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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)

E-FILED
5/13/2020 10:54 AM
Superior Court of California
County of Fresno
By: Louana Peterson, Deputy

Case No.: 19CECG01224

**REQUEST FOR JUDICIAL NOTICE,
EXHIBITS VOLUME 2 (EXHIBITS 11-20)**

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 11

ORDINANCE NO. 16-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS AMENDING CHAPTER 5.22, OF TITLE 5, OF THE CLOVIS MUNICIPAL CODE PERTAINING TO MEDICAL AND RECREATIONAL MARIJUANA

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

SECTION 1. FINDINGS.

1. State Law Findings.

a. In 1996, with the adoption of Proposition 215, the California voters approved the Compassionate Use Act (Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances.

b. In 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical marijuana use. These statutes are codified at Health and Safety Code § 11362.7 et seq. and allow cities and counties to adopt supplemental rules and regulations.

c. On October 9, 2015, almost 20 years after passage of the Compassionate Use Act, the Governor signed the Medical Marijuana Regulation and Safety Act ("Act"), comprised of California legislative bills AB 243, AB 266, and SB-643. The Act creates a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of the Act is to ensure uniformity among jurisdictions that wished to allow commercial marijuana operations.

d. On June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in the Act from "medical marijuana" or "marijuana" to "medical cannabis" or "cannabis", and making other technical changes to the Act. SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis.

e. Pending before the voter this November is the Adult Use of Marijuana Act ("AUMA"). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. Adults, age 21 and older, will be allowed to possess marijuana and grow certain amounts at home for personal use.

2. City of Clovis Marijuana Regulatory History.

a. In 2006 as amended in 2012 and 2015, the City adopted Title 5, Chapter 22, of the Clovis Municipal Code pertaining to Medical Marijuana (Marijuana Ordinance). The Marijuana Ordinance places a complete ban on commercial marijuana cultivation, commercial deliveries, and dispensaries in the City based upon various health, safety and welfare and land use findings relating to marijuana cultivation, dispensing, and consumption, which findings are incorporated herein by reference.

b. The Marijuana Ordinance provides for personal use cultivation under limited circumstances as well as limited collective or cooperative cultivation.

c. The City exempted from the dispensary ban State licensed health care clinics and residential care facilities distributing marijuana to their patients, as further described in the Marijuana Ordinance.

d. At the time the City adopted the commercial cultivation ban, the issue of other commercial marijuana operations, such as manufacturing, testing and distribution, were not considered an area of concern in need of regulation. Now, with the adoption of the Act, these other commercial marijuana operations are imminent.

e. Since adoption of the Act there have been numerous inquiries from individuals and entities, both from within and outside the City of Clovis, seeking to start a commercial marijuana operation in the City. Clear guidance is required in the City's Municipal Code so there is no ambiguity.

f. The City of Clovis has identified a number of health, safety, and welfare concerns associated with marijuana activities. These concerns are set forth in the original reports accompanying the Medical Marijuana 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 include offensive odors, trespassing, theft, violent encounters, fire hazards and problems associated with mold, fungus, and pests.

g. Under the Act, and AUMA if it passes, the City retains its police powers and land use authority to regulate or ban marijuana activities, including commercial marijuana operations, cultivation, distribution and consumption for the health, safety, and welfare of the citizens of Clovis.

SECTION 2. AMENDMENT OF CHAPTER 5.22

Chapter 5.22, of Title 5, of the Clovis Municipal Code is amended in its entirety to read as follows:

Chapter 5.22

MARIJUANA

Section 5.22.01 Purpose and Intent

It is the purpose and intent of this Chapter to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating the cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale, and consumption of marijuana, whether for medical purposes as currently allowed under State law, or for recreational use should recreational use become lawful under State law.

Section 5.22.02 Definitions

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

(a) "Act" means the Medical Marijuana Regulation and Safety Act, now called the Medical Cannabis Regulation and Safety Act, including implementing regulations, as the Act and implementing regulations may be amended from time to time. The terms Act, Medical Marijuana Regulation and Safety Act, Medical Cannabis Regulation and Safety Act, may be used interchangeably, but shall have the same meaning.

(b) "Cannabis" or "marijuana" shall have the meaning set forth in California Business and Professions Code section 19300.5(f). Cannabis and marijuana may be used interchangeably, but shall have the same meaning.

(c) "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 may be allowed under the Compassionate Use Act, the Medical Marijuana Program Act, or the California Medical Cannabis Regulation and Safety Act adopted on October 9, 2015 with legislative bills AB 243, AB 266, and SB 643.

(d) "Commercial marijuana operation" means any commercial cannabis activity as set forth in California Business and Professions Code section 19300.5(k) and allowed under the Act, and all uses permitted under any subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.

(e) "Delivery" means the commercial transfer of medical or recreational use marijuana and marijuana products from a dispensary as well as the use of any technology platform that enables persons, whether qualified patients, caregivers, or recreational users, to arrange for or facilitate the transfer.

(f) "Marijuana dispensary" or "dispensary" means any facility or location, whether fixed or mobile, and any building or structure, where cannabis is made available to, distributed by, or distributed to more than two persons.

