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Attorneys for Plaintiffs  
COUNTY OF SANTA CRUZ, et al

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF FRESNO

COUNTY OF SANTA CRUZ; CITY OF  
AGOURA HILLS; CITY OF ANGELS CAMP;  
CITY OF ARCADIA; CITY OF ATWATER;  
CITY OF BEVERLY HILLS; CITY OF CERES;  
CITY OF CLOVIS; CITY OF COVINA; CITY  
OF DIXON; CITY OF DOWNEY; CITY OF  
MCFARLAND; CITY OF NEWMAN; CITY OF  
OAKDALE; CITY OF PALMDALE; CITY OF  
PATTERSON; CITY OF RIVERBANK; CITY  
OF RIVERSIDE; CITY OF SAN PABLO; CITY  
OF SONORA; CITY OF TEHACHAPI; CITY  
OF TEMECULA; CITY OF TRACY; CITY OF  
TURLOCK; and CITY OF VACAVILLE,

Plaintiffs,

v.

BUREAU OF CANNABIS CONTROL; LORI  
AJAX, in her official capacity as Chief of the  
Bureau of Cannabis Control; and DOES 1  
through 10, inclusive,

Defendants.

Filing Fee Exempt  
(Gov. Code § 6103)

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County of Fresno  
By: Louana Peterson, Deputy

Case No.: 19CECG01224

**REQUEST FOR JUDICIAL NOTICE,  
EXHIBITS VOLUME 1 (EXHIBITS 1-10)**

Complaint filed: April 4, 2019  
Trial Date: July 16, 2020

Assigned for all purposes to Judge Rosemary  
McGuire, Department 403.

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# EXHIBIT 1

**Chapter 7.130****CANNABIS DISPENSARY LICENSES****Sections:**

<b>7.130.010</b>	<b>Purpose.</b>
<b>7.130.030</b>	<b>Definitions.</b>
<b>7.130.050</b>	<b>Prohibited activities.</b>
<b>7.130.070</b>	<b>Creation of the Cannabis Dispensary Licensing Program.</b>
<b>7.130.090</b>	<b>License category, application submission dates, and eligibility.</b>
<b>7.130.110</b>	<b>License required.</b>
<b>7.130.130</b>	<b>Enforcement.</b>

**7.130.010 Purpose.**

The purpose of this chapter is to provide local rules to regulate cannabis dispensaries in the unincorporated area of Santa Cruz County.

It is also the purpose of this chapter to mitigate the negative impacts and secondary effects associated with ongoing cannabis activities including, but not limited to, demands placed on law enforcement and administrative resources; neighborhood disruption; the exposure of children to cannabis; drug sales to minors and adults; fraud in issuing, obtaining, or using cannabis recommendations; robberies; burglaries; assaults; drug trafficking and other violent crimes.

This chapter is not intended to conflict with Federal or State law. It is the intention of the County that this chapter be interpreted to be compatible with Federal and State enactments and in furtherance of the public purposes that those enactments encompass. [Ord. 5257 § 1, 2017; Ord. 5227 § 1, 2016].

**7.130.030 Definitions.**

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(A) “Applicant” means the person or entity submitting an application for a dispensary license under this chapter on behalf of the owner or owners of the dispensary seeking to be licensed.

(B) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, as defined under Business and Professions Code Section 19300.5(f), as may be amended.

(C) “Cannabis plant” means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.

(D) “Cultivation” or “cultivate” means the planting, growing, developing, propagating, harvesting, drying, processing, or storage of, one or more cannabis plants or any part thereof in any location, indoor or outdoor, including within a fully enclosed and secure building.

(E) “Dispensary” means a fixed brick-and-mortar storefront location that sells cannabis. “Dispensary” does not include the following:

(1) Any location during only that time reasonably required for a primary caregiver to distribute, deliver, dispense, or give away cannabis to a qualified patient or person with an identification card who has designated the individual as a primary caregiver, for the personal medical use of the qualified patient or person with an identification card, in accordance with California Health and Safety Code Section 11362.5 and 11362.7 et seq.;

(2) The location of any clinic licensed pursuant to Chapter 1 (commencing with Section 1200), a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725), all of Division 2 of the California Health and Safety Code where: (a) a qualified patient or person with an identification card receives medical care or supportive services, or both, from the clinic, facility, hospice, or home health agency, and (b) the owner or operator, or one of not more than three employees designated by the owner or operator, of the clinic, facility, hospice, or home health agency has been designated as a primary caregiver pursuant to California Health and Safety Code Section 11362.7(d) by that qualified patient or person with an identification card; or

(3) A cultivation site granted an exemption by the Planning Director pursuant to SCCC 13.10.670(G) as enacted by Ordinance No. 5090 (now repealed), so long as the area subject to cultivation is not expanded or enlarged beyond what existed at that location on January 1, 2012.

(F) "Level one dispensary license" means the license issued to a level one dispensary.

(G) "License" means the written evidence of permission given by the Licensing Official for a licensee to operate a dispensary. "License" does not mean "permit" within the meaning of the Permit Streamlining Act, and a license does not constitute a permit that runs with the land on which the dispensary sits.

(H) "Licensee" means the person or entity holding a valid license to operate a cannabis dispensary under this chapter.

(I) "Licensing Official" means the official appointed by the County Administrative Officer who is responsible for implementing the provisions of this chapter.

(J) "Manager" means any person to whom a dispensary has delegated discretionary powers to organize, direct, carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (1) to disburse funds of the business other than for the receipt of regularly replaced items of stock; or (2) to make, or participate in making, policy decisions relative to operations of the business.

(K) "CDL program" means the cannabis dispensary licensing program created by this chapter.

(L) "Parcel" means that unit of land assigned a unique Assessor's Parcel Number by the County Assessor, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

(M) "Park" means any playground, hiking or riding trail, recreational area, beach, community center or building, historic structure or facility, owned, managed or controlled by any public entity.

(N) "Owner" or "owners" means all persons or entities holding a financial interest in a cannabis dispensary. For purposes of this definition, the term "financial interest" does not include a security interest, lien, or encumbrance on property.

(1) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of the dispensary, including but not limited to a corporate officer or a member of the board of directors.

(2) If the owner is a publicly traded company, "owner" means the chief executive officer in addition to anyone holding a financial interest in the dispensary.

(O) "School" means any licensed preschool or any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(P) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a street, sidewalk or waterway, including but not limited to a device moved exclusively by human power.

(Q) The following words or phrases when used in this section shall be construed as defined in California Health and Safety Code Section 11362.7: "identification card"; "person with an identification card"; "primary caregiver"; and "qualified patient." [Ord. 5257 § 1, 2017; Ord. 5227 § 1, 2016].

#### **7.130.050 Prohibited activities.**

(A) It is unlawful and shall constitute a public nuisance for anyone to own, establish, operate, use, or permit the establishment or operation of a dispensary without (1) a valid local license required by this chapter; and (2) a valid State license required under California law (as soon as State licenses become available for issuance).

(B) The prohibition in subsection (A) of this section includes renting, leasing, or otherwise permitting a dispensary to occupy or use a location.

(C) It is unlawful and shall constitute a public nuisance for anyone other than a locally licensed dispensary to engage in retail sales of cannabis, including mobile delivery of cannabis purchased by consumers online or over the telephone. [Ord. 5277 § 1, 2018; Ord. 5257 § 1, 2017; Ord. 5227 § 1, 2016].

#### **7.130.070 Creation of the cannabis dispensary licensing program.**

(A) There is hereby created the cannabis dispensary licensing program. The CDL program shall be operated by the Licensing Official. The Licensing Official shall be appointed by the County Administrative Officer and shall report directly to the County Administrative Officer.

(B) The Licensing Official shall take the necessary steps to build and manage the CDL program. This includes, but is not limited to, accomplishing the following tasks in compliance with the rules set forth in this chapter:

- (1) Creating application forms for licensees;
- (2) Conducting pre-licensure inspections;
- (3) Approving and denying license applications;

- (4) Issuing and revoking licenses;
- (5) Creating a system on the County's website to communicate the number of licenses issued and notifying the public as to whether applications for licenses are being accepted;

(6) Establishing and/or recommending the adoption of any policies, procedures, rules, regulations, or fees necessary to implement the CDL program; and

(7) Working with other officials in the County to ensure that licensees comply with all aspects of the County Code. [Ord. 5257 § 1, 2017; Ord. 5227 § 1, 2016].

**7.130.090 License category, application submission dates, and eligibility.**

(A) The license created under this chapter is the level one dispensary license.

(B) Acceptance of applications for an original level one dispensary license shall open on September 1, 2016, and close on November 30, 2016. After November 30, 2016, no additional applications for an original level one dispensary license shall be accepted.

Exception: This restriction shall not apply to the Santa Cruz Veterans Alliance. The Santa Cruz Veterans Alliance shall be permitted to submit an application until June 1, 2017.

(C) The following dispensaries are the only dispensaries eligible to apply for a level one dispensary license. These dispensaries may only apply for a license to operate on the parcel at which they are currently operating a dispensary. Requests by a level one dispensary licensee to change locations to a new parcel will be addressed by the Licensing Official on a case-by-case basis, considering all the requirements of this chapter. However, level one dispensaries shall not be allowed to move to a new parcel unless the new parcel meets all the requirements of this chapter.

- (1) Capitola Healing Association;
- (2) Central Coast Wellness Center;
- (3) Creekside Collective;
- (4) Evolution;
- (5) Granny Purps;
- (6) Green Acres;
- (7) Herbal Cruz;
- (8) California Agricultural Association;
- (9) KindPeoples Collective;
- (10) Redwood Coast Collective;
- (11) Santa Cruz Mountain Herb;
- (12) Santa Cruz Mountain Naturals;
- (13) Therapeutic Healthcare Collective;
- (14) Santa Cruz Veterans Alliance.

(D) Submission of an application for a level one dispensary license does not guarantee issuance of a license. [Ord. 5257 § 1, 2017; Ord. 5243 §§ 1, 2, 2017; Ord. 5227 § 1, 2016].

**7.130.110 License required.**

(A) Original License.

(1) Submission of the Application. An application for an original license under this chapter shall be made on the forms designated for that purpose promulgated by the Licensing Official, and shall include all required information, attachments, and signatures required by the Licensing Official. The forms shall be submitted under penalty of perjury, and shall include, but not be limited to, the following information:

- (a) The names of the applicant(s) and owner(s);
- (b) The exact location by street address and Assessor Parcel Number of the existing dispensary;
- (c) The applicants' and owners' waiver and release of the County from any and all liability for monetary damages related to or arising from the application for a license, the issuance of the license, the denial of the license, or the enforcement of the conditions of the license;
- (d) Background information to be determined by the Licensing Official, including but not limited to a statement that the applicant(s) and owner(s) have submitted to a LiveScan background check no earlier than 30 days prior to the date the application is submitted;
- (e) Tax identification information;
- (f) Security plans; and
- (g) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(2) **Payment of the Application Fee.** An application for a license hereunder shall not be accepted unless it is accompanied by the payment of a nonrefundable application fee set by the Licensing Official and approved by the Board of Supervisors. The purpose of any and all fees assessed under this chapter is to pay for the costs of the CDL program.

(3) **Review of the Application.**

(a) Upon receipt of an application for an original license, the Licensing Official will create a licensing file related to the application, and will conduct an actual inspection of the dispensary to determine whether it meets the requirements of the CDL program. The Licensing Official shall be the custodian of the licensing file. The licensing file is subject to the California Public Records Act.

(b) Meeting the requirements of the CDL program does not automatically entitle an applicant to receive a license.

(4) **Grant or Denial of the License.** After concluding the required prelicense investigation, the Licensing Official shall notify the applicant in writing whether the license has been granted or denied. If an application for a level one dispensary license is denied, any further nonlicensed dispensary operations may only be carried out in accordance with the limitations set forth in subsection (H)(3) of this section.

(5) **Payment of the License Fee.** An original license shall not be granted to an applicant under this chapter until the applicant has paid a nonrefundable original license fee as set by the Licensing Official and approved by the Board of Supervisors.

(6) **Length of Time the Original License Is Valid.** An original level one dispensary license shall be valid from the date it is issued until December 31, 2017. If a licensee wishes to continue operating a dispensary after December 31, 2017, he or she must obtain a renewal license, as set forth below in subsection (B) of this section.

(B) **Renewal License.**

(1) **Requirement to Obtain a Renewal License.** In order to continue operating a dispensary after expiration of the original license, a licensee must obtain a renewal license before the original license expires. A renewal license must be obtained annually via application forms designated for that purpose. It is incumbent on the holder of a license to ensure that the license is renewed before expiration, in order to continue dispensing cannabis after December 31st of the year the renewal license expires.

(2) **Submission of the Renewal License Application.**

(a) An application for a renewal license shall be made on the forms designated for that purpose promulgated by the Licensing Official, and shall include all required information, attachments, and signatures required by the Licensing Official. The forms shall be submitted under penalty of perjury, and shall include, but not be limited to, the following information:

- (i) The information required for the submission of an original license under subsection (A) of this section;
- (ii) Identification of any changes to the information the applicant submitted on the original license application;
- (iii) Any law enforcement or license enforcement activity related to the licensee's operations during the past calendar year;
- (iv) A representation that the applicant continues to hold in good standing any license required by the State of California for dispensary operations;
- (v) Such other information as the Licensing Official deems reasonably necessary to a thorough review of the application.

(b) Renewal license applications will be accepted starting in the year 2017. In 2017, applications for a renewal license shall be accepted during the time frame determined by the Licensing Official. For all future years, applications for a renewal license shall only be accepted from September 1st through October 15th of any calendar year, in order to allow the Licensing Official to timely investigate the renewal license applications submitted for that calendar year. The Licensing Official is not authorized to accept an untimely renewal license application.

(3) **Payment of the Renewal License Application Fee.** An application for a renewal license shall be accompanied by the payment of a nonrefundable renewal license application fee set by the Licensing Official and approved by the Board of Supervisors.

(4) **Review of the Renewal License Application.** Upon receipt of an application for a renewal license, the Licensing Official shall update the licensee's licensing file and perform whatever investigation the Licensing Official deems necessary to determine whether to grant or deny the renewal license. The investigation may include a physical inspection of the dispensary, at the discretion of the Licensing Official, to determine whether the licensee remains in compliance with the regulations of the CDL program.



(5) Grant or Denial of the Renewal License. On or before December 31st of the year in which the renewal application is submitted, and after concluding the required renewal license investigation, the Licensing Official shall notify the applicant in writing of whether the renewal license has been granted or denied. If an application for a renewal license is denied, any further nonlicensed dispensary operations may only be carried out in accordance with the limitations set forth in subsection (H)(3) of this section.

(6) Payment of the Renewal License Fee. A renewal license shall not be granted to the applicant under this chapter until the applicant has paid a nonrefundable renewal license fee as set by the Licensing Official and approved by the Board of Supervisors.

(7) Length of Time the Renewal License Is Valid. The renewal license shall be valid for one calendar year, beginning January 1st of the year following issuance, and expiring on December 31st of that year. If a licensee wishes to continue operating a dispensary after December 31st of that year, it must obtain a new renewal license per the terms of this section.

(C) Amending a License.

(1) Licensees may submit an application to amend an existing license at any time, on a form promulgated by the Licensing Official for that purpose. Applications to amend a license will be reviewed by the Licensing Official in a manner consistent with the review of original and renewal license applications.

(2) Applicants seeking an amended license must include with their application a monetary deposit, to be determined by the Licensing Official or his or her designee, based on an estimate of the hours the Licensing Official will need to review the application and perform any necessary inspections. Additional deposits or payments shall be made as determined necessary by the Licensing Official in order to recover costs associated with processing the application.

(D) Required Statements on Licenses. All licenses issued by the Licensing Official shall contain the signature of the owner(s) of the license. In addition, all licenses shall contain the following statements, displayed prominently on the license itself:

(1) A warning that operators, employees, and members of cannabis dispensaries may be subject to prosecution under Federal laws; and

(2) An acknowledgment that, by accepting the license and operating a cannabis dispensary, the applicant and owners of the licensed facility have released the County from any and all liability for monetary damages related to or arising from the application for a license, the issuance of the license, the enforcement of the conditions of the license, or the revocation of the license; and

(3) Any other statements deemed necessary by the Licensing Official.

(E) Restrictions Relating to the Issuance of a License.

(1) No license may be issued to operate a dispensary unless the dispensary is located in a zone district designated as PA (Professional and Administrative Offices), C-1 (Neighborhood Commercial), C-2 (Community Commercial), C-4 (Commercial Services), or CT (Tourist Commercial) by the Santa Cruz County Zoning Ordinance.

(2) No license may be issued to operate a dispensary located within 600 feet from (a) a school; (b) another cannabis dispensary; or (c) an alcohol or drug treatment facility. The distance specified in this subsection shall be the horizontal distance measured in a straight line from the property line of the school or other dispensary to the closest property line of the lot containing the dispensary under review, without regard to intervening structures. The distance requirements set forth in this subsection shall not apply to those licensed health care and other facilities identified in California Health and Safety Code Section 11362.7(d)(1); or a dispensary that is in violation of the distance requirement of this subsection as a result of the establishment of a conflicting use (a school or other dispensary) after the date on which the State Board of Equalization issued a seller's permit to the dispensary for its location.

