

ORDINANCE NO. 861 (2007)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT TO ADD CHAPTER 9.24 TO THE LAKEPORT MUNICIPAL CODE REGARDING CULTIVATION OF MARIJUANA

The City Council of the City of Lakeport hereby ordains as follows:

Section 1. The City Council of the City of Lakeport does hereby find, determine, and declare that:

WHEREAS, in November, 1996, the voters of California approved Proposition 215, the Compassionate Use Act of 1996, which enacted *Health and Safety Code* Section 11362.5. Under the Compassionate Use Act, *Health and Safety Code* Section 11357, making it a crime to possess marijuana, and Section 11358 making it a crime to cultivate marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

WHEREAS, since the enactment of the Compassionate Use Act, persons with residence addresses in the City of Lakeport have been issued medical marijuana prescriptions.

WHEREAS, the number of residential parcels in the City used to grow marijuana has increased substantially.

WHEREAS, marijuana plants as they begin to flower and for a period of two months or more during the growing season (August–October) produce an extremely strong odor, offensive to many people, and detectable far beyond property boundaries. One popular strain of marijuana is called “Skunk” or “Super Skunk” and has a strong odor that resembles the smell of a skunk. This odor has interfered with the rights of some residents of the City of Lakeport to use and enjoyment of their property.

WHEREAS, the strong smell of marijuana as well as its visibility from adjacent parcels or from areas accessible to the general public advertises its presence in the neighborhood and creates both an attractive nuisance and the risk of robbery and armed robbery.

WHEREAS, recently, the City Police Department have received numerous odor complaints related to the growing of marijuana in residential neighborhoods.

WHEREAS, several highly publicized recent events have called attention to the impact on public safety caused by the growing of marijuana in residential neighborhoods of the City. During the past year, the City Police Department reports numerous calls to the department to respond to incidents related to the growing of marijuana in residential neighborhoods. These incidents demonstrate that the cultivation of marijuana within the City limits poses a threat to public safety.

WHEREAS, the City of Lakeport is a relatively small city and has limited resources available to engage in extensive regulation of marijuana cultivation.

NOW THEREFORE, the City Council has determined that there is a need to regulate the cultivation of marijuana within the City of Lakeport.

Section 2. Chapter 9.24 is hereby added to Title 9 of the *Lakeport Municipal Code*, as follows:

Chapter 9.24

CULTIVATION OF MARIJUANA

Section 9.24.010	Definitions
Section 9.24.020	Cultivation of Marijuana
Section 9.24.030	Enforcement

Section 9.24.010. Definitions.

As used herein the following definitions shall apply:

1. “Cultivation” means the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.
2. “Fully enclosed and secure structure” means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.
3. “Indoors” means within a fully enclosed and secure structure which can only be entered through a locked door that requires a key or combination to open and which is secure against unauthorized entry.
4. “Outdoors” means any location within the City of Lakeport that is not within a “fully enclosed and secure structure.”
5. “Parcel” means property assigned a separate parcel number by the Lake County Assessor.

Section 9.24.020. Cultivation of Marijuana.

Marijuana Cultivation: Marijuana cultivation is hereby declared unlawful and a public nuisance within the City limits of the City of Lakeport, at any time, on any parcel of land, whether indoors, outdoors, or fully enclosed within a secure structure.

This ordinance is intended to prohibit the cultivation of marijuana deemed medicinal under the California *Health and Safety Code*. Non-medicinal cultivation is already regulated and illegal under California law.

Section 9.24.030. Enforcement.

Any person violating or causing the violation of any of the provisions of this ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment in the county jail for six months, or by both such fine and imprisonment.

Section 3. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declare unconstitutional on their face or as applied.

Section 4. This Ordinance shall take effect 30 days after the date of its adoption and the City Clerk shall cause the ordinance to be published as required by law.

This ordinance was introduced before the City Council of the City of Lakeport at a regular meeting thereof on the 6th day of February, 2007, by the following vote:

AYES: Council Members Bruns, Rumfelt, Irwin, and Bertsch, and Mayor Parmentier
NOES: None
ABSENT: None
ABSTAINING: None

This Ordinance was duly enacted by the City Council of the City of Lakeport at a regular meeting thereof on the 6th day of March, 2007, by the following vote:

AYES: Council Members Irwin, Bertsch, and Rumfelt
NOES: None
ABSENT: Mayor Parmentier and Council Member Bruns
ABSTAINING: None

ROY PARMENTIER, Mayor

ATTEST:

APPROVED AS TO FORM:

JANEL M. CHAPMAN, City Clerk

STEVEN J. BROOKES, City Attorney