(g) "Marijuana products" 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.

(h) "Medical marijuana or medical marijuana use" means the use of cannabis for the purposes set forth in the Compassionate Use Act and the Medical Marijuana Program Act, California Health and Safety Code sections 11362.5 and 11362.7 et seq.

(i) "Recreational marijuana or recreational marijuana use" means all uses of cannabis not included within the definition of medical marijuana use.

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 commercial marijuana operations or marijuana dispensaries otherwise prohibited by this chapter.

(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, or other public space 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. The collective or cooperative cultivation of medical marijuana shall be prohibited in the City.

Section 5.22.04 Regulations applicable to the cultivation of recreational marijuana.

To the extent recreational marijuana use becomes legal under State law and the City is required to allow the cultivation of recreational marijuana under State law, the rules set forth herein shall apply. Nothing in this section shall be interpreted to permit commercial marijuana operations or marijuana dispensaries otherwise prohibited by this chapter.

(1) State law limits. The cultivation of recreational marijuana shall be subject to the limits set forth in any applicable State law.

(2) Compliance with medical marijuana personal use cultivation rules. All persons lawfully allowed to cultivate recreational use marijuana under State law shall be subject to the same rules, requirements, and limitations applicable to the personal use cultivation of medical marijuana set forth in this chapter.

Section 5.22.05 Regulations applicable to commercial marijuana operations, dispensaries, and deliveries.

(a) Commercial marijuana operations. Commercial marijuana operations as defined in section 5.22.02(d) are prohibited within the City.

(b) Dispensaries. Marijuana dispensaries as defined in Section 5.22.02(f) are prohibited within the City.

(c) Deliveries. The delivery of marijuana as defined in Section 5.22.02(e) is prohibited in the City regardless of whether the delivery is initiated within or outside of the City, and regardless of whether a technology platform is used for delivery by the dispensary.

(d) Exceptions. The following facilities providing medical marijuana to patients are not subject to the dispensary ban provided they are in strict compliance with Health and Safety Code sections 11362.5 and 11362.7 *et seq.*, and all other State and local laws pertaining the uses, including zoning, permitting, and licensing requirements:

- A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.

- A health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) 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 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code.
- A residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code.
- A residential hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

Section 5.22.06 Regulations Applicable to the Consumption of Marijuana

No person shall smoke, ingest, or otherwise consume marijuana or marijuana products, whether recreational or medical, in the City of Clovis unless such smoking, ingesting or consumption occurs entirely within a private residence. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings unless those buildings are at all times fully enclosed during the consumption.

Medical marijuana may also be consumed within a clinic, health care facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health and Safety Code.

All consumption shall be done in a manner so as to not cause a nuisance to nearby residents with noxious odors or other adverse health and safety impacts.

Section 5.22.06 Penalties and Enforcement

Violations of this Chapter for conduct that is not otherwise considered lawful under State law, shall be considered misdemeanors and are punishable in accordance with Chapter 1.2 of the Municipal Code. Each and every day, or portion thereof, a violation exists is a separate offense. The City may also pursue all applicable civil and administrative remedies, including but not limited to injunctive relief and administrative citations.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders this Chapter unlawful, the City intends that the misdemeanor provision be severable from the remaining penalty provisions and the City will only pursue non-criminal remedies for violations of this Chapter.

Section 5.22.07 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.

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: September 19, 2016



Mayor



City Clerk

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Clovis held on the 19th day of September 2016 and passed and adopted at a regular meeting of the City Council held on the October 3, 2016 by the following vote:

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

NOES: None

ABSENT: None

ABSTAIN: None

The foregoing ordinance is hereby approved this 3rd day of October 2016.





City Clerk

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EXHIBIT 12

ORDINANCE NO. 17-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS AMENDING SECTIONS 5.22.02, 5.22.04, AND 5.22.05, AND ADDING SECTION 5.22.09, OF CHAPTER 5.22, OF TITLE 5, OF THE CLOVIS MUNICIPAL CODE PERTAINING TO MARIJUANA AND CANNABIS TO ENSURE CONSISTENCY WITH RECENT STATE STATUTORY AMENDMENTS AND TO ALLOW LICENSED COMMERCIAL CANNABIS TESTING FACILITIES TO OPERATE IN THE CITY

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

SECTION 1. AMENDMENT OF SECTION 5.22.02 (DEFINITIONS)

Section 5.22.02, of Chapter 5.22, of Title 5, of the Clovis Municipal Code is amended to read as follows:

Section 5.22.02 Definitions

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

- (a) “Act” means the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), including implementing regulations, as the Act and implementing regulations may be amended from time to time. Definitions in this section referencing provisions of the Act shall also include amendments to the Act.
- (b) “Business” means a commercial cannabis operation allowed by this chapter.
- (c) “Business Owner” means the owner(s) of the cannabis operation. For corporations and limited liability companies, business owner means the President, Vice President, and any shareholder owning a then percent (10%) or greater share of the corporation or company. For partnerships, business owner means all general partners and managing partners.
- (d) “Cannabis” or “marijuana” shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (f). “Cannabis” and “marijuana” may be used interchangeably, but shall have the same meaning.
- (e) “Cannabis dispensary” or “dispensary” means any facility or location, whether fixed or mobile, and any building or structure, where cannabis is made available to, distributed by, or distributed to more than two (2) persons.
- (f) “Cannabis products” 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.