(3) No license may be issued to operate a dispensary within 300 feet of any parcel zoned RA (Single-Family Residential and Agriculture); RR (Single-Family Residential, Rural); R-1 (Single-Family Residential, Urban/Rural); RB (Single-Family Residential, Oceanfront/Urban); or RM (Multiple-Family Residential). The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the residentially zoned property to the closest property line of the lot on which the dispensary is to be located. This prohibition shall not apply to level one dispensaries operating in a location occupied on January 1, 2016.

(F) Mobile Delivery of Cannabis by Dispensaries.

(1) Holders of a level one dispensary license may deliver cannabis to cannabis consumers off-premises via mobile delivery services, subject to the provisions of this section. Only locally licensed dispensaries may engage in mobile delivery of cannabis.



(2) Dispensaries that engage in mobile deliveries shall keep complete and appropriate financial records enabling audit of all transactions accomplished via mobile delivery, and shall be able to distinguish between, and account for, sales between the categories of on-site sales versus mobile delivery sales for accounting purposes.

(3) Dispensaries that engage in mobile deliveries are prohibited from having any advertisement of their business or services on their delivery vehicles.

(G) Grounds For License Revocation. Grounds for revocation of a license include, but are not limited to, any of the following:

(1) Remaining open and/or operating between the hours of 10:00 p.m. and 8:00 a.m.

(2) Allowing alcohol or cannabis to be consumed at the premises ("premises," for purposes of this subsection, includes any area used for parking any vehicle).

(a) Exception: Dispensary employees are allowed to consume cannabis (but not smoke it) within the dispensary itself, as permitted by their employer.

(3) Allowing a minor unaccompanied by a parent or legal guardian to enter the premises.

(4) Allowing a person less than 21 years of age to transport, distribute, deliver, dispense, or give away cannabis on behalf of the business.

(5) Allowing cannabis to be visible from the exterior of the premises.

(6) Illuminating any portion of the dispensary between the hours of 10:00 p.m. and 8:00 a.m. by lighting that is visible from the exterior of the premises, except such lighting as is reasonably utilized for the security of the premises.

(7) Failure by an applicant or owner of a dispensary to successfully pass the background check required by the Licensing Official, including but not limited to successfully passing the LiveScan background check conducted annually before the submission of an application for an original or renewal license.

A failed LiveScan is a LiveScan report that includes any felony conviction within the past 10 years and/or reflects that the applicant or owner is currently on parole or probation related to a felony conviction. Felony convictions for cannabis-related offenses prior to January 1, 2016, will not result in a failed LiveScan, unless the offense involved sales to a minor.

(8) Providing an on-site location for physicians or medical professionals to write recommendations for medical cannabis.

(9) Failing to provide litter and graffiti removal services for the business premises on a daily basis.

(10) Failure to provide adequate security precautions at all times, including, but not limited to, dedicated security personnel present during the dispensary's hours of operation.

(11) Printing, publishing, advertising, or disseminating in any way or by any means of communication, or causing to be printed, published, advertised, or disseminated in any way or by any means of communication, other than by way of a dedicated business Internet website accessible only through an age gate portal, any notice or advertisement that includes the following information: pricing of cannabis, details regarding specific cannabis products, or cannabis photography or graphics related to the cannabis plant or cannabis products.

Notwithstanding the limitations imposed by this subsection (G)(11), a dispensary may provide the following: an entry in the telephone directory with the name, location, and phone number of the dispensary; or signage consistent with County signage regulations. Such directory entry or signage may identify the business as a "cannabis dispensary," but shall not include pricing of cannabis, details regarding specific cannabis products, or cannabis photography or graphics related to the cannabis plant or cannabis products.

(12) Three or more citations for violation of Chapter 8.30 SCCC (Noise) within a single year.

(13) Possession, storage, or use of any firearm at the dispensary.

(14) Violation of any of the restrictions relating to the issuance of a license as set forth in this chapter.

(15) Violation of any Santa Cruz County Code provision related to the cultivation of cannabis, including but not limited to any provision in Chapter 7.128 SCCC.

(16) Failure to cooperate with a financial audit by the County of Santa Cruz of any and all aspects of the dispensary's business, including but not limited to on-site inspection and review of financial transactions, sales records, payroll and employee records, purchase orders, overhead expense records, shipping logs, receiving logs, waste disposal logs, bank statements, credit card processing statements, inventory records, tax records, lease agreements, supplier lists, supplier agreements, policies and procedures, and examination of all financial books and records held by the dispensary in the normal course of business.

(17) Failure to timely remit the taxes required to be paid under Chapter 4.06 SCCC (Cannabis Business Tax).

(18) Violation of any Santa Cruz County Code provision or State law related to the extraction of cannabis oils, resins, or other compounds from cannabis plants.

(19) Violation of any Santa Cruz County Code provision or State law related to the cannabis business activity, including any provision of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”).

(20) Violation of any administrative rule or regulation promulgated by the Licensing Official.

(H) Denial or Revocation of License; Remedies.

(1) The Licensing Official may deny an application for an original or renewal license, or revoke an original or renewal license, for any of the following reasons:

(a) Discovery of untrue statements submitted on a license application.

(b) Revocation or suspension of any State license required to operate a dispensary.

(c) Previous violation by the applicant of any provision of the Santa Cruz County Code or State law related to operation of a dispensary or cultivation, transportation, extraction, or manufacture of cannabis or cannabis products.

(d) Operation of a dispensary in a manner contrary to any of the conditions set forth in subsection (E) of this section, Restrictions Relating to the Issuance of a License, or subsection (G) of this section, Grounds For License Revocation.

(e) The applicant or owner failed his or her last annual LiveScan background check.

(f) The creation or maintenance of a public nuisance.

(2) The Licensing Official’s denial of a license application or revocation of a license is a final action that is not subject to any further administrative remedy. The only legal remedy available to appeal the Licensing Official’s action is to file a petition for writ of mandate in the superior court under California Code of Civil Procedure Section 1085.

(3) If an application for an original or renewal license is denied, or if a license is revoked, all operations associated with the dispensary shall cease immediately, subject to the following exception:

If the applicant or operator is currently operating a dispensary, and the applicant or operator files a petition with the superior court challenging the Licensing Official’s denial or revocation decision within 30 days of the date the decision is issued, the applicant or operator may continue to operate the dispensary for 90 days from the date the Licensing Official’s decision was issued. Any dispensary operations that occur after the 90 days has elapsed may only be conducted with a valid local license.

(4) Under no circumstances shall a cause of action for monetary damages be allowed against the County of Santa Cruz, the Licensing Official, or any County employee as a result of a denial or a revocation of a license. [Ord. 5277 § 2, 2018; Ord. 5257 § 1, 2017; Ord. 5227 § 1, 2016].

#### **7.130.130 Enforcement.**

(A) In addition to the authority of the Licensing Official to revoke any license pursuant to this chapter, the Licensing Official may also elect to pursue one or more of those alternatives set forth in SCCC 19.01.030(A). It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this chapter is committed, continued or permitted.

(B) Notwithstanding the limitations on civil penalties set forth in SCCC 1.12.070(A)(2), civil penalties for violation of this chapter shall be assessed as follows:

(1) A fine not exceeding \$2,500 for a first violation.

(2) A fine not exceeding \$5,000 for a second violation of the same County code provision within one year.

(3) A fine not exceeding \$7,500 for each additional violation of the same County code provision within one year.

(C) Whenever the Licensing Official determines that a public nuisance as defined in this chapter exists at any location within the unincorporated area of Santa Cruz County, he or she is authorized to issue a notice of violation pursuant to SCCC 1.12.070. However, a violator shall be provided with seven calendar days from notice of the violation to correct the violation before the imposition of civil penalties under SCCC 1.12.070(D)(2)(a).

(D) Nothing in this chapter shall be construed as imposing on the Licensing Official or the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis business activity, nor to take any other action with regard to any unlawful cannabis business activity, and neither the Licensing Official nor the County shall be held liable for failure to issue an order to abate any unlawful cannabis business activity, nor for failure to abate any unlawful cannabis business activity, nor for failure to take any other action with regard to any unlawful cannabis business activity. [Ord. 5257 § 1, 2017; Ord. 5227 § 1, 2016].

**Chapter 7.134****PERSONAL CULTIVATION OF CANNABIS FOR NONCOMMERCIAL RECREATIONAL USE****Sections:**

<b>7.134.010</b>	<b>Purpose.</b>
<b>7.134.030</b>	<b>Definitions.</b>
<b>7.134.050</b>	<b>Prohibited activities.</b>
<b>7.134.070</b>	<b>Restrictions related to personal cultivation of cannabis for noncommercial recreational uses.</b>
<b>7.134.090</b>	<b>Enforcement.</b>

**7.134.010 Purpose.**

The purpose of this chapter is to provide, pursuant to California Health and Safety Code Section 11362.2, rules to regulate the noncommercial cultivation of the six living cannabis plants authorized to be grown under California Health and Safety Code Section 11362.1.

It is also the purpose of this chapter to mitigate the negative impacts and secondary effects associated with the cultivation of cannabis including, but not limited to, demands placed on law enforcement and administrative resources; neighborhood disruption; the exposure of children to cannabis; drug sales to minors and adults; robberies; burglaries; assaults; and other violent crimes.

This chapter is not intended to conflict with State law. It is the intention of the County that this chapter be interpreted to be compatible with State enactments and in furtherance of the public purposes that those enactments encompass. [Ord. 5242 § 1, 2017].

**7.134.030 Definitions.**

As used in this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(A) “Cannabis” means all parts of the plant *Cannabis sativa* L., as defined under the California Adult Use of Marijuana Act at Health and Safety Code Section 11018, as may be amended.

(B) “Cannabis plant” means any mature or immature cannabis plant, or any cannabis seedling, unless otherwise specifically provided herein.

(C) “Cultivation” or “cultivate” means the planting, growing, developing, propagating, harvesting, drying, and processing of cannabis plants or any part thereof.

(D) “Enclosure” means an area fully surrounded by a fence, wall, or other solid barrier that prevents access to cannabis. Enclosures must be equipped with a locked gate or door.

(E) “Private residence” means a house, apartment unit, mobile home, or other similar dwelling. [Ord. 5242 § 1, 2017].

**7.134.050 Prohibited activities.**

It is unlawful and shall constitute a public nuisance for any person to cultivate cannabis for his or her personal, non-commercial, recreational use in violation of the provisions of this chapter. [Ord. 5242 § 1, 2017].

**7.134.070 Restrictions related to personal cultivation of cannabis for noncommercial recreational uses.**

The following restrictions apply to any person who cultivates cannabis for his or her personal, noncommercial, recreational use:

(A) No more than six cannabis plants may be cultivated at any one time at a single private residence.

(B) Cultivation may only take place inside a structure or enclosure existing on the grounds of a private residence (structure, for purposes of this chapter, includes an ancillary structure such as a prefabricated shed or greenhouse).

(C) Any structure or enclosure used for cannabis cultivation must be kept locked and secured to prevent unauthorized entry.

(D) The private residence containing the cannabis plants must be occupied by, and the cannabis plants must be cultivated by, a person 21 years of age or older.

(E) Cannabis plants must not be visible with normal unaided vision from a public place. [Ord. 5242 § 1, 2017].

**7.134.090 Enforcement.**

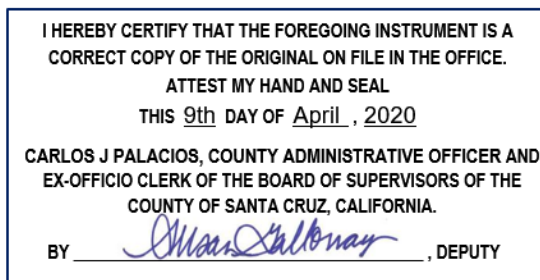
(A) The County may pursue one or more of those alternatives set forth in SCCC 19.01.030(A) to enforce this chapter. It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this chapter is committed, continued or permitted.

(B) Notwithstanding the limitations on civil penalties set forth in SCCC 1.12.070(A)(2), civil penalties for violation of this chapter shall be assessed as follows:

- (1) A fine not exceeding \$500.00 for a first violation.
- (2) A fine not exceeding \$1,000 for a second violation of the same County Code provision within one year.
- (3) A fine not exceeding \$2,500 for each additional violation of the same County Code provision within one year.

(C) Whenever the County determines that a public nuisance as defined in this chapter exists at any location within the unincorporated area of Santa Cruz County, the County is authorized to issue a Notice of Violation pursuant to SCCC 1.12.070.

(D) Nothing in this chapter shall be construed as imposing on the County of Santa Cruz any duty to issue a notice of violation, nor to abate any unlawful cannabis activity, nor to take any other action with regard to any unlawful cannabis activity, and the County shall not be held liable for failure to issue an order to abate any unlawful cannabis activity, nor for failure to abate any unlawful cannabis activity, nor for failure to take any other action with regard to any unlawful cannabis activity. [Ord. 5242 § 1, 2017].



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## EXHIBIT 2



Office of the City Clerk  
30001 Ladyface Court  
Agoura Hills, CA 91301

## CERTIFICATION

STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES    ) SS  
CITY OF AGOURA HILLS        )

I, Kimberly M. Rodrigues, City Clerk of the City of Agoura Hills, California, do hereby certify that the attached nine (9) pages of **Ordinance No. 17-429**; *An Ordinance of the City Council of the City of Agoura Hills, California Amending Division 10 (Medical Marijuana Dispensaries Prohibited) of Part 2 (Special Regulations) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code to Clarify that All Commercial Marijuana Activity for Medical, Non-Medical, and Any Other Purpose, is Prohibited in All Zones in the City, and to Allow Limited Indoor Marijuana Cultivation Consistent with State Law, and Deleting Section 4125 of the Agoura Hills Municipal Code, and Making A Finding of Exemption from CEQA under Section 15061(B)(3) of the CEQA Guidelines (Case No. Zoa-01326-2017)*; are a full, true and correct copy of the Ordinance adopted by the City Council at its Regular Meeting held at 6:00 p.m. on Wednesday, August 23, 2017, and is duplicate original of the ordinance on file and of record in the Office of the City Clerk.



Kimberly M. Rodrigues, MPPA, MMC  
City Clerk

Dated: March 4, 2020

## **ORDINANCE NO. 17-429**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA AMENDING DIVISION 10 (MEDICAL MARIJUANA DISPENSARIES PROHIBITED) OF PART 2 (SPECIAL REGULATIONS) OF CHAPTER 6 (REGULATORY PROVISIONS) OF ARTICLE IX (ZONING) OF THE AGOURA HILLS MUNICIPAL CODE TO CLARIFY THAT ALL COMMERCIAL MARIJUANA ACTIVITY FOR MEDICAL, NON-MEDICAL, AND ANY OTHER PURPOSE, IS PROHIBITED IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR MARIJUANA CULTIVATION CONSISTENT WITH STATE LAW, AND DELETING SECTION 4125 OF THE AGOURA HILLS MUNICIPAL CODE, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES (CASE NO. ZOA-01326-2017)**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:**

### **SECTION 1. Findings and Purpose.**

A. The City of Agoura Hills, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. On October 9, 2015, Governor Brown signed Assembly Bill 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical marijuana businesses.

C. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA adds Section 11362.1 to the California Health and Safety Code, which makes it "lawful under state and local law" for persons 21 years of age or older to "possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever" up to 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight grams of marijuana in the form of concentrated cannabis. The AMUA also establishes a State regulatory and licensing scheme for commercial non-medical marijuana businesses. The provisions of the AUMA related to the possession, use, and cultivation of marijuana became effective on November 9, 2016.

D. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical marijuana known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether marijuana businesses could



operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority shall begin issuing licenses to marijuana businesses beginning January 1, 2018.

E. On July 9, 2017, the Planning Commission of the City of Agoura Hills held a public hearing on this proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

F. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 17-1195, recommending that the City Council adopt the proposed Ordinance to prohibit commercial marijuana activity and outdoor cultivation of marijuana, and to allow limited marijuana cultivation indoors, consistent with State law.

G. On August 9, 2017, the City Council of the City of Agoura Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

H. All legal prerequisites to the adoption of this Ordinance have occurred.

**SECTION 2.** The City Council of the City of Agoura Hills hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance as if fully set forth herein.

**SECTION 3.** The City Council of the City of Agoura Hills hereby deletes Section 4125 (Compensation for medical marijuana.) of Chapter 1 (Prohibited Conduct; Offense) of the Agoura Hills Municipal Code in its entirety.

