

ORDINANCE NO. 2021-3

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT JONES  
REGULATING CANNABIS CULTIVATION

The Town Council of the Town of Fort Jones does ordain as follows:

Section 1: The Town hereby amends its code by adding the following as sections, attached hereto as Exhibit A:

Chapter 8.08 Cannabis Cultivation

INTRODUCED at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 12th day of April, 2021, and adopted at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 10<sup>th</sup> day of May, 2021.

APPROVED: \_\_\_\_\_  
Michelle DeCausmaker, Mayor

ATTEST: \_\_\_\_\_  
Karl Drexel, City Administrator

The foregoing Ordinance No. 2021-3 was adopted at a regular meeting of the Town Council of the Town of Fort Jones, held on the 10<sup>th</sup> day of May, 2021 by the following vote:

AYES: M. DeCausmaker, B. Beckwith, M. Garcia, K. Banks, C. Sherfy

NOES: None

ABSENT: None

ABSTAIN: None

\_\_\_\_\_  
Karl Drexel, City Administrator

APPROVED AS TO FORM and LEGAL CONTENT: \_\_\_\_\_  
Margaret Long, City Attorney

## Exhibit A

### Chapter 8.08

#### CANNABIS CULTIVATION

##### Sections:

<u>8.08.010</u>	<u>Purpose</u>
<u>8.08.020</u>	<u>Conflicts with Other Laws</u>
<u>8.08.030</u>	<u>Definitions</u>
<u>8.08.040</u>	<u>Cultivation of Cannabis – Prohibited</u>
<u>8.08.050</u>	<u>Cultivation of Cannabis – Indoor Requirements</u>
<u>8.08.060</u>	<u>Public Health and Safety: Nuisance</u>
<u>8.08.070</u>	<u>Violations: Penalties: Injunction</u>

##### **8.08.010 Purpose**

The purpose of this chapter is to regulate the cultivation of cannabis within the town in a manner that protects the health, safety, and welfare of the community and minimizes or eliminates the potential harms or nuisances associated with cannabis cultivation in a manner and which is consistent with applicable state and federal laws and regulations.

##### **8.08.020 Conflicts with Other Laws**

This chapter shall be interpreted and applied in such a manner so as to not be in conflict with any state or federal law or regulation. This chapter shall not be deemed to permit any activity that is prohibited by any state or federal law or regulation. If any portion of this chapter is determined to be in conflict with any state or federal law, that portion of this chapter shall be deemed null and void.

##### **8.08.030 Definitions**

For the purposes of this chapter, the following definitions shall apply:

**"Business Entity"** means a corporation, unincorporated association, limited liability company, partnership, limited partnership, limited liability partnership, professional corporation, or similar organization.

**"Cannabis"** shall have the same definition as in the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

**“Child Care Center”** means any licensed child care center, day-care center, or child care home, or any pre-school.

**"City"** means the Town of Fort Jones.

**"Code"** means the Municipal Code of the Town of Fort Jones.

**"Cultivation"** means the planting, growing, harvesting, drying, processing, storage, or distribution of cannabis.

**“Detached, fully enclosed and secure structure”** means a building completely detached from a residence that complies with the California building code and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two-inch by four-inch or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Exterior walls must be constructed with nontransparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

**“Indoors”** means within a fully enclosed and secure building.

**"Legal Parcel"** means a parcel of real property that may be separately sold in compliance with the California "Subdivision Map Act".

**"Outdoor(s)"** means any location within the city that is not within a fully enclosed and secure structure consisting of a roof and walls.

**"Playground"** means facilities such as slides, swings, and climbing apparatus intended for use by young children.

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

**"Property"** means a single, legal parcel of land where a person resides. If the property consists of contiguous parcels owned by the same person or business entity, it shall be considered to be a single parcel for purposes of this chapter.

**"Residence"** means the property on which a person may legally reside in compliance with all applicable laws, ordinances, and regulations, and who is doing so at the time he or she is engaged in Cannabis Cultivation. Such a residence may not be, or include, a school, preschool, daycare facility, or similar facility.

**"School"** means a qualified and legally operating institution of learning, whether public or private, offering a regular course of instruction to children at the kindergarten, elementary school, middle school, or high school levels. Residences in which home schooling, preschool, or daycare facilities exist are not included, nor are facilities providing instruction solely in religion, performing or visual arts, recreation, or any other limited curriculum.