(g) “City” means the City of Clovis.

(h) “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 may be allowed under the Compassionate Use Act, the Medical Marijuana Program Act, or the California Medical Cannabis Regulation and Safety Act adopted on October 9, 2015 with legislative bills AB 243, AB 266, and SB 643.

(i) “Commercial cannabis operation” means any commercial cannabis activity, and all facilities and equipment that support that activity, as set forth in California Business and Professions Code section 26001, subdivision (k) and allowed under the Act, and as the Act and implementing regulations may be amended from time to time.

(j) “Cultivate” or “cultivation” shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (l).

(k) “Delivery” shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (p) and shall also include any technological platform that enables persons to arrange or facilitate the transfer of cannabis.

(l) “Medical marijuana or medical marijuana use” means the use of cannabis for the purposes set forth in the Compassionate Use Act and the Medical Marijuana Program Act, California Health and Safety Code sections 11362.5 and 11362.7 et seq.

(m) “Operator” means the business owner and any other person designated by the business owner as responsible for the day-to-day cannabis operations.

(n) “Police Chief” means the Police Chief of the City of Clovis or his or her designee

(o) “Premises” means the actual building(s), and/or designated units/suites, as well as any accessory structures, parking areas, or other immediate surroundings, and includes the entire parcel of property used in connection with the a commercial cannabis operation.

(p) “Recreational marijuana,” “recreational marijuana use,” or “adult use marijuana” means all uses of cannabis not included within the definition of medical marijuana use.

(q) “Responsible Party” shall mean the business owner, operator, manager(s), and any employee having significant control over the commercial cannabis operations.

SECTION 2. AMENDMENT OF SECTION 5.22.04 (RECREATIONAL/ADULT USE MARIJUANA)

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

Section 5.22.04 Regulations applicable to the cultivation of recreational or adult use marijuana.

To the extent that the City is required to allow the cultivation of recreational or adult use marijuana under State law, the rules set forth herein shall apply. Nothing in this section shall be interpreted to permit commercial marijuana operations or marijuana dispensaries otherwise prohibited by this chapter.

(a) State law limits. The cultivation of recreational or adult use marijuana shall be subject to the limits set forth in any applicable State law.

(b) Compliance with medical marijuana personal use cultivation rules. All persons lawfully allowed to cultivate recreational or adult use marijuana under State law shall be subject to the same rules, requirements, and limitations applicable to the personal use cultivation of medical marijuana set forth in this chapter.

SECTION 3. AMENDMENT OF SECTION 5.22.05 (COMMERCIAL CANNABIS OPERATIONS)

Section 5.22.05, of Chapter 5.22, of Title 5, of the Clovis Municipal Code is amended to read as follows:

Section 5.22.05 Regulations applicable to commercial cannabis operations, dispensaries, and deliveries.

(a) Commercial cannabis operations. Except as provided for in Section 5.22.09, commercial cannabis operations as defined in section 5.22.02(i) are prohibited within the City.

(b) Dispensaries. Cannabis dispensaries as defined in Section 5.22.02(e) are prohibited within the City.

(c) Deliveries. The delivery of cannabis as defined in Section 5.22.02(k) is prohibited in the City, except to and from cannabis testing facilities as permitted by Section 5.22.09, regardless of whether the delivery is initiated within or outside of the City, and regardless of whether a technology platform is used for delivery by the dispensary.

(d) Exceptions to dispensary ban for certain healthcare facilities. The following facilities providing medical marijuana to patients are not subject to the dispensary ban provided they are in strict compliance with Health and Safety Code sections 11362.5 and 11362.7 *et seq.*, and all other State and local laws pertaining the uses, including zoning, permitting, and licensing requirements:

- A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.
- A health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) 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 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code.
- A residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code.
- A residential hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

SECTION 4. ADDITION OF SECTION 5.22.09 (COMMERICAL CANNABIS TESTING)

Section 5.22.09 is hereby added to Chapter 5.22, of Title 5, of the Clovis Municipal Code to read as follows:

Section 5.22.09 Commercial cannabis testing operations.

Notwithstanding the prohibition on commercial cannabis operations set forth in Section 5.22.05, commercial cannabis testing operations may be allowed in the City as set forth in this Section.

(a) Permitted Uses. Businesses meeting the requirements of this Section, and otherwise allowed by the applicable zoning, shall be allowed to conduct the following commercial cannabis operations in the City:

- Testing as allowed by the Medicinal and Adult Use Cannabis Regulation and Safety Act.

(b) Minimum Operational Requirements and Restrictions. The following operational requirements and restrictions shall apply to commercial cannabis testing operations:

(1) The business shall be an International Organization for Standardization ISO/IEC 17025:2005 certified lab. If the ISO standard is updated, the business shall meet the updated standard.