**SECTION 4.** The City Council of the City of Agoura Hills hereby amends Division 10 (Medical Marijuana Dispensaries Prohibited.) of Part 2 (Special Regulations) of Chapter 6 (Regulatory Provisions) of Article IX (Zoning) of the Agoura Hills Municipal Code in its entirety to read as follows:

<b>"DIVISION 10</b>	<b>MARIJUANA</b>
<b>Section 9660</b>	<b>Purpose.</b>

<b>Section 9660.1</b>	<b>Definitions.</b>
<b>Section 9660.2</b>	<b>Prohibitions.</b>
<b>Section 9660.3</b>	<b>Exceptions.</b>
<b>Section 9660.4</b>	<b>Violation, penalty.</b>

#### **9660 Purpose.**

A. The city council finds that federal law prohibits the possession, manufacture, distribution, and dispensing of marijuana, and in order to serve the public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this division is to prohibit all commercial marijuana activity, both medical and non-medical, within the city, as provided in this section.

B. California Business and Professions Code section 26055(d) provides that a State licensing authority shall not approve an application for a State license for a marijuana business if approval of the State license will violate the provisions of any local ordinance or regulation. California Business and Professions Code section 26200 authorizes a city to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more marijuana businesses licensed under the State, within that city.

C. The city council finds that a prohibition on all commercial marijuana activity, for medical, non-medical, or any other purpose, is necessary for the preservation and protection of the public health, safety, and welfare for the city and its community. The city council's prohibition of such activity is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public benefit, safety, and welfare of the city and its community.

#### **9660.1 Definitions.**

For purposes of this division, the following definitions shall apply.

A. "Commercial marijuana activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of marijuana and marijuana products, and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any other provision of State law that regulates the licensing of marijuana businesses.

B. "Concentrated cannabis" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate.

C. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

D. "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.

E. "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed under Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

F. "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, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

G. "Indoors" means within a fully enclosed and secure structure.

H. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

I. "Marijuana" means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Marijuana" also means the separated resin, whether crude or purified, obtained from marijuana, and any product containing marijuana. "Marijuana" includes marijuana that is used for medical, non-medical, or other purposes.

"Marijuana" does not include the mature stalk of the plant, fiber produced from the stalks, oil or cake made from 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. "Marijuana" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5, as the same may be amended from time to time.

J. "Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

K. "Marijuana product" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not, limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

L. "MAUCRSA" means the Medical and Adult-Use Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

M. "Outdoors" means any location that is not within a fully enclosed and secure structure.

N. "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

O. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, that is lawfully used as a residence.

#### **9660.2 Prohibitions.**

A. Commercial marijuana activity, whether or not for profit, is not a permitted use anywhere in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial marijuana activity. This section shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time.

B. It shall be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial marijuana activity in the city.

C. To the extent not already prohibited by subsection A above, all Deliveries of marijuana or marijuana products to or from any location in the city are expressly prohibited. No person shall conduct or perform any delivery of any marijuana or marijuana products, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting marijuana through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

D. All outdoor marijuana cultivation is prohibited in the city. Indoor marijuana cultivation is prohibited except as specified in section 9660.3(A)(5).

#### **9660.3 Exceptions.**

A. To the extent that the following activities are permitted by State law, nothing in this division shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of marijuana in the form of concentrated cannabis;

3. Smoking or ingesting marijuana or marijuana products in a manner consistent with California Health and Safety Code section 11362.3, as the same may be amended from time to time;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away marijuana accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the indoor cultivation of six (6) or fewer live marijuana plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by California Health and Safety Code sections 11362.1 and 11362.2, as the same may be amended from time to time.

B. This division shall also not prohibit any commercial marijuana activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA.

#### **9660.4 Violation, penalty**

Violations of this section are subject to the general penalty provisions set forth in section 1200. In any civil action brought pursuant to this division, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in section 1200 of the Agoura Hills Municipal Code, this division does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under section 1200 of the Agoura Hills Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern."

**SECTION 5.** Planning Department staff has determined that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial marijuana activity and outdoor marijuana cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property, nor the construction of any new or expanded structures. The City Council has reviewed Planning Department Staff's determination of exemption, and based on its own independent judgment, concurs with Staff's determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

**SECTION 6.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, for any reason, is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.


**SECTION 7.** Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

**SECTION 8.** This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published, and a certified copy of the full text of this proposed Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance, and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance, along with the names of those City Council members voting for and against this Ordinance or amendment, at least until the day of such publication.

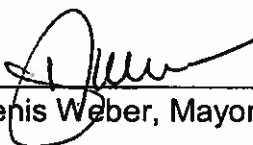
**PASSED, APPROVED, AND ADOPTED** this 23rd day of August, 2017, by the following vote to wit:

AYES: (5)  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

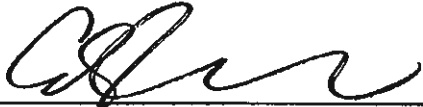
ATTEST:

  
\_\_\_\_\_  
Kimberly M. Rodrigues, MMC, City Clerk



  
\_\_\_\_\_  
Denis Weber, Mayor

APPROVED AS TO FORM:


A handwritten signature in black ink, appearing to read 'C. Lee', written over a horizontal line.

Candice K. Lee, City Attorney



STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES    ) SS  
CITY OF AGOURA HILLS       )

I, Kimberly M. Rodrigues, City Clerk of the City of Agoura Hills, California, do hereby certify that the foregoing is a full, true, and correct copy of **Ordinance No. 16-429** approved and adopted by the City Council of the City of Agoura Hills at a Regular City Council Meeting thereof held on the 23<sup>rd</sup> day of August, 2017, and that said Ordinance was published or posted pursuant to law.

  
\_\_\_\_\_  
Kimberly M. Rodrigues, MMC  
City Clerk

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# EXHIBIT 3

## ORDINANCE NO. 483

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANGELS CAMP ADDING CHAPTER 5.10, CANNABIS BUSINESS REGULATION, TO TITLE 5, AND REPEALING CHAPTER 8.25, MEDICAL CANNABIS REGULATIONS OF TITLE 8 OF THE ANGELS CAMP MUNICIPAL CODE, AND REPEALING ORDINANCE NO. 480, AN URGENCY ORDINANCE CONCERNING THE CULTIVATION, COMMERCIAL AND RETAIL SALE, DISTRIBUTION, AND DELIVERY OF MARIJUANA AND RELATED LAND USES, RELATING TO CANNABIS BUSINESS REGULATION**

**WHEREAS**, in 1996, California voters approved Proposition 215, the Compassionate Use Act of 1996 (the “CUA”). The CUA enables seriously ill Californians to legally possess, use, and cultivate cannabis for medical use under state law. In 2003, the California Legislature adopted Senate Bill 420, entitled the Medical Marijuana Program (the “MMP”), which authorizes qualified patients and their primary caregivers to cultivate cannabis for medical purposes without being subject to criminal prosecution under the California Penal Code; and

**WHEREAS**, in 2016, the voters of California approved Proposition 64 entitled the “Control, Regulate and Tax Adult Use of Marijuana Act” (“AUMA”). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

**WHEREAS**, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA authorizes local jurisdictions to control whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

**WHEREAS**, on December 4, 2017, the City Council of the City of Angels Camp (“City Council”) adopted Ordinance 480, an urgency ordinance, to enact temporary cannabis regulations (the “Temporary Cannabis Ordinance”). The Temporary Cannabis Ordinance temporarily prohibited all commercial cannabis activity that originated within the City of Angels Camp (the “City”); and

**WHEREAS**, on December 7, 2017, the Bureau of Cannabis Control, the Department of Agriculture, and the Department of Public Health issued final emergency regulations relating to all cannabis businesses allowed under state law (collectively, the “Emergency Regulations”); and

**WHEREAS**, the City Council desires to amend the Temporary Cannabis Ordinance to permanently prohibit all cannabis businesses from operating within the City and regulate cannabis deliveries from businesses located outside the City in conformity with the CUA, Emergency Regulations, AUMA, and MAUCRSA; and

**WHEREAS**, the City Council finds that (1) cannabis businesses, whether for medicinal or adult-use purposes, can adversely affect the health, safety, and well-being of city residents and shall be prohibited within the City; (2) city-wide regulation of cannabis deliveries from businesses outside the City is proper and necessary to avoid the risks of criminal activity; and (3)

that cannabis business activity increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity; and

**WHEREAS**, the City Council finds that this ordinance is in the best interest of the health, welfare, and safety of the public.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CITY OF ANGELS DOES ORDAIN AS FOLLOWS:**

**SECTION 1:** Chapter 5.10, Cannabis Business Regulations, is hereby added to the Angels Municipal Code to read as follows:

**Chapter 5.10 Cannabis Business Regulations.**

**Section 5.10.010 - Legislative Intent.**

It is the intent of the City to regulate commercial cannabis activities pursuant to state law. It is not the intent of the City to expand, reduce, or alter the penalties for violations of state cannabis laws.

**Section 5.10.020 - Definitions.**

- A. “Bureau” means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- B. “Business” means a profession, trade, occupation, gainful activity, and all and every kind of calling whether or not carried on for profit.
- C. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin; whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” 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. “Cannabis” does not mean “industrial hemp” as defined by section 11018.5 of the Health and Safety Code.
- D. “Cannabis business” means any business engaged in commercial cannabis activity. “Cannabis business” does not include any of the following:
  - 1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
  - 2. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
  - 3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.

4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the Health and Safety Code.
  5. The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by section 11362.7 of the Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, sections 11362.5 and 11362.765 of the Health and Safety Code.
- E. “Cannabis cultivation business” means any cannabis business that, pursuant to a Type 1, Type 1A, Type 1B, Type 1C, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, Type 5B, or Type 12 state cannabis license, or their successors, cultivates cannabis or cannabis products.
  - F. “Cannabis delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Cannabis delivery” also includes the use by a retailer of any technology platform.
  - G. “Cannabis delivery business” means any cannabis business that, pursuant to a Type 10 state cannabis license, or its successors, delivers, makes available, or distributes cannabis and cannabis products to a consumer.
  - H. “Cannabis dispensary business” means any cannabis business where medicinal or adult-use cannabis or cannabis products are sold at retail, pursuant to a Type 10 state cannabis license, or its successors. A cannabis dispensary includes a cannabis business that provides cannabis deliveries.
  - I. “Cannabis distribution business” means any cannabis business that, pursuant to a Type 11 or Type 13 state cannabis license, or their successors, procures, sells, or transports cannabis and cannabis products between cannabis businesses.
  - J. “Cannabis manufacturing business” means any cannabis business that, pursuant to a Type 6, Type 7, or Type 12 state cannabis license, or their successors, manufactures cannabis or cannabis products.
  - K. “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
  - L. “Cannabis testing laboratory business” means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license, or its successors.
  - M. “City” means the City of Angels Camp, a California municipal corporation, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.
  - N. “Commercial cannabis activity” includes the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products that requires a state license.

- O. “Commercial cannabis waste” means cannabis plants and plant materials that are discarded by a cannabis business, including but not limited to extra vegetative plants, failed clones, and harvest waste.
- P. “Cultivation” means any activity involving the planting, growing, harvesting, processing, drying, curing, grading, or trimming of cannabis.
- Q. “Day care center” means any licensed child day care facility other than a small or large day care home, including infant centers and preschools.
- R. “Employee permit” means the permit required by this chapter for every employee or independent contractor employed by a cannabis business.
- S. “Juvenile” means any natural person who is under the age of eighteen (18) years.
- T. “License” means a state license issued pursuant to Cal. Bus. & Prof. Code, § 26000.
- U. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- V. “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business, trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- W. “Primary caregiver” has the same meaning as that term is defined by section 11362.7 of the Health and Safety Code.
- X. “Qualified patient” has the same meaning as that term is defined by section 11362.7 of the Health and Safety Code.
- Y. “School” means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school where education is primarily conducted in private homes.

#### **Section 5.10.030 – Cannabis Dispensaries.**

All cannabis dispensary businesses are prohibited within the City.

#### **Section 5.10.040 - Cannabis Deliveries from Outside City Limits.**

- A. Except as provided in paragraph (B), a person is prohibited from engaging in, conducting, or carrying on, or to permit the engaging in, conducting or carrying on, the delivery of cannabis for any purpose within the City.
- B. A cannabis delivery business with a physical location outside the City may conduct cannabis delivery services within the City under the following conditions:
  - 1. Persons delivering cannabis in the City may not possess cannabis goods valued in excess of \$10,000 at any time, pursuant to Section 5418 of Title 16 of Division 42 of the California Code of Regulations, while making cannabis deliveries within the City.

2. The cannabis delivery may only occur between the hours of eight a.m. and eight p.m.
3. Prior to any delivery within the City, the cannabis delivery business shall register with the Angels Police Department and provide proof that the cannabis delivery business is licensed under state law and permitted by a local jurisdiction to operate, including the driver's license number of each employee conducting deliveries. The Angels Police Department shall verify the employees of the cannabis delivery business do not have a criminal history disclosed by the Interstate Identification Index.
4. Before July 1 of each calendar year, a cannabis delivery business that has complied with paragraph (3) shall provide the Angels Police Department proof that the cannabis delivery business is licensed under state law and permitted by a local jurisdiction to operate, including the driver's license number of each employee conducting deliveries. Additionally, the cannabis delivery business shall also report to the Angels Police Department the number of any thefts related to cannabis delivery that occurred during the prior year.
5. Payment for all cannabis and cannabis products shall be made by means that do not involve the exchange of cash.
6. The cannabis delivery business must pay the City's business license tax and obtain the City's business license certificate prior to conducting any cannabis deliveries within the City.

**Section 5.10.050 - Cannabis Cultivation Business.**

All cannabis cultivation businesses are prohibited within the City.

**Section 5.10.060 - Cannabis Testing Laboratory.**

All cannabis testing laboratories are prohibited within the City.

**Section 5.10.070 - Cannabis Manufacturing Business.**

All cannabis manufacturing businesses are prohibited within the City.

**Section 5.10.080 - Cannabis Distribution Business.**

All cannabis distribution businesses are prohibited within the City.

**Section 5.10.090 - Penalties.**

- A. Any use or condition caused, or permitted to exist, in violation of any provision of this chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to section 731 of the Code of Civil Procedure or any other remedy available to the City.
- B. In addition to any other enforcement permitted by this chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing



party.

- C. Violations of this chapter shall be subject to an administrative penalty. The amount of the administrative penalty shall be five hundred dollars (\$500) for the first offense within a 12-month period, seven hundred and fifty dollars (\$750) for the second offense within a 12-month period, and one thousand dollars (\$1,000) for any subsequent offense within a 12-month period.
- D. Penalty Enhancements.
  - 1. In addition to any other enforcement permitted by this chapter, the City may double any administrative penalty for egregious violations of this chapter. Egregious violations include (a) the unpermitted use of volatile solvents; (b) the operation of a cannabis business without City approval; or (c) a cannabis delivery business allowing minors to consume or possess cannabis or cannabis products.
  - 2. If a cannabis delivery business receives four or more penalties for violating this chapter within any 12-month period, that business shall be immediately prohibited from operating within the City.

#### **Section 5.10.100 - Cost Recovery.**

- A. The City shall be entitled to recover its abatement and enforcement costs incurred in obtaining compliance with this chapter. Costs incurred by the City are recoverable even if a public nuisance, Municipal Code, or other violation of law is corrected by the property owner or other responsible party.
- B. The cost of abating a public nuisance or enforcing this chapter shall either be a special assessment and lien on the subject property or the personal obligation of the owner of the subject property or the responsible party. If there is more than one responsible party, each party shall be jointly and severally liable for the costs.
- C. For purposes of this chapter, the following additional definitions shall apply:
  - 1. "Abatement costs" include the actual and reasonable costs incurred by the City to abate a public nuisance. These costs include all direct and indirect costs to the City that result from the total abatement action, including but not limited to, investigation costs, costs to enforce the Municipal Code and any applicable state or county law, clerical and administrative costs to process paperwork, costs incurred to provide notices and prepare for and conduct administrative appeal hearings, and costs to conduct actual abatement of the nuisance. Costs include personnel costs, administrative overhead, costs for equipment such as cameras and vehicles, staff time to hire a contractor, and reasonable attorneys' fees incurred by City.
  - 2. "Enforcement costs" include all actual and reasonable costs incurred by the City to enforce compliance with the Municipal Code and any applicable state, county, or City public health and safety law that are not included within abatement costs. Enforcement costs shall also include, but are not limited to, costs of fringe benefits for personnel, administrative overhead, costs of equipment, costs of materials, costs related to investigations, costs related to issuing and defending

administrative or court citations, costs incurred investigating and abating violations of the Municipal Code or state or county law violations, and reasonable attorneys' fees related to these activities.

3. "Responsible party" means a person or entity responsible for creating, causing, committing, or maintaining the violation of this chapter or state or county law.
4. "Subject property" means the real property that is the subject of any abatement or enforcement action by the City for which the City incurred costs and seeks recovery under this chapter.

**SECTION 2:** Chapter 8.25, Medical Cannabis Regulations, of the Angels Camp Municipal Code is hereby repealed in its entirety.

