, a summary of the relevant evidence, a statement of the issues, and a decision. A copy of the report shall be mailed or delivered to the applicant, and to any person who has requested notice of the decision and has paid the required fees for copying and mailing.

F. The decision of the Chief of Police 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 deposit in an amount determined by the City Council by resolution.

G. The Public Safety/Public Services Committee shall conduct a hearing on the appeal at its next regularly scheduled meeting after the completed request for appeal was received by the Chief of Police, except where good cause exists to extend this period. Notice of the hearing shall be given in accordance with Section 7.102.040(D) 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 shall be final.

7.102.060 Permit approval and operating conditions. The Chief of Police shall approve and issue a Medical Marijuana Collective Permit if the application and evidence submitted in the hearing sufficiently demonstrate that:

A. The Property is located in the Regional Commercial (C-3) Zoning District.

B. The Medical Marijuana Collective is not located within a one thousand five hundred foot (1,500') radius of a public or private high school or within a five hundred foot (500') radius of a park, community center, youth center, public or private child-care center, nursery school, kindergarten, elementary, middle or junior high school, or that there are facts supporting the findings stated in Section 7.102.040.A to waive this distance requirement. The distances specified in this paragraph shall be determined by the horizontal distance measured in a straight line from the closest property line of the lot on which the Medical Marijuana Collective is located to the property line of the school, park, community center, youth center, or child-care center, without regard to intervening structures.

C. Exterior building and parking area lighting at the Property are in compliance with all applicable provisions of this Code, as determined by the Planning Department.

D. 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.

E. 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.

F. 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.

G. The Property has a centrally-monitored fire and burglar alarm system.

H. 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.

I. Each applicant manufacturing Edible Medical Marijuana shall manufacture the Edible Medical Marijuana products at the Property for the sole consumption by Qualified Patient members and Qualified Patient Management Members of the Collective, in compliance with all applicable state and local laws.

J. 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.

K. 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.

L. Prior to distributing any crop, batch or bundle of Medical Marijuana that it cultivates or acquires for distribution, a Collective shall submit samples of that crop, batch or bundle to an independent laboratory to be tested for the presence of mold, pesticides, and other additives or adulterants that could be harmful if ingested. The Medical Marijuana shall not be distributed or consumed before laboratory results demonstrate that it is safe for consumption.

M. The Chief of Police may impose additional conditions as necessary to preserve the public health, safety, and welfare.

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 relocation of the Collective to a different Property.

A. The following shall be deemed a change in location:

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.

7.102.080 Maintenance of records.

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 laboratory testing as required by Section 7.102.060.L.

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 7.102.080.

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.

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 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 at the Property to any person who is not a member or a Management Member of the 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 Property 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 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 Property or at a location fully documented and inspected in accordance with this Chapter.
- 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 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 crimes 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.

7.102.120 Violation and enforcement.

- A. Any person 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 after a Medical Marijuana Collective Permit application has been denied, or a Medical Marijuana Collective Permit has been suspended or revoked, and before a new permit is issued, shall be guilty of a misdemeanor.

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, or of applicable local or state regulations and laws shall be grounds for permit suspension or revocation.

#### 7.102.130 Appeal process.

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.

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 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.

C. The appeal shall be considered by the Public Safety/Public Services Committee in accordance with Section 7.102.040(F) and (G). 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.

#### **SECTION 2. Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

#### **SECTION 3. Effective Date, Review and Implementation.**

This Ordinance becomes effective thirty (30) days following its passage and adoption. Within

sixty (60) days after adoption, the ordinance shall be reviewed by the Public Safety/Public Services Committee, and within ninety (90) days after passage adoption, the ordinance shall be reviewed in conjunction with all stakeholders. The ordinance shall be implemented no later than one-hundred-and-twenty (120) days after passage and adoption.

**SECTION 4. Accompanying Fee Resolution**

No later than 30 days before the implementation of this Ordinance, the City Council shall adopt a resolution establishing fees calculated to recover one-hundred percent of the costs of administering and enforcing this ordinance, including but not limited to the costs of processing applications, issuing permits, and conducting inspections, as well as all additional Police Department patrol and enforcement costs resulting from the presence of the Collectives.

**SECTION 5. Review of Regulations.**

On or before the six-month anniversary of the effective date of this Ordinance, the City Council shall review the effectiveness of these regulations, and shall enact modifications, if necessary.

First reading at a regular meeting of the Council of the City of Richmond held July 27, 2010 and finally passed and adopted at a regular meeting thereof held **September 21, 2010**, by the following vote:

AYES: Councilmembers Bates, Butt, Lopez, Rogers, Viramontes, and Vice Mayor Ritterman, 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:

RANDY RIDDLE  
City Attorney

I certify that the foregoing is a true copy of Ordinance No. **28-10 N.S.**, finally passed and adopted by the Council of the City of Richmond at a regular meeting on September 21, 2010.