(2) The business shall at all times be in compliance with the Act and the implementing regulations, as they may be amended from time to time, as well as all State license(s) required under the Act, and any other applicable State law. The business shall obtain all license(s) required under the Act prior to opening for business.

(3) There shall be no signage or markings on the business premises or off-site, which in any way evidences that a commercial cannabis operation is occurring on the property. Interior building signage is permissible provided the signage is not visible outside of the building.

(4) No cannabis shall be smoked, ingested or otherwise consumed on the premises. Adequate signage of this prohibition shall be displayed throughout the facility.

(5) Transportation shall only be conducted as permitted by State law.

(6) There shall be no deliveries of cannabis or cannabis-containing products to or from the premises, except in connection with delivering cannabis products for testing.

(7) The cultivation, manufacturing, extraction, processing or retail sale of cannabis is expressly prohibited.

(8) There shall be no public access to the premises.

(9) The business shall not allow anyone under twenty-one (21) years of age to handle cannabis or cannabis products.

(10) The business shall comply with any distance separation requirements from schools as required by State law.

(11) The business shall comply with all applicable building and fire codes relating to the commercial cannabis operation.

(12) The business shall comply with all environmental laws and regulations pertaining to the commercial cannabis operation, including the storage, use and disposal of chemicals and waste product, and shall otherwise use best practices to avoid environmental harm.

(13) The business shall provide a sufficient odor-absorbing ventilation and exhaust system, so that odor generated inside the facility that is distinctive to its commercial cannabis operation is not detected outside the premises, outside the building housing the commercial cannabis operation, or anywhere on adjacent property or public rights-of-way.

(14) The business shall comply with any security measures required by the Police Chief reasonably relating to the commercial cannabis operation. Security measures may relate to controlled building access (exterior and interior), alarms, security lighting, security cameras, and delivery of cannabis products. The security measures shall be approved in writing by the Police Chief prior to commencing operations. The Police Chief may supplement these security requirements once operations begin.

(15) Delivery vehicles shall not have any markings indicating that deliveries are being made to a cannabis operation. The transportation of cannabis samples to and from the premises shall be in unmarked vehicles with no indication that the vehicles are transporting cannabis samples and/or products.

(16) The business shall make and maintain complete, accurate and legible records of the permitted commercial cannabis operation evidencing compliance with the requirements of this Section. Those records shall be maintained for a minimum of five (5) years.

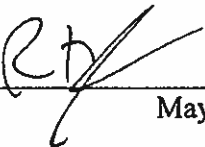
(17) The commercial cannabis operation shall be open for inspection by any City law enforcement officer at any time the business is operating, at any other time upon responding to a call for service related to the property where the commercial cannabis operations is occurring, or otherwise upon reasonable notice.

(18) In authorizing commercial cannabis testing operations under this section, the City makes no guarantees or promises as to the lawfulness of the approved activity under State or federal law, and the business owner, operator and all responsible parties are obligated to comply with all applicable laws and regulations. To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to the adoption of this Ordinance or the operation of any commercial cannabis operation approved pursuant to this Ordinance, or under State or federal law. The business owner, operator and all responsible parties shall defend, hold harmless, release, and indemnify the City, its agents, officers, and employees, from any liability associated with the approved use or adverse determinations made by the State or federal government. An adverse determination could include cessation of operations.

SECTION 5: 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 6, 2017



Mayor



City Clerk

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Clovis held on the 6th day of November 2017 and passed and adopted at a regular meeting of the City Council held on the 13th day of November 2017 by the following vote:

AYES: Councilmembers Ashbeck, Bessinger, Flores, Mouanoutoua, Mayor Whalen

NOES: None

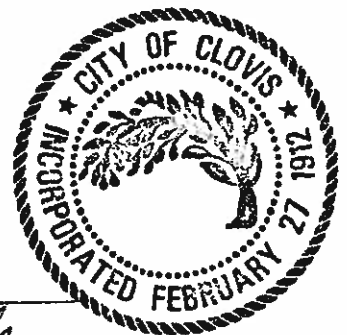
ABSENT: None

ABSTAIN: None

DATED: November 13, 2017



City Clerk



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EXHIBIT 13

ORDINANCE NO. 2018-1045

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CERES, AMENDING
ORDINANCES NO. 2017-1039 AND 2017-1043 – CHAPTER 9.120, CANNABIS
BUSINESSES, OF THE CERES MUNICIPAL CODE**

WHEREAS, in 2015, the Ceres City Council (the “City Council”) adopted Ordinance No. 2015-1035, adding Chapter 9.120 to the Ceres Municipal Code, banning all commercial cannabis activity and cultivation, thereby deeming those activities nuisances; and

WHEREAS, on May 22, 2017, the City Council (the “City Council”) adopted Ordinance No. 2017-1039 to establish a comprehensive policy to regulate medicinal cannabis business within the City of Ceres (the “City”) through a pilot program (“Medical Cannabis Business Pilot Program”); and

WHEREAS, at that time, the City Council determined that allowing only medicinal cannabis businesses in the City through the Medical Cannabis Business Pilot Program was prudent until the State of California completed regulations for all cannabis businesses; and