**SECTION 3:** Ordinance 480, An Ordinance of the City of Angels Camp Extending an Urgency Moratorium Ordinance Concerning the Cultivation, Commercial and Retail Sale, Distribution, and Delivery of Marijuana and Related Land Uses, is hereby repealed in its entirety.

**SECTION 4.** If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 5:** This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

This ordinance was introduced at a regular meeting of the City Council of the City of held on June 5, 2018. At a regular meeting of the City Council held on June 19, 2018, the foregoing Ordinance was passed and adopted by the following vote:

AYES: Hermann, Behiel, Metildi, Oliveira

NOES: Folendorf

ABSENT: None

ABSTAIN: None

ATTEST:

APPROVED:



Susan Wenger, Deputy City Clerk



Amanda Folendorf, Mayor

# CITY of ANGELS



Incorporated in 1912

## CITY CLERK'S CERTIFICATION

The undersigned, being the Deputy City Clerk of the City of Angels, hereby certifies that the foregoing represents a true copy of Ordinance No. 483 of the City of Angels City Council, duly passed and adopted on June 19, 2018, which Ordinance is in full force and effect and has not been revoked or amended.

Witness my hand and seal, this 8th day of April, 2020

Susan Wenger

Susan Wenger, Deputy City Clerk  
City of Angels,  
Angels Camp, CA

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## EXHIBIT 4

**ORDINANCE NO. 2340**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA AMENDING SECTIONS 9220.45.1.3 AND 9213 OF THE ARCADIA MUNICIPAL CODE TO REGULATE THE PERSONAL, MEDICAL, AND COMMERCIAL USE OF MARIJUANA**

**WHEREAS, the City of Arcadia, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and**

**WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and**

**WHEREAS, the City passed Ordinance No. 2332 on January 19, 2016; and**

**WHEREAS, the City desires to continue to ban all marijuana dispensaries, cultivation, and delivery service land uses within the City Limits to the extent allowed by California law. Ordinance No. 2340 updates the Arcadia Municipal Code to effectuate that aim; and**

**WHEREAS, on June 28, 2016, the Secretary of State certified Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), for the November 8, 2016 ballot; and**

**WHEREAS, the AUMA would become law if a majority of the electorate votes "Yes" on the proposition; and**

**WHEREAS, the AUMA would regulate, among other items, the use of marijuana for personal and commercial purposes, including the recreational use of marijuana by adults over 21 years of age; and**

**WHEREAS, to regulate personal use of marijuana the AUMA would add Section 11362.1 to the Health and Safety Code, which makes it "lawful under state and local**

law” for persons 21 years of age or older to “possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever” up to 28.5 grams of marijuana in the form of concentrated cannabis or not more than eight grams of marijuana in the form of concentrated cannabis contained in marijuana products; and

WHEREAS, the AUMA would make it lawful for those individuals to “possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants”; and

WHEREAS, the AUMA would make it lawful for those individuals to smoke or ingest marijuana or marijuana products; and

WHEREAS, should the AUMA pass, many of its provisions would take effect on November 9, 2016; and

WHEREAS, to regulate commercial use of marijuana, the AUMA would add Division 10 (Marijuana) to the Business & Professions Code, which grants state agencies “the exclusive authority to create, issue, renew, discipline, suspend, or revoke” licenses for businesses including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of marijuana; and

WHEREAS, the AUMA provides that the above state agencies shall promulgate rules and regulations and shall begin issuing licenses under Division 10 by January 1, 2018; and

WHEREAS, the AUMA states that a local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with Division 10; and



WHEREAS, the AUMA would authorize cities to "reasonably regulate" without completely prohibiting cultivation of marijuana inside a private residence or inside an "accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure"; and

WHEREAS, the AUMA would authorize cities to completely prohibit outdoor cultivation on the grounds of a private residence, up to and until a "determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law"; and

WHEREAS, the AUMA would authorize cities to completely prohibit the establishment or operation of any marijuana business licensed under Division 10 within its jurisdiction, including marijuana dispensaries, marijuana retailers, and marijuana delivery services; and

WHEREAS, absent appropriate local regulation authorized by the AUMA, state regulations will control; and

WHEREAS, the "Medical Marijuana Regulation and Safety Act" ("MMRSA"), which took effect January 1, 2016, regulates use of marijuana for medical purposes; and

WHEREAS, the MMRSA contains a provision which provides that the State shall become the sole authority for regulation under certain parts of the Act unless local governments pass their own regulations; and

WHEREAS, in May 2013, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013) that cities have the authority to regulate or ban outright medical marijuana land uses; and

WHEREAS, the California Attorney General's August 2008 Guidelines for the

Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, under the Federal Controlled Substances Act, the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

WHEREAS, the indoor cultivation of marijuana has potential adverse effects to the health and safety of the occupants; including structural damage to the building due to increased moisture and excessive mold growth which can occur and can pose a risk of fire and electrocution; additionally, the use of pesticides and fertilizers can lead to chemical contamination within the structure; and

WHEREAS, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City due to the establishment and operation of marijuana cultivation, processing, and distribution uses; and

WHEREAS, the subject Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the

activity may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, this Ordinance would amend Sections 9213 and 9220.45.1.3 to clarify the substantive objectives of the Arcadia Municipal Code regarding the City's regulation of marijuana within its City limits and to preemptively address some proposed changes to California law in the event AUMA passes on November 8, 2016.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCADIA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 9220.45.1.3 of Part 2 of Chapter 2 of Article IX of the Arcadia Municipal Code is hereby amended in its entirety to read as follows:

**"9220.45.1.3 - MARIJUANA USES.**

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

A. "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.

B. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

C. "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

D. "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.

E. "Licensee" means the holder of any state issued license related to marijuana activities, including but not limited to licenses issued under Division 10 of the Business & Professions Code.

F. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

G. "Marijuana" means 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:

1. Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

H. "Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

I. "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

J. "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

K. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

L. "Sale" includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

M. Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified."

SECTION 2. Section 9213 of Part 1 of Chapter 2 of Article IX of the Arcadia Municipal Code is hereby amended in its entirety to read as follows:

**"9213. - OMISSION OR AMBIGUITY; MARIJUANA USES PROHIBITED.**

A. If any "use" is for any reason omitted from the lists of those specified as permissible in each of the various zones herein designated, or if ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this Chapter, or if ambiguity exists with reference to matters of height, yard requirements or area requirements as set forth herein and as they may pertain to unforeseen circumstances, it shall be the duty of the Planning Commission to ascertain

all pertinent facts concerning said use and by resolution of record set forth its findings and the reasons therefor. Such findings and resolutions shall be referred to the Council and, if approved by the Council, thereafter such interpretation shall govern.

**B. PERSONAL USE OF MARIJUANA.**

1. For purposes of this subsection, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the City to the extent it is unlawful under California law.

2. **OUTDOOR CULTIVATION.** A person may not plant, cultivate, harvest, dry, or process marijuana plants outdoors in any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

**3. INDOOR CULTIVATION.**

a. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, or inside any other enclosed structure within any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

b. To the extent a complete prohibition on indoor cultivation is not permitted under California law, a person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, unless the person is issued an indoor cultivation permit by the Planning Division. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside any enclosed structure within any

zoning district of the City which is not either a private residence or an accessory structure to a private residence located upon the grounds of a private residence.

c. The Planning Division will issue application and processing guidelines for the indoor cultivation permit. No indoor cultivation permit shall be issued prior to the release of these guidelines, and no permit shall be granted which has not complied fully with the application and processing requirements.

#### **C. MEDICAL USE OF MARIJUANA.**

1. Cultivation of medical marijuana pursuant to Section 11362.77 of the California Health & Safety Code is subject to the cultivation requirements laid out in subsection (B) of this Section.

2. The establishment or operation of any medical marijuana collective, cooperative, dispensary, delivery service, operator, establishment, or provider shall be considered a prohibited use in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, or provider in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.

#### **D. COMMERCIAL USE OF MARIJUANA.**

1. The establishment or operation of any business of commercial marijuana activity is prohibited. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

a. The transportation, delivery, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;

b. The cultivation of marijuana;

c. The manufacturing or testing of marijuana, marijuana products, or marijuana accessories; or

d. Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time.

**E. VIOLATIONS.** No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor or an infraction, at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided in Section 1200 of this Municipal Code and/or under state law."

**SECTION 3. CEQA.** The City Council finds that this Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no



possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

**SECTION 4. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council of the City of Arcadia hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrases be declared unconstitutional.

**SECTION 5. Custodian of Records.** The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's Office located at 240 West Huntington Drive, Arcadia, CA 91007. The custodian of these records is the City Clerk.

**SECTION 6. Restatement of Existing Law.** Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license or penalty or the penal provisions applicable to any violation thereof. The provisions of this Ordinance, insofar as they are substantially the same as the ordinance provisions previously adopted by the City relating to the same subject matter or relating to the enumeration of

permitted uses under the City's zoning code, shall be construed as restatements and continuations, and not as new enactments.

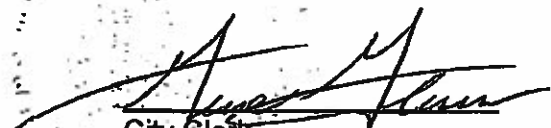
SECTION 7. Effective Date. This Ordinance shall become effective upon the thirty-first (31st) day following its adoption by a majority vote of the City Council.

SECTION 8. Certification and Publication. The City Clerk shall certify to the adoption of this Ordinance and shall cause a copy of the same to be published in the official newspaper of the City of Arcadia within fifteen (15) days after its adoption. This Ordinance shall take effect thirty-one (31) days after its adoption, and be in force according to law.


Passed, approved, and adopted this 4th day of October, 2016.

  
Mayor of the City of Arcadia

ATTEST:

  
City Clerk

APPROVED AS TO FORM:

  
Stephen P. Deitsch  
City Attorney

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES    ) SS:  
CITY OF ARCADIA             )

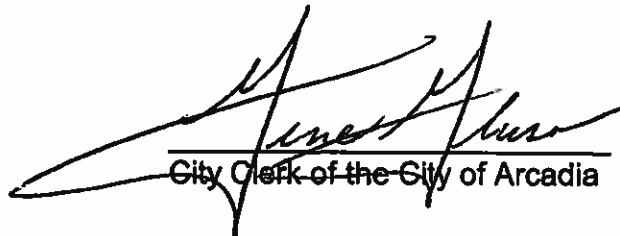
I, GENE GLASCO, City Clerk of the City of Arcadia, hereby certifies that the foregoing Ordinance No. 2340 was passed and adopted by the City Council of the City of Arcadia, signed by the Mayor and attested to by the City Clerk at a regular meeting of said Council held on the 4th day of October, 2016 and that said Ordinance was adopted by the following vote, to wit:

AYES:       Amundson, Chandler, Tay, Verlato, and Beck

NOES:       None

ABSENT:     None

ABSTAIN:   None

  
\_\_\_\_\_  
City Clerk of the City of Arcadia



This is to certify that the foregoing is a true and correct copy of the original document.

Signature

Date 2-18-2020

City Clerk's Office, Arcadia, California

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# EXHIBIT 5



## **CITY COUNCIL OF THE CITY OF ATWATER**

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### **ORDINANCE NO. CS 996**

#### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AWATER REPEALING AND REPLACING CHAPTER 5.60 OF THE ATWATER MUNICIPAL CODE RELATING TO CANNABIS BUSINESS PILOT PROGRAM**

**WHEREAS**, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

**WHEREAS**, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age or older and the personal cultivation of up to six cannabis plants within a private residence; and

**WHEREAS**, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

**WHEREAS**, on October 23, 2017, the City of Atwater adopted Ordinance No. CS 982 to enact cannabis regulations for cannabis businesses pursuant to AUMA and MAUCRSA (the "Cannabis Ordinance"); and

**WHEREAS**, on December 7, 2017, the Bureau of Cannabis Control, the Department of Agriculture, and the Department of Public Health issued final emergency regulations relating to all cannabis businesses allowed under state law (collectively, the "Emergency Regulations"); and

**WHEREAS**, the City Council of the City of Atwater ("City Council") desires to amend the Cannabis Ordinance to conform with the Emergency Regulations, AUMA, and MAUCRSA; and

**WHEREAS**, the City Council finds that (1) outdoor cannabis cultivation, whether for medical or adult-use purposes, can adversely affect the health, safety, and well-being of city residents and shall be prohibited commercially; (2) city-wide regulation of indoor cannabis activities is proper and necessary to avoid the risks of criminal activity; and (3) that cannabis activity without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity; and

**WHEREAS**, the City Council finds that this ordinance is in the best interest of the health, welfare, and safety of the public.

**NOW, THEREFORE**, the City Council of the City of Atwater does hereby ordain as follows:

**SECTION 1:** Chapter 5.60 of the Atwater Municipal Code is hereby repealed in its entirety and amended to read as follows:

### **Chapter 5.60 Cannabis Business Pilot Program**

#### **Section 5.60.010 - Legislative Intent.**

It is the intent of the City to establish a cannabis business pilot program to regulate commercial cannabis activities pursuant to state law and to discourage violations of related state law, especially those that prohibit the sale, use, or distribution of cannabis and cannabis products to juveniles. It is not the intent of the City to expand, reduce, or alter the penalties for violations of state cannabis laws.

#### **Section 5.60.020 - Definitions.**

- A. "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- B. "Business" means a profession, trade, occupation, gainful activity, and all and every kind of calling whether or not carried on for profit.
- C. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" 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.

"Cannabis" does not mean "industrial hemp" as defined by section 11018.5 of the Health and Safety Code.

- D. "Cannabis business" means any business engaged in commercial cannabis activity. "Cannabis business" does not include any of the following:
1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
  2. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
  3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
  4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the Health and Safety Code.
  5. The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by section 11362.7 of Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, sections 11362.5 and 11362.765 of the Health and Safety Code.
- E. "Cannabis cultivation business" means any cannabis business that, pursuant to a Type 1, Type 1A, Type 1B, Type 1C, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, Type 5B, or Type 12 state cannabis license, or their successors, cultivates cannabis or cannabis products.
- F. "Cannabis delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Cannabis delivery" also includes the use by a retailer of any technology platform.
- G. "Cannabis delivery business" means any cannabis business that, pursuant to a Type 10 state cannabis license, or its successors, delivers, makes available, or distributes cannabis and cannabis products to a consumer.
- H. "Cannabis dispensary" means any cannabis business where medicinal or adult-use cannabis or cannabis products are sold at retail, pursuant to a Type 10 state cannabis license, or its successors. A cannabis dispensary includes a cannabis business that provides cannabis deliveries.

- I. "Cannabis distribution business" means any cannabis business that, pursuant to a Type 11 or Type 13 state cannabis license, or their successors, procures, sells, or transports cannabis and cannabis products between cannabis businesses.
- J. "Cannabis manufacturing business" means any cannabis business that, pursuant to a Type 6, Type 7, or Type 12 state cannabis license, or their successors, manufactures cannabis or cannabis products.
- K. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- L. "Cannabis testing laboratory" means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license, or its successors.
- M. "City" means the City of Atwater, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.
- N. "Commercial cannabis activity" includes the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products that requires a state license.
- O. "Commercial cannabis waste" means cannabis plants and plant materials that are discarded by a cannabis business, including, but not limited to, extra vegetative plants, failed clones, and harvest waste.
- P. "Cultivation" means any activity involving the planting, growing, harvesting, processing, drying, curing, grading, or trimming of cannabis.
- Q. "Day care center" means any licensed child day care facility other than a small or large day care home, including infant centers and preschools.
- R. "Employee permit" means the permit required by this chapter for every employee or independent contractor employed by a cannabis business.
- S. "Juvenile" means any natural person who is under the age of eighteen (18) years.
- T. "License" means a state license issued pursuant to Business & Professions Code, section 26000.
- U. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.



- V. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- W. "Primary caregiver" has the same meaning as that term is defined by section 11362.7 of the Health and Safety Code.
- X. "Qualified patient" has the same meaning as that term is defined by section 11362.7 of the Health and Safety Code.
- Y. "School" means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school where education is primarily conducted in private homes.

**Section 5.60.030 - State and Local Requirements.**

- A. Any cannabis business that does not have the applicable state license is prohibited within the City.
- B. Any cannabis business allowed in the City shall obtain all of the following:
  - 1. A development agreement.
  - 2. A City business license.
  - 3. A conditional use permit.
- C. A cannabis business shall maintain compliance with Title 17 of the Atwater Municipal Code.
- D. At the time of application to the City, every cannabis business applicant shall submit to the Community Services Director a copy of its state license or state license application required for its operation.
- E. A cannabis business shall not be located within six hundred (600) feet of any school, day care center, church, or residentially zoned parcels in existence at the time the business submits an application to operate a cannabis business. The distance specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the school, day care center, church, or residentially zoned parcel to the closest property line of the lot on which the cannabis business is to be located without regard to intervening structures.
- F. Outdoor cultivation is prohibited within the City.