**“Solid fence”** means a fence constructed of substantial material (such as wood) that

prevents viewing the contents from one side to the other.

#### **8.08.040 Cultivation of Cannabis – Prohibited**

The following are prohibited and apply to the cultivation of cannabis within the town.

- A. It is unlawful and a public nuisance to have outdoor cultivation of cannabis within any zoning district of the town.
- B. Cultivation of cannabis shall not take place inside the residence of any parcel.
- C. Persons residing in the town shall not be allowed to cultivate cannabis at their private residence in excess of six (6) cannabis plants.
- D. Cultivation of cannabis is prohibited in all agricultural (except agricultural-residential), commercial, office, industrial, open space, special purpose, and overlay/combining zoning districts.
- E. It is unlawful and a public nuisance to cultivate cannabis on any legal parcel or premises within 500 feet of any school, child care center, public park, playground, public library, government building or church. The 1,000 feet shall be measured from the closest property line of the school, child care center, public park, government building or church to the closest property line of the cultivation parcel.
- F. It is unlawful to cultivate cannabis within a detached structure that is greater than 144 square feet or 12 ft. x 12 ft. in size.
- G. Cultivation of cannabis for sale is prohibited.

#### **8.08.050 Cannabis Cultivation – Indoor Requirements**

It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the town to cultivate cannabis except as provided for in this chapter.

- A. The indoor cultivation of cannabis in a residential zone shall only be conducted within a detached, fully enclosed and secure structure no greater than 144 square feet or 12 ft. x 12 ft. in size.
- B. Any new construction of a detached structure that is to be used for the cultivation of cannabis must have a valid building permit issued from the Siskiyou County Building Department and a valid use permit issued by the Town of Fort Jones.
- C. Any existing detached structure that is to be used for the cultivation of cannabis

must have a valid use permit issued by the Town of Fort Jones.

- D. The detached structure must meet the California Building Code.
- E. Indoor grow lights shall not exceed 1,200 watts and shall comply with the California Building, Electrical and Fire Codes. Gas products (including, but without limitation, CO<sub>2</sub>, butane, propane, and natural gas) or generators shall not be used within any detached structure used for the cultivation of cannabis.
- F. Any detached, fully enclosed and secure structure used for the cultivation of cannabis must have a ventilation and filtration system installed that shall prevent cannabis plant odors from exiting the interior of the structure and that shall comply with California Building Code Section 402.3, Mechanical Ventilation. The ventilation and filtration system must be approved by the town or county building official and installed prior to commencing cultivation within the detached, fully enclosed and secure structure.
- G. Detached structure shall be located in the rear yard area of a legal parcel or premises, maintain a minimum 10-foot setback from any property line, and the area surrounding the structure must be enclosed by a solid fence at least six feet in height.
- H. A total of six (6) cannabis plants are allowed to be cultivated on one legal parcel.
- I. Any person or persons owning, renting, leasing, occupying or having charge or possession of any legal parcel shall reside full-time on the premises where the cannabis cultivation occurs.

#### **8.08.060 Public Health and Safety: Nuisance.**

- A. Conditions. Notwithstanding the provisions of this chapter, the cultivation of cannabis shall not adversely affect the health or safety of any nearby resident, nor cause physical annoyance or discomfort to any nearby resident in any manner, whether by the creation or release of noxious gas, smoke, noise, or odor, nor be hazardous to the public due to the use or storage of materials, processes, products, or wastes.
- B. Violation. A violation of this chapter shall constitute a public nuisance for which the town or any adversely affected member of the public may seek relief through the courts, in addition to such penalties as may be specified in this chapter or code.

#### **8.08.070 Violations; Penalties; Injunction.**

- A. Criminal Prosecution. Any person who violates any provision of this chapter shall, in the discretion of the code/law enforcement officer or his/her designee, be guilty of either an infraction or a misdemeanor and, upon conviction, shall be punished

in the manner then specified by this code or state law.

- B. Injunction. In addition to criminal penalties, the town may seek a court order to enjoin any activity prohibited by this chapter, or to require the performance of any activity mandated hereby.
2. This ordinance shall take effect and be in force thirty (30) days after its passage.
  3. A summary of this ordinance shall be prepared by the town attorney and the said summary shall be published in the Siskiyou Daily News, a newspaper of general circulation in the Town of Fort Jones, within fifteen (15) days of its passage.