WHEREAS, on December 7, 2017, the Bureau of Cannabis Control, Department of Agriculture, and the Department of Public Health issued final emergency regulations relating to all cannabis businesses allowed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (collectively, the “Emergency Regulations”). These Emergency Regulations include licensing and operating requirements that are nearly identical for medicinal and adult-use cannabis businesses alike; and

WHEREAS, the City Council now desires a comprehensive policy to address both medicinal and adult-use cannabis businesses within the City of Ceres; and

WHEREAS, the City Council finds that allowing for continued limited cannabis businesses in the City through a pilot program (“Cannabis Business Pilot Program”) is in the best interest of the health, welfare, and safety of the public; and

WHEREAS, the City Council desires to amend Ordinance 2017-1039 to allow and regulate medicinal and adult-use cannabis operations under the Cannabis Business Pilot Program; and

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

SECTION 1. Title 9, Public Peace, Safety and Morals, of the Ceres Municipal Code is amended to replace Chapter 9.120, Medical Cannabis Businesses, which shall read as follows:

Chapter 9.120 – Cannabis Business Pilot Program.

9.120.010 – Declaration of Purpose.

- A. The City finds and declares that the purpose of this chapter is to regulate all commercial cannabis activity in the City of Ceres, to the extent authorized by state law and in a manner designed to minimize negative impacts on the City, and to promote the health, safety, morals, and general welfare of residents and businesses within the City.
- B. It is the purpose and intent of the City Council to implement state law by regulating cannabis businesses and to ensure that commercial medical cannabis activity does not result in the diversion of cannabis for illicit purposes.
- C. The regulations in this chapter do not interfere with a qualified patient's right to obtain and use cannabis as authorized under state law, nor do they criminalize the possession or cultivation of cannabis by qualified patients or their primary caregivers. Cannabis businesses shall comply with all provisions of the Ceres Municipal Code, state law, and all other applicable local and state regulations. It is neither the intent nor the effect of this chapter to condone or legitimize the illegal use, consumption, or cultivation of cannabis under federal, state, or local law.

9.120.020 – Definitions.

- A. "Adult Use of Marijuana Act" or "AUMA" has the same meaning as Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act approved by California voters at the November 8, 2016, election, and any applicable rules and regulations promulgated thereafter.
- B. "Business" means a profession, trade, occupation, gainful activity, and all and every kind of calling whether or not carried on for profit.
- C. "City Manager" shall mean the Ceres City Manager or designee.
- D. "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.
- E. "Cannabis business" shall mean any person or business that engages in commercial cannabis activity.
- F. "Cannabis business permit" shall mean any permit issued to a medical cannabis business

pursuant to the provisions of this chapter.

- G. "Cannabis Business Pilot Program" shall mean the City's permitting process and procedures pursuant to the provisions of this chapter for the purpose of determining and evaluating the feasibility and desirability of regulating multiple cannabis businesses within City limits.
- H. "Medicinal and Adult-Use Cannabis Regulation and Safety Act" or "MAUCRSA" has the same meaning as Chapter 1 (commencing with section 26000) of Division 10 of the California Business and Professions Code, and any applicable rules and regulations promulgated thereafter.
- I. "Primary caregiver" shall have the same meaning as set forth in California Health and Safety Code section 11362.7(d).
- J. "Qualified patient" shall have the same meaning as set forth in California Health and Safety Code section 11362.7(f).

9.120.030 –Cannabis Business Pilot Program.

- A. Cannabis businesses shall only be permitted to operate in the City following application, investigation, verification, approval, and issuance of a development agreement approved by the City Council, and a cannabis business permit issued by the City in accordance with the criteria and procedures set forth in this chapter. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a cannabis business shall be granted or permitted unless it complies with the provisions of the Ceres Municipal Code.
- B. All persons who are engaged in or who are attempting to engage in commercial cannabis activity in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions of this chapter, AUMA, and MAUCRSA, as it applies, the provisions of the Ceres Municipal Code, as may be amended from time to time, and all other applicable state and local laws and regulations.
- C. The City Manager is authorized to make policies and procedures consistent with the intent of this chapter concerning the applications, the application process, the information required of an applicant, the application procedures, and the administration and procedures to be used and followed in the application and hearing process.

9.120.040 – All State and Local Licenses and Permits Required.

- A. No cannabis business shall operate unless it is in possession of all applicable state and local licenses and permits.
- B. Every cannabis business shall submit to the City Manager a copy of any and all of its state and local licenses and permits required for its operation.
- C. If any other applicable state or local license or permit required for a cannabis business' operation is denied, suspended, modified, revoked, or expired, the cannabis business shall notify the City Manager in writing within ten (10) days of such denial, suspension, modification, revocation, or expiration.

9.120.050 – Permits Not Transferable.

Cannabis business permits issued pursuant to this chapter are not property and have no value. Cannabis business permits may not be transferred, sold, assigned or bequeathed expressly or by operation of law. Any attempt to directly or indirectly transfer a cannabis business permit shall be unlawful and void, and shall automatically revoke the permit.