**Section 5.60.040 – Cannabis Dispensaries.**

- A. Up to two (2) cannabis dispensaries may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. Any cannabis dispensary allowed and operating within the City is allowed to perform cannabis delivery services.
- C. A cannabis dispensary shall maintain all applicable state licenses and comply with all of the following:
  - 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas.
  - 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
  - 3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis dispensary, specifying the street address and parcel number.
  - 4. Security.
    - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
    - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
    - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.

5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
6. Tax Compliance. A cannabis cultivation business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
7. Insurance. The cannabis dispensary shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
8. Waste Management Plan. A cannabis cultivation business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

**Section 5.60.050 - Cannabis Deliveries from Outside City Limits.**

Any commercial cannabis activity related to cannabis deliveries is prohibited unless the business first obtains a City business license. The City reserves the right to deny any business license application for a business that performs cannabis deliveries within the City. The possession of a state license from another city, county, or other government entity does not allow a cannabis business to provide cannabis delivery services in the City.

**Section 5.60.060 - Cannabis Cultivation Business.**

- A. A cannabis cultivation business may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. A cannabis cultivation business shall maintain all applicable state licenses and comply with all of the following:
  1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas. All cultivation and curing areas within a building on the cultivation site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis cultivation business.
  2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, boundaries, lights, and canopy areas.

3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis cultivation business, specifying the street address and parcel number.
  4. Security.
    - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
    - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
    - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
  5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
  6. Cultivation Site Restricted. A cannabis cultivation business shall not open their cultivation site to the public. A cannabis business shall not allow anyone on the cultivation site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters. A juvenile shall not be on the cultivation site or operate a cannabis cultivation business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
- C. Tax Compliance. A cannabis cultivation business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.

- D. Insurance. The cannabis cultivation business shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
- E. Waste Management Plan. A cannabis cultivation business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

**Section 5.60.070 - Cannabis Testing Laboratory.**

- A. A cannabis testing laboratory may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. A cannabis testing laboratory shall meet the accreditation criteria in the International Organization for Standardization (ISO) guidelines known as ISO 17025.
- C. All cannabis testing laboratories shall maintain all applicable state licenses and maintain compliance with all of the following:
  - 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas.
  - 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries. The site plan shall comply with all of the following:
    - i. Entrances. All entrances into the buildings on the laboratory site shall be locked at all times, with entry controlled by the cannabis testing laboratory business' managers and staff.
    - ii. Main Entrance and Lobby. The laboratory site shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed in the testing areas.
    - iii. Testing Area. All testing areas in any building on the laboratory site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff, of the cannabis testing laboratory.

- iv. Transport Area. Each building with a testing area shall have an area designed for the secure transfer of cannabis from a vehicle to the testing area.
  - v. Storage area. Each building with a testing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby and shall be secured by a lock accessible only to managers and staff, of the cannabis testing laboratory.
- 3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis manufacturing business, specifying the street address and parcel number.
- 4. Security.
  - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the laboratory site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the laboratory site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
  - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
  - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
- 5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
- 6. Tax Compliance. A cannabis manufacturing business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.

7. Laboratory Site Restricted. A cannabis testing laboratory shall not open their laboratory site to the public. A cannabis testing laboratory shall not allow anyone on the laboratory site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there; such as contractors, inspectors, and cannabis transporters. A manager must be on the laboratory site at all times any other person, except for security guards, is on the site. A juvenile shall not be on the laboratory site or operate a cannabis testing laboratory in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
8. Insurance. The cannabis testing laboratory shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
9. Waste Management Plan. A cannabis testing laboratory shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

**Section 5.060.080 - Cannabis Manufacturing Business.**

- A. A cannabis manufacturing business may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. A cannabis manufacturing business shall obtain all applicable licenses and maintain compliance with all of the following:
  1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas. All manufacturing areas within a building on the manufacturing site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis manufacturing business.
  2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
  3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis manufacturing business, specifying the street address and parcel number.
  4. Security.
    - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas,

and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the manufacturing site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

- ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
  - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
6. Manufacturing Site Restricted. A cannabis manufacturing business shall not open their manufacturing site to the public. A cannabis manufacturing business shall not allow anyone on the manufacturing site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters. A manager must be on the manufacturing site at all times any other person, except for security guards, is on the site. A juvenile shall not be on the manufacturing site or operate a cannabis manufacturing business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
7. Tax Compliance. A cannabis manufacturing business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
8. Insurance. The cannabis manufacturing business shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
9. Waste Management Plan. A cannabis manufacturing business shall submit and comply with an approved commercial cannabis waste



management plan describing how commercial cannabis waste will be disposed.

**Section 5.60.090 - Cannabis Distribution Business.**

- A. A cannabis distribution business may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. All cannabis distribution business shall obtain all applicable state licenses and maintain compliance with all of the following:
  - 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas. All storage areas within a building on the distribution site shall be separated from the main entrance and lobby and shall be secured by a lock accessible only to managers and staff of the cannabis distribution business.
  - 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
  - 3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis distribution business, specifying the street address and parcel number.
  - 4. Security.
    - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the distribution site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
    - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
    - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in

good working condition. The alarm system shall include a private security company that is required to respond to every alarm.

5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
6. Distribution Site Restricted. A cannabis distribution business shall not open their distribution site to the public. A cannabis distribution business shall not allow anyone on the distribution site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters. A juvenile shall not be on the distribution site or operate a cannabis distribution business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
7. Tax Compliance. A cannabis distribution business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
8. Insurance. The cannabis distribution business shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
9. Waste Management Plan. A cannabis distribution business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

#### **5.60.100 Inspections and record retention.**

##### **A. Authority to inspect.**

1. City officials or law enforcement may reasonably enter and inspect the cannabis business at any time between the hours of 6:00 a.m. and 11:00 p.m. on any day of the week, or at any reasonable time, to ensure compliance and enforcement of this chapter.
2. City officials may inspect and demand copies of records maintained by the cannabis business, except for private medical records, that shall be made available to law enforcement agencies only pursuant to a properly executed search warrant, subpoena, or court order.
3. A person shall not refuse, impede, obstruct, or interfere with an inspection pursuant to this chapter.

- B. Records. A cannabis business shall maintain accurate records of commercial cannabis activity for a minimum of seven (7) years in accordance with Chapter 16 (commencing with Section 2610) of Division 10 of the Business and Professions Code.

**Section 5.60.110 – Appeals**

- A. An applicant or cannabis business may appeal any adverse action taken under this chapter to the City Council.
- B. All appeals taken under this chapter must be taken within thirty (30) days after the adverse action by filing with the office of the City Clerk a written notice of appeal specifying the grounds thereof. An appeal shall be accompanied by a non-refundable filing fee, as established by resolution adopted by the City Council from time to time.
- C. The City Clerk, upon the filing of such appeal and payment of an appeal fee, shall place the matter upon the agenda for the next regular meeting of the City Council occurring not earlier than five (5) days after the filing of the appeal, and shall notify the appealing permit applicant by letter of the meeting date and place at which the appeal will be heard.

**Section 5.60.120 - Penalties.**

- A. Any use or condition caused, or permitted to exist, in violation of any provision of this chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to section 731 of the Code of Civil Procedure or any other remedy available to the City.
- B. In addition to any other enforcement permitted by this chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.
- C. Violations of this chapter shall be subject to an administrative penalty. The amount of the administrative penalty shall be five hundred dollars (\$500) for the first offense within a twelve (12) month period, seven hundred fifty dollars (\$750) for the second offense within a twelve (12) month period, and one thousand dollars (\$1,000) for any subsequent offense within a twelve (12) month period.
- D. Penalty Enhancements.
  - 1. In addition to any other enforcement permitted by this chapter, the City may double any administrative penalty for egregious violations of this chapter. Egregious violations include (a) the unpermitted use of volatile

solvents; (b) the operation of a cannabis business without City approval; or (c) a cannabis business allowing juveniles to consume or possess cannabis or cannabis products.

2. If a cannabis business receives four (4) or more penalties for violating this chapter within any twelve (12) month period, that business shall be immediately prohibited from operating within the City.

#### **Section 5.60.130 - Cost Recovery.**

- A. The City shall be entitled to recover its abatement and enforcement costs incurred in obtaining compliance with this chapter. Costs incurred by the City are recoverable even if a public nuisance, Atwater Municipal Code, or other violation of law is corrected by the property owner or other responsible party.
- B. The cost of abating a public nuisance or enforcing this chapter shall either be a special assessment and lien on the subject property or the personal obligation of the owner of the subject property or the responsible party. If there is more than one responsible party, each party shall be jointly and severally liable for the costs.
- C. For purposes of this chapter, the following additional definitions shall apply:
  1. "Abatement costs" include the actual and reasonable costs incurred by the City to abate a public nuisance. These costs include all direct and indirect costs to the City that result from the total abatement action, including but not limited to, investigation costs, costs to enforce the Atwater Municipal Code and any applicable state or county law, clerical and administrative costs to process paperwork, costs incurred to provide notices and prepare for and conduct administrative appeal hearings, and costs to conduct actual abatement of the nuisance. Costs include personnel costs, administrative overhead, costs for equipment such as cameras and vehicles, staff time to hire a contractor, and reasonable attorneys' fees incurred by the City.
  2. "Enforcement costs" include all actual and reasonable costs incurred by the City to enforce compliance with the Atwater Municipal Code and any applicable state, county, or City public health and safety law that are not included within abatement costs. Enforcement costs shall also include, but are not limited to, costs of fringe benefits for personnel, administrative overhead, costs of equipment, costs of materials, costs related to investigations, costs related to issuing and defending administrative or court citations, costs incurred investigating and abating violations of the Atwater Municipal Code or state or county law violations, and reasonable attorneys' fees related to these activities.

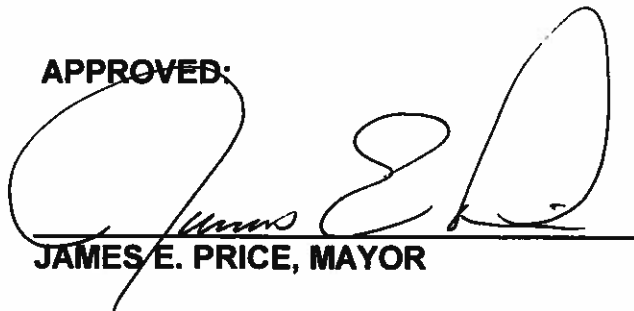
3. "Responsible party" means a person or entity responsible for creating, causing, committing, or maintaining the violation of this chapter or state or county law.
4. "Subject property" means the real property that is the subject of any abatement or enforcement action by the City for which the City incurred costs and seeks recovery under this chapter.

**SECTION 2:** If any section, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3:** This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

**INTRODUCED:** April 30, 2018  
**ADOPTED:** May 14, 2018  
**AYES:** Vineyard, Vierra, Creighton, Raymond, Price  
**NOES:** None  
**ABSENT:** None

**APPROVED:**



**JAMES E. PRICE, MAYOR**

**ATTEST:**



**DON HYLER III, CITY CLERK**

"I, Lucy Armstrong, City Clerk of the City of Atwater and as such Ex-Officio Clerk of the City Council of the City of Atwater, hereby certify that the foregoing ordinance is a true, correct, and complete copy of the original of such resolution, which is on file in my office.



Lucy Armstrong  
City Clerk of the City of Atwater, and  
Ex-Officio Clerk of the City Council of  
the City of Atwater, State of California."

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## EXHIBIT 6

**ORDINANCE NO. 17-O- 2734**

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
PROHIBITING ALL COMMERCIAL CANNABIS  
ACTIVITY (BOTH MEDICAL AND NON-MEDICAL)  
EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS,  
MAKING RELATED MUNICIPAL CODE AMENDMENTS,  
AND FINDING THE ORDINANCE EXEMPT FROM THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEVERLY  
HILLS DOES ORDAIN AS FOLLOWS:**

**SECTION 1.     Findings and Purpose.**

A.     The City of Beverly Hills, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B.     On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA added Division 10 to the California Business and Professions Code, sections 26000, *et seq.*, which grants State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for cannabis businesses. The AUMA provides that the State shall begin issuing licenses to cannabis businesses under Division 10 of the California Business and Professions Code by January 1, 2018. California Business and Professions Code section 26055(e) provides that a State licensing authority shall not approve an application for a State license for commercial non-medical cannabis activity if approval of the State license will violate the provisions of any local ordinance.

C.     On October 9, 2015, Governor Brown signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643 into law, which were collectively known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State licensing scheme for commercial medical cannabis uses, while protecting local control by requiring that all such businesses have a local license or permit to operate in addition to a State license. The MCRSA allowed the City to completely prohibit commercial medical cannabis activities.

D.     On June 22, 2017, the Planning Commission of the City of Beverly Hills held a public hearing on this proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

E.     At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 1813 recommending that the City Council adopt the proposed Ordinance, to prohibit all commercial cannabis activity except for the delivery of medical cannabis.

F.     On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA,



and created a single regulatory scheme for both medical and non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether commercial cannabis activity could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a business to engage in commercial cannabis activity if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to marijuana businesses beginning January 1, 2018.

G. On July 18, 2017, the City Council of the City of Beverly Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

H. All legal prerequisites to the adoption of this Ordinance have occurred.

**SECTION 2.** The definition of "Person" contained in Section 1-2-1 (Application of Definitions) of Chapter 2 (Definitions) of Title 1 (General Provisions) is hereby amended to read as follows:

"PERSON: A natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, cooperative, and collective, and any manager, lessee, agent, servant, officer or employee thereof."

**SECTION 3.** The definition of Marijuana Dispensary, Store, Co-Op, or Cultivation Operation from Section 10-3-100 (Words Defined) of Article 1 (Definitions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning) is hereby deleted, with all other definitions remaining in effect without amendment.

**SECTION 4.** The City Council of the City of Beverly Hills hereby deletes Section 10-3-2761 (Marijuana Dispensary, Store, Co-Op, or Cultivation Operation Prohibited) from Article 27 (Other Uses and Building Restrictions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning).

**SECTION 5.** The City Council of the City of Beverly Hills hereby adds Article 47 (Cannabis Prohibitions and Regulations) to Chapter 3 (Zoning) of Title 10 (Planning and Zoning) to read as follows:

**"ARTICLE 47 CANNABIS PROHIBITIONS AND REGULATIONS**

**Section 10-3-4700: Purpose.**

**Section 10-3-4701: Definitions.**

**Section 10-3-4702: Prohibited uses and activities.**

**Section 10-3-4703: Exceptions.**

**Section 10-3-4704: Violation, penalty.**

**10-3-4700 Purpose.**

A. The purpose of this article is to expressly prohibit the establishment of commercial cannabis uses in the city.

B. The city council finds that prohibitions on commercial cannabis activity are necessary for the preservation and protection of the public health, safety, and welfare of the city. The prohibition of such uses is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety and welfare of the city.

**10-3-4701 Definitions.**

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

A. "Cannabis" means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes.

"Cannabis" 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. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

B. "Cannabis accessories" means any equipment, products or materials of any kind which is intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

C. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

D. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, or any other purpose and includes the activities of any business licensed by the State or other government entity under

Division 10 of the California Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses.

E. "Concentrated cannabis" means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate.

F. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

G. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.

H. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed under Division 10 of the California Business and Professions Code, as they may be amended from time to time.

I. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

J. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the Business and Professions Code, as the same may be amended from time to time.

K. "Private residence" means a house, an apartment unit, condominium, or other similar dwelling that is lawfully used as a residence.

#### **10-3-4702 Prohibited uses and activities.**

A. Commercial cannabis activity, whether or not for profit, is prohibited in all zones, specific plan areas, and overlay zones of the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city. To the extent that this prohibition conflicts with any other provision of this Municipal Code, this prohibition will control.

B. A property owner shall not rent, lease or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the city. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial cannabis activity on any real property owned or controlled by that property owner that is located in the city.

C. Subsection A above shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time. Accordingly, the city shall not issue any permit, license or other entitlement for any activity for which a State license is required under the MAUCRSA, as the same may be amended from time to time. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.

D. To the extent not already prohibited by subsection A above, all deliveries of cannabis or cannabis products for non-medical purposes, to or from any location are expressly prohibited. No person shall conduct or perform any delivery of any cannabis or cannabis products for a non-medical purpose, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

#### **10-3-4703 Exceptions.**

A. Notwithstanding Subsection 10-3-4702 above, the delivery of medical cannabis from a business located outside the city and licensed under the MAUCRSA, or any other provision of law that permits State licenses for medical cannabis businesses, shall be permitted into the city.

B. To the extent that the following activities are permitted by State law, nothing in this article shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;

3. Smoking or ingesting cannabis or cannabis products except as prohibited by California Health and Safety Code section 11362.3;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the cultivation of six or fewer live cannabis plants within a single private residence, inside an accessory structure located upon the grounds of a private residence, or if grown outdoors within a locked space that is not visible by normal, unaided vision from a public place.