9.120.060 – Development Agreement.

- A. Prior to operating in the City, and as a condition of issuance of any applicable permits, including, but not limited to, a cannabis business permit, the applicant seeking to operate a cannabis business shall enter into a development agreement with the City setting forth the terms and conditions under which the cannabis business will operate. Such development agreement shall be in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed upon, approval of architectural plans (including site plan, floor plan, and elevation), and such other terms and conditions that will protect and promote the public health, safety, and welfare of all persons in the City.
- B. Every development agreement approved by the City pursuant to this chapter shall be subject to an annual review by the City Council to determine compliance with the terms of the development agreement, applicable local and state laws and regulations, this chapter, and the Ceres Municipal Code. The City Council may from time to time determine whether to allow additional cannabis businesses as part of the Cannabis Business Pilot Program.

9.120.070 – Nonconforming Use.

Any cannabis business established or operating in the City in violation of this chapter shall not be considered a lawful or permitted nonconforming use, and no such cannabis business shall be eligible for issuance of any permits or approvals under the Ceres Municipal Code. Further, any such unlawfully established cannabis business shall constitute a public nuisance subject to abatement by the City.

9.120.080 – Relationship to Other Laws.

Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in Chapter 1 (commencing with Section 26000) of Division 10 of the California Business and Professions Code, or its successors. In the event of any conflict between the provisions of this chapter and the provisions of that chapter or any other applicable state or local law, the more restrictive provision shall control.

9.120.090 – Statewide Regulation.

This chapter, and the provisions herein, shall be read consistent with any statewide regulation of cannabis that is promulgated by the legislature or by voter approval.

9.120.100 – Severability.

Should any provision of this chapter, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 2. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

SECTION 3. This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, and publication of the Ordinance shall occur in a newspaper of general circulation at least fifteen (15) days prior to its effective date, or a summary of the Ordinance 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.

SECTION 4. CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL. This Ordinance was introduced at a regular meeting of the City Council of the City of Ceres held on May 14, 2018, and approved at a regular meeting of the City Council of the City of Ceres held on May 29, 2018, by the following vote:

AYES: Council Members: Lane, Durossette, Mayor Vierra
NOES: Council Members: Kline and Ryno
EXCUSED: None
ABSTAINED: None

APPROVED:



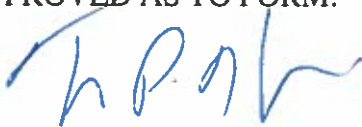
Chris Vierra
Mayor of the City of Ceres

ATTEST:



Diane Nayares-Perez
City Clerk of the City of Ceres

APPROVED AS TO FORM:



Tom P. Hallinan
Ceres City Attorney

City Clerk City of Ceres

THIS IS TO CERTIFY THAT THIS IS A TRUE
AND CORRECT COPY OF A DOCUMENT ON
FILE WITH THIS OFFICE.

Dated 1/29/2020



DIANE NAYARES, CMC, CITY CLERK

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EXHIBIT 14



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

Signed: Dore Alvarado

Date: 1/29/20

City Clerk's Office, Covina, California

ORDINANCE 17-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DELETING EXISTING MEDICAL MARIJUANA REGULATIONS AND REPLACING THEM WITH A NEW CHAPTER 17.84 THAT WILL BE ADDED TO TITLE 17 OF THE COVINA MUNICIPAL CODE TO PROHIBIT COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL), AND OUTDOOR CANNABIS CULTIVATION, AND TO ESTABLISH REASONABLE REGULATIONS REGARDING INDOOR CANNABIS CULTIVATION, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(B)(3) OF THE CEQA GUIDELINES

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 Codified as California Health and Safety Code section 11362.5 – The Compassionate Use Act of 1996 (CUA); and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code Section 11362.7, *et seq.*, and referred to as the “Medical Marijuana Program” (MMP) to clarify the scope of Proposition 215 and to provide qualified patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 passed in 2010 and Assembly Bill 1300 passed in 2011 amending the MMP to recognize the authority of local governments to “adopt ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances; and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMP preempt a local ban on medical marijuana dispensaries in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. § 801, *et seq.*, classifies marijuana as a Schedule I Drug, defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana; and

WHEREAS, on October 9, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), effective January 1, 2016, which established a state licensing system for medical cannabis cultivation, manufacturing, delivery, testing, and dispensing, and created licensing requirements and regulations. Under the MCRSA, cities and counties could ban all commercial medical cannabis activity; and

WHEREAS, on November 8, 2016, a majority of California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA makes it lawful for individuals 21 years of age and 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 cannabis or not more than eight grams of cannabis in the form of concentrated cannabis contained in cannabis products. The AUMA also makes it lawful for individuals 21 years of age and older, to possess, plant, cultivate, harvest, dry or process not more than six living cannabis plants and possess the cannabis produced by the plants. Further, the AUMA makes it lawful for individuals 21 years of age and older, to smoke or ingest cannabis or cannabis products. Portions of the AUMA took effect the day after the election, specifically non-medical cannabis use by adults, and cannabis cultivation in private residences; and

WHEREAS, 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 businesses engaged in commercial cannabis activity 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 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 cannabis 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 begin issuing licenses to cannabis businesses beginning January 1, 2018; and

WHEREAS, the MAUCRSA retains the provisions of the AUMA that allows local governments to reasonably regulate cultivation through zoning and other local laws, and to ban outdoor cultivation outright. The MAUCRSA requires local governments to allow limited indoor cultivation in private residences; and

WHEREAS, on September 3, 2013, the City adopted Ordinance No. 13-2025 prohibiting medical marijuana dispensaries and mobile marijuana dispensaries in the City, and on September 15, 2015 adopted Ordinance No. 2042 amending the definition of medical marijuana dispensaries to include marijuana cultivation and related activities, and on April 4, 2016 adopted Ordinance No. 16-2054 to prohibit the cultivation and delivery of medical marijuana in the City. On November 1, 2016, the City Council adopted Ordinance No. 16-2065, an urgency ordinance adopting a moratorium prohibiting all commercial non-medical marijuana activity, outdoor marijuana cultivation on private residences, and restricts indoor cultivation in private residences, and on December 6, 2016 adopted Ordinance No. 16-2070 extending Interim Ordinance No. 16-2065 to expire on September 17, 2017; and

WHEREAS, if the City fails to regulate or prohibit commercial cannabis activity, the City could face issues of preemption because a business engaged in commercial cannabis activity will not need to obtain a local license before obtaining a State license. The City has an overriding interest in planning and regulating the use of property within the City. Implicit in Ordinance 17-09

any plan or regulation is the City's interest in maintaining the quality of urban life and the character of the City's neighborhoods. Without stable, well-planned neighborhoods, areas of the City can quickly deteriorate, with tragic consequences to social, environmental and economic values; and

WHEREAS, the City Council finds there is a threat to the health, safety, and welfare of City residents arising from the risks associated with the manufacturing, processing, storing and wholesale and retail distribution of cannabis, whether medical or non-medical. Citywide prohibition of all commercial cannabis activities, from cultivation to point of sale, is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities; and

WHEREAS, as recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentrations of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, several California cities have reported negative impacts of cannabis processing and distribution uses, including offensive odors, illegal sales and distribution of cannabis, trespassing, theft, violent robberies and attempted robbery, and fire hazards; and

WHEREAS, until and unless the Department of Food and Agriculture establishes a track and trace program for reporting the movement of cannabis items through the distribution chain, the risk of crime from theft and burglary attendant to manufacturing and distribution facilities is significant. Until traceable, stolen product will have street value for sale to minors; and

WHEREAS, manufacturing of cannabis products can involve the use of chemicals and solvents, and as a result, the manufacture of hash oil concentrate, often added to edibles, drink and liquids, carries a significant risk of explosion due to the distillation process utilized to extract tetrahydrocannabinol. Major burn treatment centers at two hospitals in Northern California reported in 2015 that nearly 10 percent of severe burn cases were attributed to butane hash oil explosions, which was more than burn cases from car accidents and house fires combined; and

WHEREAS, all cannabis businesses are currently prohibited under the City's permissive zoning regulations. The City Council desires to enact this ordinance to expressly clarify that all commercial cannabis activity (both medical and non-medical) is prohibited in all zones throughout the City; and

WHEREAS, this ordinance is not a project subject to the California Environmental Quality Act (CEQA) because it does not have the potential to create a physical environmental effect.

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

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

SECTION 1. Section 17.04.414.5 (Medical marijuana dispensary.) of Chapter 17.04 (Definitions and standards) of Title 17 (Zoning) of the Covina Municipal Code is hereby deleted in its entirety.

SECTION 2. Section 17.60.025 (Unlisted and unpermitted use – Medical marijuana dispensary – Public nuisance declared – Violations.) of Chapter 17.60 (Permitted uses) of Title 17 (Zoning) of the Covina Municipal Code is hereby deleted in its entirety.

SECTION 3. Chapter 17.84 (Compliance and Penalties) of Title 17 (Zoning) of the Covina Municipal Code is hereby renumbered as Chapter 17.85.

SECTION 4. A new Chapter 17.84 (Cannabis Prohibitions and Regulations) is added to Title 17 (Zoning) of the Covina Municipal Code to read as follows:

**Chapter 17.84
CANNABIS PROHIBITIONS AND REGULATIONS**

Sections:

- 17.84.010 Purpose.**
- 17.84.020 Definitions.**
- 17.84.030 Prohibitions.**
- 17.84.040 Exceptions.**
- 17.84.050 Indoor cultivation – compliance standards.**
- 17.84.060 Prohibition in public places.**
- 17.84.070 Violations and penalties.**

17.84.010 Purpose.

The purpose and intent of this chapter is to prohibit commercial cannabis activity within the city limits. Under the Federal Controlled Substances Act, cannabis is classified as a "Schedule 1 Drug" which is defined as a drug or other substance that has a high potential for abuse and no medical benefit. Furthermore, the Federal Controlled Substance Act makes it unlawful for any person to cultivate, or dispense cannabis. The Federal Controlled Substance Act contains no statutory exemption for the possession of cannabis for any purpose. Nothing in this chapter shall preempt or make inapplicable any provision of State or Federal law.