C. This article shall also not prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA.

#### **10-3-4705 Violation, penalty.**

In addition to any other enforcement permitted by this Section 10-3-205 of the Beverly Hills Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action

brought pursuant to this article, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Section 10-3-205 of the Beverly Hills Municipal Code, no provision of Section 10-3-205 or this Article 47 authorizes a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code section 11362.71, *et seq.* or section 11362.1, *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Section 10-3-205 of the Beverly Hills Municipal Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern."

**SECTION 6.** The Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the environmental regulations of the City. Planning Division staff has determined that the adoption and implementation of the Ordinance is eligible for a class 5 categorical exemption for minor changes in land use limitations and will not have a significant environmental impact. The Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations. Planning Division Staff has also determined that the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance to prohibit commercial cannabis activity except for the delivery of medical cannabis will have a significant effect on the environment. The adoption and implementation of the Ordinance will not result in a permanent alteration of property nor the construction of any new or expanded structures. The City Council has reviewed Planning Division Staff's determination of exemption, and based on its own independent judgment, concurs with Staff's determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

**SECTION 7.** Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.


**SECTION 8.** Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

**SECTION 9.** Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.


**SECTION 10. Effective Date.** This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: August 8, 2017

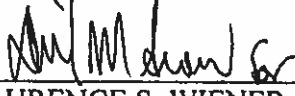
Effective: September 8, 2017

  
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ELI BOSSE  
Mayor of the City of Beverly Hills

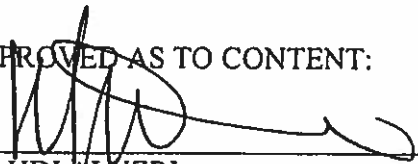
ATTEST:

*for*  (SEAL)  
\_\_\_\_\_  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
MAHDI ALUZRI  
City Manager

I CERTIFY UNDER PENALTY OF PERJURY,  
THAT THE FOREGOING IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN THIS OFFICE

ATTEST:   
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RECORDS MANAGER  
CITY OF BEVERLY HILLS, CALIFORNIA

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## EXHIBIT 7

**ORDINANCE NO. 04-56**  
**(Urgency Ordinance)**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS  
ADOPTING INTERIM REGULATIONS GOVERNING MEDICAL MARIJUANA  
DISPENSARIES AND THE CULTIVATION OF MEDICAL MARIJUANA**

THE CITY COUNCIL OF THE CITY OF CLOVIS DOES ORDAIN AS FOLLOWS:

**SECTION 1. FINDINGS.**

1. City staff is in the process of considering and studying an ordinance that would regulate Medical Marijuana Dispensaries and the cultivation of medical marijuana, including determining appropriate zoning for such uses.
2. The City of Fresno recently adopted an ordinance regulating Medical Marijuana Dispensaries (on October 26, 2004). That ordinance prohibits Medical Marijuana Dispensaries, as defined in the ordinance, from distributing marijuana to more than two qualified patients, persons with an identification card, or primary care givers.
3. As the largest City in Fresno County, the City of Fresno's restrictive ordinance could lead to the opening of Medical Marijuana Dispensaries in other Fresno County cities, including Clovis.
4. There are a number of health, safety, and welfare concerns associated with the cultivation of marijuana. Large scale cultivation leads to illegal sales and distribution of marijuana. Marijuana gardens are subject to frequent theft. Owners of marijuana gardens, therefore, often protect their gardens with guns and other weapons, increasing the potential for violent clashes between owners and citizens.
5. Cities with backyard marijuana gardens have received complaints of skunk-like smell of ripening plants, trespassing, garden burglaries, and other public health, safety, and welfare concerns.
6. Clovis has first hand experience with the problems associated with backyard marijuana gardens. In one incident qualified patients grew marijuana out of their backyard in a residential neighborhood near a school. The marijuana was plainly visible to the public creating an attractive nuisance. Children frequently walked by the property peering over the fence to view the marijuana and on occasion climbed over to steal marijuana. The neighbors protected their garden by sleeping in the back yard with guns.
7. The City of Fresno is facing a threat of harm to the public health, safety, and welfare from the large scale cultivation of marijuana as reported in the Fresno Bee during the week of November 30, 2004.



8. These facts indicate that if the cultivation of medical marijuana is not properly regulated, the cultivation of marijuana will result in a nuisance detrimental to the public health, safety, and welfare of the citizens of Clovis.
9. City staff has reviewed and the Council has considered: (a) the Compassionate Use Act approved by the voters with the passage of Proposition 215 in 1996 ("Act") which provides for the medical use of marijuana (Health and Safety Code § 11362.5); (b) case law interpreting the Act; (c); recently enacted state laws (SB 420) designed to assist with implementation of the Act (Health and Safety Code § 11362.7 et seq.); (d) regulations, reports, and studies adopted or prepared by other Cities pertaining to Medical Marijuana Dispensaries and the cultivation of marijuana which are on file with the City; and (e) the City of Fresno's October 26, 2004 staff report and ordinance findings which are on file with the City and incorporated herein by reference, as further reflected in these findings.
10. The Act provides for the medical use of marijuana that has been deemed appropriate and recommended by a physician who has determined that the person's health would benefit from the use of marijuana. The Act is also intended to ensure that patients and their primary caregivers who obtain, cultivate, or use marijuana for medical purposes are not subject to criminal prosecution or sanctions.
11. The Act allows for a patient to designate someone as his or her primary caregiver. The Act also allows a person to be the primary caregiver to an unlimited number of patients. This provision of the Act allows a primary caregiver to obtain, possess, cultivate, transport and distribute vast amounts of marijuana without restrictions. In several cities, caregivers have used the provision to set up Medical Marijuana Dispensaries at fixed locations.
12. SB 420 provides that qualified patients, persons with valid identification cards, and designated primary care givers who associate within California in order to collectively or cooperatively cultivate marijuana for medical purposes are not subject to criminal sanctions. This provision could lead to the large scale cultivation of medical marijuana within the City.
13. The City of Fresno contacted Police officials in the following five cities and counties that have operating Medical Marijuana Dispensaries: Roseville, Oakland, Hayward, Lake County and Fairfax. All of these agencies reported adverse impacts in and around these facilities. Some of the problems observed in these other agencies are:
  - Smoking of marijuana in and around the facility.
  - Patients congregating and smoking marijuana at nearby parks.
  - Attempted burglaries into the dispensary building.
  - Increase in crime near the dispensary.
  - Negative impact on nearby businesses.
  - Increase in the number of people coming from out of town to obtain recommendations and drugs.

14. Without a city ordinance in place, Medical Marijuana Dispensaries could operate within the City without restriction.
15. Without an ordinance in place, the cultivation of marijuana could occur within the City without restriction.
16. Presently, there is nothing to prevent an individual or business from establishing a Medical Marijuana Dispensary within the City limits of Clovis. There is presently nothing to prevent an individual or business from traveling throughout the City of Clovis transporting large quantities of marijuana for distribution to qualified individuals.
17. Presently, there is nothing to regulate the cultivation of marijuana for medical purposes within the City and to prevent the problems associated with the cultivation of marijuana.
18. There is a need to adopt health, safety, and welfare regulations, including appropriate zoning regulations, to avoid adverse impacts on the community which may arise from Medical Marijuana Dispensaries and to ensure that Medical Marijuana Dispensaries are compatible with General Plan Policies and community goals.
19. There is a need to adopt health, safety, and welfare regulations, including appropriate zoning regulations, to avoid adverse impacts on the community which may arise from the cultivation of marijuana.
20. Adopting the proposed urgency ordinance will prevent individuals or businesses from establishing Medical Marijuana Dispensaries while the Council considers adoption of permanent regulations and appropriate zoning. The urgency ordinance will allow the City to immediately begin enforcing restrictions on the establishment of Medical Marijuana Dispensaries.
21. Adopting the proposed urgency ordinance will prevent the cultivation of marijuana in a manner which creates a nuisance and is otherwise detrimental to the public health, safety, and welfare while the Council considers adoption of permanent regulations and appropriate zoning. The urgency ordinance will allow the City to immediately begin enforcing restrictions on the cultivation of marijuana for medical purposes.
22. The urgency ordinance is necessary to: (a) prevent having one or more Medical Marijuana Dispensaries open and later claiming a legally existing but non conforming use; (b) prevent a Medical Marijuana Dispensary from opening within the City without complying with regulations proposed to be adopted for the health, safety, and welfare of the community; and (c) prevent the cultivation of marijuana in a manner detrimental to the public health, safety, and welfare of the citizens of Clovis.
23. Without the urgency ordinance, the establishment of a Medical Marijuana Dispensary would frustrate and contradict the ultimate goals of a permanent ordinance regulating Medical Marijuana Dispensaries.

24. Without the urgency ordinance, the cultivation of marijuana for medical purposes would frustrate and contradict the ultimate goals of a permanent ordinance regulating the cultivation of marijuana for medical purposes.
25. Pending completion and adoption of the proposed ordinance, it is foreseeable that a Medical Marijuana Dispensary could open which would contradict the goals and objectives of such ordinance.
26. Pending completion and adoption of the proposed ordinance, it is foreseeable that a the cultivation of marijuana for medical purposes could occur in a manner which would contradict the goals and objectives of such ordinance.
27. The Council desires to adopt interim regulatory requirements on Medical Marijuana Dispensaries and the cultivation of marijuana for medical purposes pending completion of City staff's further consideration and studying of a regulatory and zoning ordinance for Medical Marijuana Dispensaries and the cultivation of marijuana for medical purposes, the submittal of the proposed ordinance to the Planning Commission for consideration and recommendation to the City Council, and pending final action by the City Council on such ordinance.
28. In adopting this urgency ordinance, the Council finds that there is a current and immediate threat to the public health, safety, or welfare, and that the opening of a Medical Marijuana Dispensary and the cultivation of marijuana for medical purposes without appropriate zoning and regulatory requirements would result in that threat to public health, safety, or welfare until the Council has had an opportunity to review, consider, and approve a permanent Medical Marijuana Dispensary ordinance and an ordinance regulating the cultivation of marijuana for medical purposes. This finding is based upon the preceding findings.
29. In adopting this ordinance, the Council is not intending to permit conduct that is otherwise prohibited by State or federal law. If the Act or implementing statutes are declared unlawful in violation of federal law, nothing in this ordinance shall be deemed to permit the use, cultivation, or distribution of marijuana for medical or any other purpose.

## SECTION 2. INTERIM URGENCY ORDINANCE.

Pending the adoption of a permanent Medical Marijuana Dispensary ordinance and permanent ordinance regulating the cultivation of marijuana for medical purposes, the regulations set forth in **Exhibit "A"** shall apply. Exhibit "A" shall be deemed an interim ordinance and remain in effect for forty-five (45) days from the adoption of this Urgency Ordinance No. 2004-56 on December 6, 2004 (until January 20, 2005), unless this urgency ordinance is extended as authorized by California Government Code section 65858.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDING.

This Ordinance is categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3).


SECTION 4. SEVERABILITY.


If any provision of this ordinance is declared unlawful by a court of competent jurisdiction, the Council intends that the remaining provisions of this ordinance remain in effect.

SECTION 5. EFFECTIVE DATE.

This ordinance shall go into effect immediately and be in full force and operation for forty-five (45) days from its adoption, unless extended by the Council.

APPROVED: December 6, 2004

  
Mayor

  
City Clerk

\* \* \* \* \*

The foregoing Urgency Ordinance was introduced, read, and adopted at a regular meeting of the City Council of the City of Clovis held on December 6, 2004, by the following vote:

AYES: Councilmembers Armstrong, Flores, Magsig, Whalen, Mayor Ashbeck

NOES: None

ABSENT: None

ABSTAIN: None

Date: December 6, 2004

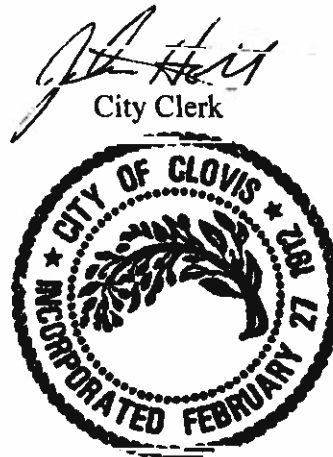


EXHIBIT A  
(Urgency Ordinance No. 04-56)

SECTION 1: AMENDMENT OF CODE: PUBLIC WELFARE (MEDICAL  
MARIJUANA DISPENSARIES).

Chapter 5.21, of Title 5, of the Clovis Municipal Code is added to read as follows:

**Chapter 5.21**

**MEDICAL MARIJUANA DISPENSARIES**

**Section 5.21.01      Purpose and Intent**

It is the purpose and intent of this ordinance to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating medical marijuana dispensaries.

**Section 5.21.02      Definitions**

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

“Medical Marijuana” is defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

“Medical Marijuana Dispensary” means any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to one or more of the following: (1) a qualified patient, (2) a person with an identification card, or (3) a primary caregiver. All three of these terms are defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq. seq.* Unless otherwise regulated by this Code or applicable law, a “medical marijuana dispensary” shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

**Section 5.21.03      Regulations Applicable to Medical Marijuana Dispensaries.**

(a) Medical marijuana dispensaries where medical marijuana is distributed by, distributed to, or made available to any combination of three or more qualified patients, persons with an identification card, or primary caregivers as defined by California Health and Safety Code § 11362.5 and 11362.7 *et seq.* are prohibited.

(b) Medical Marijuana Dispensaries are prohibited from engaging in the sale of any item other than medical marijuana as allowed by law.

(c) No more than one medical marijuana dispensary may operate out of a single building.

**SECTION 2: AMENDMENT OF CODE: PUBLIC WELFARE (MEDICAL MARIJUANA CULTIVATION).**

Chapter 5.22, of Title 5, of the Clovis Municipal Code is added to read as follows:

**Chapter 5.22**

**CULTIVATION OF MEDICAL MARIJUANA**

**Section 5.22.01 Purpose and Intent**

It is the purpose and intent of this ordinance to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating the cultivation of medical marijuana.

**Section 5.22.02 Definitions**

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

“Medical Marijuana” is defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

“Cultivation of medical marijuana” means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

“Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

**Section 5.21.03 Regulations Applicable to Cultivation of Medical Marijuana**

To the extent that the City is required to allow the cultivation of medical marijuana under State law, the following rules shall apply:

(a) The cultivation of medical marijuana shall at all times occur in a secure, locked, and fully enclosed structure.

(b) The individual, collective, or cooperative cultivation of more than 100 marijuana plants, whether mature or immature, is a prohibited use in all zones of the City.

(c) For qualified patients and persons with identification cards, the following shall apply: each qualified patient and person with an identification card may cultivate in any zone 6 mature or 12 immature marijuana plants, or as otherwise recommended by a doctor in accordance with Section 11362.77, up to the maximum limit specified in this section.

(d) For primary care givers, the following shall apply: (a) each primary care giver may cultivate in any zone 6 mature or 12 immature marijuana plants, or as otherwise recommended by a doctor, for up to two (2) qualified patients in accordance with Section 11362.77, up to the maximum limit specified in this section; (b) any additional cultivation by a primary care giver shall be confined to the M-1 zone district within the City.

(e) For the collective or cooperative cultivation, the following shall apply: such cultivation shall be confined to the M-1 zone district within the City.

(g) Nothing in this section shall be interpreted to permit Medical Marijuana Dispensaries otherwise prohibited by Chapter 5.21 of this Code or the City's Unchaptered Health, Safety, and Welfare Ordinance pertaining to Medical Marijuana Dispensaries.

### SECTION 3: AMENDMENT OF CODE: PLANNING AND ZONING.

Section 9.3.305, of Chapter 3, of Title 9, of the Clovis Municipal Code is amended to read as follows:

#### **9.3.505 Uses Expressly Prohibited.\***

(a) Specific uses of land, buildings, and structures listed as prohibited in each district are hereby declared to be detrimental to the public health, safety, and welfare and are, for such reasons, expressly prohibited.

(b) The enumeration of prohibited uses shall not by implication enlarge the scope of permitted uses; they are for purposes of clarity only.

(c) In addition to the specific uses of land, buildings, and structures listed as prohibited in each district, the following uses shall be prohibited in all zone districts and there shall be no director review and approval, conditional use permit, or other permit issued for such use:

1. Medical marijuana dispensaries where medical marijuana is distributed by, distributed to, or made available to any combination of three or more qualified patients, persons with an identification card, or primary caregivers as set forth in Section 5.21.03 of the Municipal Code.
2. The individual, collective, or cooperative cultivation of more than 100 marijuana plants for medical purposes, whether mature or immature.

**\*Subsection (c) is new.**

**SECTION 4: UNCHAPTERED AMENDMENT OF CODE.**

If for any reason Chapter 21, of Title 5, of the Clovis Municipal Code adopted by this Ordinance is declared unlawful or unenforceable in any material respect by a court of law, the regulations set forth herein shall become effective pending the adoption of a revised ordinance by the City Council.



## **Unchaptered Health, Safety, and Welfare Ordinance**

### **MEDICAL MARIJUANA DISPENSARIES**

#### **Section 101. Findings.**

- A. In 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code section 11362.5 and entitled "The Compassionate Use Act of 1996"). The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.
- B. Effective January 1, 2004 the State Legislature enacted Senate Bill ("SB") 420 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.
- C. To protect the public health, safety, and welfare, it is the desire of the City Council to adopt regulations consistent with SB 420 regarding the location and operation of medical marijuana dispensaries.
- D. It is the City Council's intention that nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. section 841, nor to otherwise permit any activity that is prohibited under that Act. It is further the City Council's intention that nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of marijuana for non-medical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal.
- E. Pursuant to Health and Safety Code section 11362.7 et seq., the State Department of Health is responsible for establishing and maintaining a voluntary identification card program; and Health and Safety Code section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the manner set forth in Health and Safety Code section 1136.71 et seq.

#### **Section 102. Purpose and Intent.**

It is the purpose and intent of this ordinance to regulate Medical Marijuana Dispensaries in order to promote the health, safety, and general welfare of the residents and businesses within the City.

#### **Section 103. Definitions.**

All definitions set forth in Health & Safety Code section 11362.5 and 11362.7 *et seq.*, as may be amended, including but not limited to the terms "attending physician", "person with an

identification card", "primary caregiver", "qualified patient", "identification card", and "serious medical condition", shall apply under this Ordinance in addition to the definitions set forth as follows:

(a) "Applicant" means a person who is required to file an application for a permit under this Ordinance.

(b) "City" means the City of Clovis.

(c) "Medical Marijuana Dispensary" or "Dispensary" means any facility or location where medical marijuana is made available to or distributed by or to the following: a primary caregiver, a qualified patient, or a person with an identification card in strict accordance with Health and Safety Code section 11362.5 and 11362.7 *et seq.* A "Medical Marijuana Dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health & Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health & Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of the Health & Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health & Safety Code Section 11362.5 and 11362.7 *et seq.*

(d) "Police Chief" means the Police Chief of the City of Clovis or his or her designee.

#### Section 103. Permit Required.

No person or entity shall operate a Medical Marijuana Dispensary within the City of Clovis without first obtaining a Medical Marijuana Dispensary permit. The applicant shall also apply for and maintain a general City business license. Medical Marijuana Dispensaries shall be located only in permitted zoning districts and in accordance with the conditions of the zoning ordinance.

#### Section 104. Applications.

(a) Applications for permits shall be filed with the Police Chief under penalty of perjury and include the information set forth herein. For partnerships, limited liability companies, and corporations, the applicant shall be deemed the managing partners, president, and other persons with primary responsibility for operation of the Medical Marijuana Dispensary. The Police Chief may request such information he or she deems necessary to determine who is the applicant.

1. The full name, present address, and telephone number of the applicant.
2. The address to which notice of action on the application is to be mailed.

3. Previous addresses for the five (5) years immediately preceding the present address of the applicant.
4. Written proof that the applicant is over the age of eighteen (18) years of age.
5. The applicant's height, weight, color of eyes and hair.
6. Photographs for identification purposes (photographs shall be taken by the police department).
7. All business, occupation, or employment of the applicant for the five (5) years immediately preceding the date of the application.
8. The Medical Marijuana Dispensary business license history of the applicant, including whether the applicant while previously operating in this or another city, county or state under license has had such license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation.
9. The name or names of the person or persons having the management or supervisory responsibilities for the applicant's business.
10. Whether the person or persons having the management or supervisory responsibilities for the applicant's business have been convicted of a crime, the nature of such offense, and the sentence received therefore.
11. The names of all employees, independent contractors, and other persons who will work at the Medical Marijuana Dispensary.
12. The proposed security arrangements for insuring the safety of persons and to protect the premises from theft.
13. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Medical Marijuana Dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
14. An accurate straight-line drawing prepared within thirty (30) days prior to the application depicting the building and the portion thereof to be occupied by the Medical Marijuana Dispensary and the property line of any sensitive use as set forth in Section 117.
15. Such other identification and information as deemed necessary by the Police Chief.

16. Authorization for the City, its agents and employees to seek verification of the information contained within the application.

(c) If the applicant has completed the application improperly, or if the application is incomplete, the Police Chief shall, within ten (10) days of receipt of the original application, notify the applicant of such fact

(d) The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining a Medical Marijuana Dispensary permit.

#### Section 105. Fees.

Every application for a permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution of City Council. This fee shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks as well as general review and processing of the application.

#### Section 106. Investigation and Action on Application.

Upon the filing of a properly completed application and the payment of the fee, the Police Chief shall conduct an investigation of the application, including a background check of the applicant and all employees. After the background checks and investigation are complete, and in no case later than forty-five (45) days after receipt of a properly completed application, the Police Chief shall either grant or deny the permit in accordance with the provisions of this Chapter. The Police Chief may grant the permit subject to conditions he or she deems reasonable under the circumstances to protect the public health, safety, and welfare of the community.

#### Section 107. Term of Permits and Renewals.

Permits issued under this Chapter shall expire one (1) year following the date of issuance. The Police Chief may renew annual permits for additional one year periods upon application by the permittee, unless the permit is suspended or revoked. Applications for renewal shall be made at least forty-five (45) days prior to the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in this Chapter. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on similar to applications for permits.

#### **Section 108. Grounds for Denial of Permit.**

The grounds for denial of a permit shall be one or more of the following:

(a) The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation.

(b) The applicant has violated any local or state law, statute, rule or regulation relating to medical marijuana business.

(c) The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

(d) The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(e) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(f) The applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocation of a permit.

(g) An applicant is under eighteen (18) years of age.

(h) The Medical Marijuana Dispensary does not comply with the zoning ordinance standards of the City of Clovis Municipal Code or the development standards set forth in this Chapter.

(i) The required application or renewal fees have not been paid.

#### **Section 109. Notice of Decision and Appeal.**

(a) The Police Chief shall cause a written notice of his or her decision to issue or deny a permit to be personally delivered or mailed to the applicant by certified U.S. mail, postage prepaid. An applicant aggrieved by the Police Chief's decision may appeal such decision to the City Council by filing a written notice with the City Clerk within ten (10) calendar days of service of the Police Chief's decision. If an appeal is not taken within such time, the Police Chief's decision shall be final.

(b) Upon the filing of a timely appeal, the permit application shall be scheduled by the City Clerk for a public hearing within forty-five (45) calendar days.

(c) Notice of the hearing shall be given by the posting of notice on the premises where the activity is to be conducted for a period of not less than ten (10) days prior to the date of the hearing. In addition, a copy of the notice of hearing shall be mailed to the applicant at least ten calendar (10) days in advance of the hearing. The Council may give such additional notice of hearing as it deems appropriate in a particular case.

(d) Following public hearing, the Council may grant the permit subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community, or it may deny the issuance of the permit for any of the grounds specified in this Chapter. The decision of the Council shall be final.

#### Section 110. Registration of new employees.

(a) As a condition of approval of every Medical Marijuana Dispensary permit issued pursuant to this Chapter, the permittee shall register every employee with the police department within five (5) calendar days of the commencement of the employee's employment at the Medical Marijuana Dispensary.

(b) Each employee shall be required to provide two (2) recent color passport-quality photographs and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted by the police department for purposes of identification. In addition, each new employee shall provide the following information on a form provided by the police department:

1. Name, current resident address, and telephone number.
2. Date of birth.
3. Height, weight, color of eyes, and hair.

(c) The information provided for purposes of this section shall be maintained by the police department as confidential information and shall not be released to the public except pursuant to subpoena or court order.

(d) Each permittee shall maintain a current register of the names of all employees employed by the Medical Marijuana Dispensary, and shall disclose such registration for inspection by any police officer for purposes of determining compliance with the requirements of this section.

(e) Failure to register each new employee within five (5) days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

**Section 111. Suspension or Revocation.**

**(a) The Police Chief may suspend or revoke a permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:**

- 1. Any act which would be considered a ground for denial of the permit in the first instance.**
- 2. Violates any other provision of this Chapter or any local or State law, statute, rule or regulation relating to his or her permitted activity.**
- 3. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.**
- 4. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.**
- 5. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business.**
- 6. Violates or fails to comply with the terms and conditions of the permit.**

**(b) Prior to suspension or revocation, the Police Chief shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.**

**(c) Any permittee aggrieved by the decision of the Police Chief in suspending or revoking a permit may, within ten (10) calendar days, appeal to the City Council by filing a written notice with the City Clerk. During the pendency of the appeal to the Council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the Police chief shall be final. If an appeal is timely filed, the appeal shall be held in accordance with the procedures for considering the appeal of the denial of a permit. The Council may suspend or revoke the permit for any of the grounds specified in this Chapter. The Council's decision shall be final.**

**(d) If any permittee or person acting under the authority of a permittee is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the Police Chief may immediately revoke the permit without any further action, other than giving notice of revocation to the permittee. The permittee may appeal the decision in the manner set forth herein, however the permit will not remain in effect during the pendency of the appeal**

**Section 115. Effect of Denial or Revocation.**

When the Police Chief shall have denied or revoked a permit and the time for appeal to the Council shall have elapsed, or, if after appeal to the Council, the decision of the Police chief has been affirmed by the Council, no new application for a permit shall be accepted from the applicant and no permit shall be issued to such person or to any corporation in which he shall have any beneficial interest for a period of one (1) year after the action denying or revoking the permit.

**Section 116. Operating requirements.**

(a) A Medical Marijuana Dispensary shall be open for business only between the hours of 9:00 a.m. and 5:00 p.m. on any particular day.

(b) A Medical Marijuana Dispensary shall maintain a current register of the names of all employees employed by the Dispensary.

(c) A Medical Marijuana Dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.7 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana.

(d) The building entrance to a Medical Marijuana Dispensary shall be clearly and legibly posted with a notice indicating that person under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

(e) A Medical Marijuana Dispensary may possess no more than eight (8) ounces of dried marijuana per qualified patient or primary caregiver, and maintain no more than six (6) mature or twelve (12) immature marijuana plants per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the Dispensary may possess an amount of marijuana consistent with the patient's needs.

(f) No marijuana shall be smoked, ingested or otherwise consumed on the premises of the Dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a Medical Marijuana Dispensary shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the Dispensary is prohibited.

(g) No marijuana shall be grown or cultivated on the premises of the Dispensary.

(h) No Medical Marijuana Dispensary shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that



sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the Dispensary.

(i) No Medical Marijuana Dispensary shall conduct or engage in the sale of any product, good or service other than medical marijuana on terms and conditions consistent with this Chapter and applicable law.

(j) No Medical Marijuana Dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical marijuana.

(k) A Medical Marijuana Dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

(l) A Medical Marijuana Dispensary shall provide the Police chief with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Dispensary. The Dispensary shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police or planning departments.

(m) A Medical Marijuana Dispensary shall provide litter removal services each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.

(n) A Medical Marijuana Dispensary shall not cultivate, distribute or sell medical marijuana for a profit. A Dispensary may receive compensation for its actual expenses, including reasonable compensation for services provided, or for payment of out-of-pocket expenses incurred in providing those services. However, any such Dispensary must pay applicable sales tax on such sales or services and maintain the applicable sellers permit or similar permit from the State Franchise Tax Board or other applicable agency.

(o) A Medical Marijuana Dispensary shall meet all the operating criteria for the dispensing of medical marijuana as required pursuant to California Health and Safety Code Sections 11362.5. and 11362.7 *et seq.*

(p) Each Medical Marijuana Dispensary shall allow the Police Chief to have access to the Dispensary's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than 24 hours after receipt of the Police Chief's written request(s).

(q) The Medical Marijuana Dispensary shall meet any additional operating procedures and measures as may be imposed as conditions of approval by the Police Chief to ensure that operation of the Dispensary is consistent with protection of the health, safety and welfare of the

community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

(r) The building in which the Medical Marijuana Dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the Building Official of the City.

(s) A Dispensary that provides marijuana in the form of food or other comestibles shall obtain and maintain the appropriate licenses from the County Health Department for the provision of food or other comestibles.

#### Section 117. Development Standards.

(a) Medical Marijuana Dispensaries may only be located in the M-1 zone district. In addition, no Medical Marijuana Dispensary shall be located:

1. Within 1,000 feet of another Medical Marijuana Dispensary, an elementary school, middle school, high school, public library, or public park; or
2. Within 1,000 feet of a youth-oriented establishment characterized by either or both of the following: (a) the establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors; or (b) the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors; or
3. Within 500 feet of any residential zone district.

(b) The uses and zones set forth in this section shall be collectively known as "sensitive uses." The distance between a Medical Marijuana Dispensary and a "sensitive use" shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the building or structure to the property line in which the "sensitive use" occurs or is located.

(c) A Medical Marijuana Dispensary is not and may not be approved as an accessory use to any other use permitted by this Code.

(d) No more than one Medical Marijuana Dispensary may operate out of a single building.

(e) The closure or cessation of a nonconforming use for a period of six (6) consecutive months shall terminate its legal nonconforming status, and any person or entity that intends to resume operations of the nonconforming use must first obtain a permit as required under this Chapter.

(f) Any alteration or expansion of the nonconforming use involving more than ten (10) percent of its gross floor area shall subject the nonconforming use to the requirements of this Chapter and the appropriate permit must be obtained prior to alteration or expansion.

**Section 118. Minors.**

(a) It shall be unlawful for any permittee, operator, or other person in charge of any Medical Marijuana Dispensary to employ any person who is not at least eighteen (18) years of age.

(b) Persons under the age of eighteen (18) shall not be allowed on the premises of a Medical Marijuana Dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

**Section 119. Display of permit.**

Every Medical Marijuana Dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter in a conspicuous place so that the same may be readily seen by all persons entering the Medical Marijuana Dispensary.

**Section 120. Transfer of permits.**

(a) A permittee shall not operate a Medical Marijuana Dispensary under the authority of a Medical Marijuana Dispensary permit at any place other than the address of the Medical Marijuana Dispensary stated in the application for the permit.

(b) A permittee shall not transfer ownership or control of a Medical Marijuana Dispensary or transfer a Medical Marijuana Dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief in accordance with this Chapter and accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Police Chief determines that the transferee would be entitled to the issuance of an original permit.

(c) No permit may be transferred when the Police Chief has notified the permittee that the permit has been or may be suspended or revoked.

(d) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

**Section 121. Violations of Chapter: Enforcement.**

(a) Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(b) Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the City of Clovis Municipal Code.

(c) Any person who violates, causes, or permits another person to violate any provision of this Chapter commits a misdemeanor.

(d) The violation of any provision of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

(e) In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies as set forth by City ordinance.

#### Section 122. Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter.

#### Section 132. Judicial review.

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions.

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## EXHIBIT 8

**URGENCY ORDINANCE NO. 05-1**  
**(Extending Urgency Ordinance No. 04-56)**

**AN ORDINANCE OF THE CITY OF CLOVIS EXTENDING URGENCY ORDINANCE  
NO. 04-56 WHICH ADOPTED INTERIM REGULATIONS GOVERNING MEDICAL  
MARIJUANA DISPENSARIES AND THE CULTIVATION OF  
MEDICAL MARIJUANA**

THE CITY COUNCIL OF THE CITY OF CLOVIS DOES ORDAIN AS FOLLOWS:

**SECTION 1. RECITALS**

- A. By adoption of Urgency Ordinance No. 04-56 (December 6, 2004) the City Council adopted interim regulations governing Medical Marijuana Dispensaries and the cultivation of medical marijuana in the City of Clovis pending the completion and adoption of a permanent ordinance which regulates these activities.
- B. The City Council, in adopting Urgency Ordinance No. 04-56, found that there is a current and immediate threat to the public health, safety, or welfare, and that the opening of a Medical Marijuana Dispensary and the cultivation of marijuana for medical purposes without appropriate zoning and regulatory requirements would result in that threat to public health, safety, or welfare until the Council has had an opportunity to review, consider, and approve a permanent Medical Marijuana Dispensary ordinance and an ordinance regulating the cultivation of marijuana for medical purposes.
- C. A proposed permanent ordinance regulating Medical Marijuana Dispensaries and the cultivation of medical marijuana is scheduled to be presented to the Planning Commission for their consideration on February 10, 2005, and then to the City Council for their consideration on March 7, 2005.
- D. The permanent ordinance regulating Medical Marijuana Dispensaries and the cultivation of medical marijuana will not take effect until 30 days after its second reading and adoption by the City Council which will occur at the earliest on April 6, 2005.
- E. Urgency Ordinance No. 04-56 will expire before a permanent ordinance is adopted and takes effect.
- F. Notice of a public hearing for January 10, 2005, to consider extending Urgency Ordinance No. 04-56 was published in the Clovis Independent in accordance with Government Code section 65090.

**SECTION 2. EXTENSION OF URGENCY ORDINANCE NO 04-56 AND FINDINGS**

- 1. Urgency Ordinance No. 04-56 is extended until a permanent ordinance regulating Medical Marijuana Dispensaries and the cultivation of medical marijuana currently

under consideration and as ultimately approved by the City Council takes effect, but in no event beyond the maximum time authorized by law of 10 months and 15 days.

2. In extending Urgency Ordinance No. 04-56, the Council finds that there is a current and immediate threat to the public health, safety, or welfare, and that the opening of a Medical Marijuana Dispensary and the cultivation of marijuana for medical purposes without appropriate zoning and regulatory requirements would result in that threat to public health, safety, or welfare until the Council has had an opportunity to review, consider, and approve a permanent Medical Marijuana Dispensary ordinance and an ordinance regulating the cultivation of marijuana for medical purposes.
3. This finding is based upon the documents and evidence presented to the City Council in connection with adoption of Urgency Ordinance No. 04-56, and any documents and evidence presented to the Council in connection with the adoption of this extension ordinance.

### SECTION 3. EFFECTIVE DATE

The extension of Urgency Ordinance No. 04-56 by adoption of this ordinance shall go into effect immediately and shall be of full force and in operation until a permanent ordinance regulating Medical Marijuana Dispensaries and the cultivation of medical marijuana becomes effective, but in no event beyond 10 months and 15 days from expiration of Urgency Ordinance No. 04-56 on January 20, 2005 (no later than December 5, 2005.)

Approved: January 10, 2005

  
Mayor

  
City Clerk

\* \* \* \* \*

The foregoing Urgency Ordinance was introduced, read, and adopted at a regular meeting of the City Council of the City of Clovis held on January 10, 2005, by the following vote:

AYES: Councilmembers Armstrong, Flores, Magsig, Whalen, Mayor Ashbeck  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
City Clerk



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## EXHIBIT 9



## **ORDINANCE NO. 12-08**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS AMENDING SECTION 5.22.03 OF CHAPTER 5.22, OF TITLE 5, OF THE CLOVIS MUNICIPAL CODE PERTAINING TO MEDICAL MARIJUANA CULTIVATION**

THE CITY COUNCIL OF THE CITY OF CLOVIS DOES ORDAIN AS FOLLOWS:

#### **SECTION 1. FINDINGS.**

1. The City's 2006 Ordinance. With the adoption of Ordinance No. 05-40, effective January 5, 2006 ("Ordinance"), the City Council made various health, safety and welfare and land use findings relating to medical marijuana cultivation, dispensing, and consumption, which findings are incorporated herein by reference. Based upon those findings and the record before the City Council, the Council enacted a complete ban on medical marijuana dispensaries in the City and imposed strict limitations on medical marijuana cultivation, and only to the extent the City was required to allow cultivation under State law. Specifically, the City allowed patient and primary caregiver cultivation, up to a maximum of 24 plants, to occur in a secure, locked, and fully enclosed structure, including a ceiling, roof, or top. Additional provisions accommodated the collective or cooperative growing of medical marijuana, up to a maximum of 99 plants, in the R-A (rural residential) and M-1 (light industrial) zone districts of the City.
2. Continued Health, Safety, and Welfare Concerns. The City of Clovis has identified a number of health, safety, and welfare concerns associated with the cultivation, distribution, and consumption of medical marijuana. These concerns were first set forth in the original reports accompanying the Ordinance, and are incorporated herein by reference. These concerns continue and have been exemplified throughout Fresno County and the State as evidenced by numerous area agency police reports and news articles and stories. Some of the continued documented problems with cultivation include offensive odors, trespassing, theft, and violent encounters between growers and persons attempting to steal plants. For indoor grows, there are problems with fire hazards and problems associated with mold, fungus, and pests.  
  
A file of reports summarizing the problems with marijuana cultivation is referenced in the staff report accompanying this Ordinance and is on file with the City Clerk.
3. Land Use Authority; Purpose of Ordinance Amendments. Based upon the City's experience since the adoption of Ordinance No. 05-40, as well as

information obtained from other area agencies, and with clarification from the Court's and State Legislature regarding the City's continued police powers and land use authority to regulate medical marijuana cultivation, distribution and consumption for the health, safety, and welfare of the citizens of Clovis, there is a need to update the City's current regulations pertaining to the cultivation of medical marijuana to avoid adverse impacts on the community.

Specifically, changes to the following components of the current cultivation regulations will help avoid adverse impacts on the community consistent with the City's police powers and land use authority, while not unduly interfering with a qualified patient's right to cultivate medical marijuana for their personal use:

- An emphasis on retaining the residential character of properties through the size of the grow area where cultivation occurs as opposed to focusing on the number of plants.
  - A requirement that cultivation occur completely indoors to avoid odor and visibility concerns.
  - The removal of the ability to engage in cooperative cultivation from rural residential (R-A) zones so as not to change the residential character of those neighborhoods, while leaving sufficient sites exist available in the light industrial (M-1) zones.
4. No Intent to Permit Unlawful Conduct: Federal Prosecution. In adopting this ordinance, the Council is not intending to permit conduct that is otherwise prohibited by State or federal law. The City intends to regulate the cultivation, distribution, and consumption of medical marijuana only to the extent they are otherwise permitted under State law. The City does not intend to provide any broader uses than are permitted under State law. If the Act or implementing statutes are declared unlawful in violation of federal law, nothing in this ordinance shall be deemed to permit the use, cultivation, or distribution of marijuana for medical or any other purpose. Similarly, nothing in this ordinance shall be deemed to prevent federal prosecution of violations of the Controlled Substances Act within the City of Clovis.
5. Conduct Which Endangers Others: Nuisances. Nothing in this ordinance shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance. Nothing in this ordinance authorizes child endangerment, cultivation by minors, or cultivation that directly or indirectly affects minors.

SECTION 2: AMENDMENTS TO MEDICAL MARIJUANA ORDINANCE  
CULTIVATION REGULATIONS, SECTION 5.22.03 OF  
CHAPTER 5.22, OF TITLE 5, OF THE CLOVIS MUNICIPAL  
CODE

Section 5.22.03, of Chapter 5.22, of Title 5, of the Clovis Municipal Code is amended to read as follows:

**Section 5.22.03 Regulations applicable to the cultivation of medical marijuana.**

To the extent that the City is required to allow the cultivation of medical marijuana under State law, the rules set forth herein shall apply. Nothing in this section shall be interpreted to permit medical marijuana dispensaries otherwise prohibited by this Chapter or the City's Unchaptered Health, Safety, and Welfare Ordinance pertaining to Medical Marijuana Dispensaries.

(a) Personal use cultivation. An individual qualified patient or person with an identification card shall be allowed to cultivate medical marijuana within his/her private residence, in an attached garage, or in an accessory building if the property is detached single family residential. A primary caregiver shall only cultivate medical marijuana at the residence of a qualified patient or person with an identification card for whom he/she is the primary caregiver. Medical marijuana cultivation for personal use shall be subject to the following requirements:

(1) Area. The medical marijuana cultivation area shall not exceed thirty two (32) square feet measured by the canopy and not exceed ten feet (10') in height per residence. This limit applies regardless of the number of qualified patients or persons with an identification card residing in the residence. The cultivation area shall be a single designated area.

(2) Lighting. Medical marijuana cultivation lighting shall not exceed a total of 1200 watts.

(3) Building Code Requirements. Any alterations or additions to the residence, including garages and accessory buildings, shall be subject to applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including lot coverage, set back, height requirements, and parking requirements.

(4) Gas products. The use of gas products (CO2, butane, etc.) for medical marijuana cultivation or processing is prohibited.

(5) Evidence of cultivation. From a public right of way, there shall be no exterior evidence of medical marijuana cultivation occurring on the site.

(6) Residence. The qualified patient or person with an identification card shall reside in the residence where the medical marijuana cultivation occurs.

(7) Cultivation elsewhere in City. The qualified patient or person with an identification card shall not participate in medical marijuana cultivation in any other location within the City of Clovis.

(8) Incidental use. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for medical marijuana cultivation.

(9) Ventilation. The medical marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the residence, or property line for detached single family residential, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence and cultivating the marijuana. This shall include at a minimum, a system meeting the requirements of the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)).

(10) Storage of chemicals. Any chemicals used for medical marijuana cultivation shall be stored outside of the habitable areas of the residence and outside of public view from neighboring properties and public rights of way.

(11) Nuisance. The medical marijuana cultivation area shall: not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts; and not be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.

(12) Property owner authorization. For rental property, the lessee shall obtain written authorization from the property owner or property management company to cultivate medical marijuana.

(13) Notification. The owner and any lessee of the residence upon which cultivation will occur shall inform the Police Department of the intent to cultivate medical marijuana and pick up a handout setting forth the owner and lessee responsibilities under this section. This notification shall be provided prior to the commencement of the cultivation except that for existing cultivation, the information shall be provided within ten (10) days of the effective date of this Chapter. The Police Department may direct the owner and lessee to the Department of Planning and Development Services for more information about building code and permit requirements that may be applicable if alterations or additions to the residence are contemplated. The Police Department and

Department of Planning and Development Services shall keep patient information confidential to the extent required by law.

(14) Additional requirements for garages and accessory buildings. The following additional requirements shall apply for personal use cultivation that occurs in a garage or accessory building: the garage or accessory building shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. The garage or building shall include a burglar alarm monitored by an alarm company or private security company. The garage or building, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door.

(15) Posting of physician recommendation or identification card; posting of owner permission. A copy of a qualified patient physician recommendation or identification card shall be posted in a conspicuous place in the cultivation area for each patient residing in the residence that is cultivating medical marijuana. For rental properties, a copy of the owner's written authorization to cultivate marijuana shall be posted in the same manner.

(b) Collective or cooperative cultivation. For the collective or cooperative cultivation, such cultivation shall be confined to the M-1 (light industrial) zone district within the City and be subject to the following requirements:

(1) Secure enclosed structure; code compliance. The cultivation of medical marijuana shall at all times occur in a secure, locked, and fully enclosed structure, with a ceiling, roof or top, and entirely opaque. The security shall include a burglar alarm monitored by an alarm company or private security company. The structure shall meet all applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including lot coverage, set back, height requirements, and parking requirements. At a minimum, the structure, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for commercial structures and include material strong enough to prevent entry except through an open door.

(2) Ventilation. The structure for cultivating medical marijuana shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the property line and designed to prevent mold and moisture and otherwise protect the health and safety of those persons participating in the cultivation. This shall include at a minimum, a system meeting the requirements of the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)).

(3) Maximum of 99 plants. The maximum number of plants, whether mature or immature, shall not exceed 99 marijuana plants.

(4) Signage and markings. There shall be no signage or markings on the property, structure, on any other building located on the property, or off-site, which in any way evidences that the collective or cooperative cultivation of medical marijuana is occurring on the property.

(5) Required participation in the cultivation: no employees. All persons who associate together for the collective or cooperative cultivation must participate in the cultivation and the cultivation must occur solely among members of the association. No employees, independent contractors, or other persons may be utilized for the cultivation.

(6) No compensation or sales: distribution only among members. No member may compensate any other member to cultivate on its behalf. All distribution of the cultivated marijuana shall be solely among members of the association and shall be without compensation of any kind. Nothing in this subsection shall be deemed to prevent a primary caregiver from subsequently providing the cultivated marijuana to one of his/her qualified patients.

(7) No on-site consumption. No on-site consumption of medical marijuana shall occur.

(8) No cultivation in conjunction with a business: no sales of goods or services. The cultivation shall not occur in conjunction with any business. No products or services shall be sold from the property where the cultivation occurs.

(9) Record requirements. The owner and/or lessee of the property upon which the cooperative or collective grow occurs shall provide the following information to the Police Department in a form and manner approved by the Police Department: (a) full name, address, and telephone number(s) of the owner and lessee, including all alias names used in the previous 10 years; (b) the address where correspondence is to be mailed; (c) a list of all qualified patients, persons with identification cards, and primary caregivers participating in the cultivation; (d) a copy of all participant physician recommendations, identification cards, and primary caregiver evidence; (e) a sketch or diagram showing the property with the location of the cultivation and all buildings on the property, including a statement showing the total area occupied by the cultivation and the distance from the property lines; (f) a statement setting forth the number of plants to be cultivated and demonstrating that the cultivation does not exceed the maximums set forth under State law or this ordinance, namely patient maximums and the cap of 99 plants; (g) a statement identifying all persons who will be tending to the cultivation and describing the cultivation process; (h) for lessees, written evidence that the owner has consented to use of the property for

medical marijuana cultivation; (i) such other information as the Police Department determines is necessary to ensure compliance with State law and this Chapter. This information shall be provided prior to the commencement of the collective or cooperative cultivation except that for existing collective or cooperative cultivation operations, the information shall be provided within ten (10) days of the effective date of this Chapter. The information provided shall be updated upon any change within ten (10) days. The Police Department shall keep patient information confidential to the extent required by law.

(10) Inspections. The cultivation operation shall be open for inspection by any law enforcement officer or City code enforcement officer between the hours of 8:00 a.m. and 9:00 p.m. seven days a week, or at any time upon responding to a call for service related to the property where the cultivation is occurring.

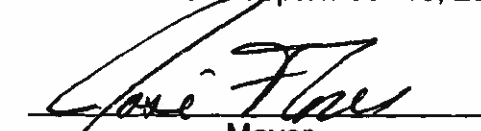
(11) Violations. In addition to the remedies provided in this Chapter, if the collective or cooperative cultivation occurs in violation of this Chapter or any other local or state law or regulation, the owner or lessee shall be prohibited from further collective or cooperative cultivation at any location within the City for a period of one (1) year after notice by the City of the violation. Subsequent violations shall result in a three (3) year prohibition.

### SECTION 3: EFFECTIVE DATE.

1. 30 Days After Passage. This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage and adoption. Within fifteen (15) days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation.

2. Grace Period. Notwithstanding the foregoing, those qualified patients and persons with identification cards, and primary caregivers, who were cultivating marijuana in the City as of the date this Ordinance was introduced by the City Council in strict compliance with the medical marijuana cultivation regulations then in effect, and remain in strict compliance with those regulations, shall have a period of six (6) months from the Effective Date to comply with the amended regulations set forth in this Ordinance. For purposes of this grace period, cultivating marijuana shall mean actual growing plants. No new plantings or seedlings are allowed.

APPROVED: September 10, 2012

  
Mayor

  
City Clerk



\* \* \* \* \*

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Clovis held on the 10<sup>th</sup> day of September, 2012 and passed and adopted at a regular meeting of the City Council held on the 8<sup>th</sup> day of October, 2012 by the following vote:

- AYES: Councilmembers Armstrong, Ashbeck, Magsig, Whalen
- NOES: Mayor Flores
- ABSENT: None
- ABSTAIN: None

The foregoing ordinance is hereby approved this 8<sup>th</sup> day of October, 2012.

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City Clerk



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## EXHIBIT 10

**ORDINANCE NO. 15-22**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS  
AMENDING SECTIONS 5.22.02 AND 5.22.04 OF CHAPTER 5.22, OF  
TITLE 5, OF THE CLOVIS MUNICIPAL CODE PERTAINING TO  
MEDICAL MARIJUANA DELIVERY**

THE CITY COUNCIL OF THE CITY OF CLOVIS DOES ORDAIN AS FOLLOWS:

**SECTION 1. AMENDMENT OF SECTION 5.22.02, DEFINITIONS.**

Subsection (f) is hereby added to Section 5.22.02, of Chapter 5.22, of Title 5, of the Clovis Municipal Code to read as follows:

**Section 5.22.02        Definitions.**

(f) "Delivery" shall be as defined in the Medical Marijuana Regulation and Safety Act, California Health and Safety Code section 19300.5(m), as that section may be amended from time to time, and includes the commercial transfer of medical marijuana and medical marijuana products from a dispensary as well as the use of any technology platform that enables qualified patients and caregivers to arrange for or facilitate the transfer.

**SECTION 2. AMENDMENT OF SECTION 5.22.04, REGULATIONS APPLICABLE  
TO MEDICAL MARIJUANA DISPENSARIES.**

Section 5.22.04 of Chapter 5.22, of Title 5, of the Clovis Municipal Code is hereby amended to read as follows:

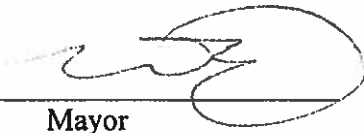
**Section 5.22.02        Regulations applicable to medical marijuana dispensaries and deliveries.**

Medical marijuana dispensaries as defined in Section 5.22.02 are prohibited within the City. The delivery of medical marijuana as defined in Section 5.22.02 is prohibited in the City regardless of the location of the dispensary and regardless of whether a technology platform is used by the dispensary.

**SECTION 3: EFFECTIVE DATE.**

This ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage and adoption. Within fifteen (15) days after its adoption, the ordinance, or a summary of the ordinance, shall be published once in a newspaper of general circulation.

APPROVED: November 2, 2015

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

\* \* \* \* \*

The foregoing Ordinance was introduced at a regular meeting of the City Council held on November 2, 2015, and was adopted at a regular meeting of said Council held on November 9, 2015, by the following vote, to wit:

AYES: Councilmembers Armstrong, Ashbeck, Flores, Whalen, Mayor Magsig  
NOES: None  
ABSENT: None  
ABSTAIN: None

DATED: November 9, 2015

  
\_\_\_\_\_  
City Clerk