In addition, the prohibition of all commercial cannabis activity within the city limits will help protect the public health, safety and general welfare of the city and its residents. There is evidence of an increased incidence of crime-related secondary impacts in locations associated with cannabis dispensaries, cultivation of cannabis and the mobile delivery of cannabis which is contrary to policies that are intended to promote and maintain the public's health, safety and welfare. This chapter will help preserve the city's law enforcement services, in that monitoring and addressing the negative secondary effects and adverse impacts will likely burden the city's law enforcement resources.

17.84.020 Definitions.

As used in this chapter:

A. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of cannabis and cannabis products for non-medical, 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 other provision of State law that regulates the licensing of cannabis 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 for purposes of this chapter.

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

D. "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.

E. "Edible cannabis" means food or ingestible items made with cannabis or infused with cannabis oils.

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. The fully enclosed and secure structure must have valid electrical, plumbing, and building permits, if required by other provisions of this Code.

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

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

I. "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, and any product containing 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.

J. "MAUCRSA" means the Medicinal 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.

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

L. "Operation" means any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet or assist in the operation of commercial cannabis activity.

M. "Person" means any person, firm, corporation, partnership, joint venture, limited liability company, collective, cooperative, non-profit, trust, estate, association, club, receiver, syndicate, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer or salesperson.

N. "Possession" means to have, own, control, or possess.

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

17.84.030 Prohibitions.

A. The delivery of cannabis within city limits by any means is prohibited.

B. Commercial cannabis activity, whether or not for profit, is expressly prohibited in all zones, all specific plan areas, and all overlay zones in the city. No person shall establish, operate, maintain, conduct or allow commercial cannabis activity anywhere within the city. No 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 cannabis activity shall be approved.

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

D. The outdoor cultivation of cannabis by any person, including a primary caregiver, qualified patient or person with identification card as those terms are defined in California Health and Safety Code section 11362.7, is prohibited within the city limits.

E. Indoor cannabis cultivation that does not meet the standards set forth in Section 17.84.050 is prohibited.

17.84.040 Exceptions.

A. To the extent that the following activities are permitted by State law, nothing in this chapter 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 in a manner consistent with 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 indoor cultivation of six (6) or less live cannabis 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, and to the extent that such cultivation complies with Section 17.84.050.

B. This chapter 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.

C. This chapter 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.

17.84.050 Indoor cultivation – compliance standards.

The indoor cultivation of seven (7) or more cannabis plants in a private residence is prohibited. The indoor cultivation of six (6) or fewer cannabis plants in a private residence shall be permitted to the extent permitted by State law, and subject to the following standards:

A. A person may not cultivate cannabis without first registering on forms available at the Covina Police Department, and paying the registration fees that shall be set by resolution of the City Council. The registration form shall contain language stating that the registrant shall acknowledge that he or she will cultivate cannabis in conformity with the standards set forth herein, and shall allow, with reasonable notice, access by the City and/or the Police Department to his or her private residence to confirm compliance with the standards set forth in this Chapter, and all applicable local and State laws.

B. The maximum number of cannabis plants that may be cultivated per private residence is limited to six (6), regardless of the number of persons that reside in the private residence. Only one person may register for each private residence, and a person may not register at more than one private residence in the city.

C. The cultivation shall only occur either inside of a private residence, or inside of a fully enclosed and secure structure located upon the grounds of a private residence.

D. Cultivation lighting shall not exceed 600 watts. The cultivation shall not draw more power than the structure and electrical service is designed to handle and shall not constitute a fire hazard.

E. The use of compressed gases, including but not limited to carbon dioxide and butane, for cultivation or processing is prohibited.

F. The property shall remain at all times a private residence with a legal and functioning kitchen, bathrooms and bedrooms for their intended use and such cultivation shall not prevent the property's primary use as a residential use. The cultivation activities shall be conducted in a manner that maintains a clear and unobstructed path to outdoor window(s) and interior door(s) at all times.

G. If cultivation occurs in a garage, it shall be conducted in a manner that does not reduce required off street parking.

H. The cultivation area shall include an adequate ventilation and filtration system to ensure that odors from cultivation are not detectable beyond the subject property, and shall be designed to prevent mold and moisture in order to protect the health and safety of persons inhabiting the residence.

I. Any chemicals used for cultivation shall be properly and safely stored outside the habitable area of the residence.

J. The cultivation shall not use more water than is reasonably required to cultivate the maximum number of permitted cannabis plants.

K. The cultivation area shall comply with all applicable provisions of the Building and Fire Codes.

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

M. The maximum plant height of any indoor cultivated cannabis plant shall not exceed six (6) feet, as measured from the base of the floor to the highest point of the cannabis plant(s).

N. The fully enclosed structure where the cannabis cultivation is occurring must have valid building, electrical, and plumbing permits, if applicable.

O. Any cannabis cultivation that does not meet the requirements set forth in this subsection is prohibited, is unlawful and constitutes a public nuisance.

17.84.060 Prohibition in Public Places.

The smoking, consumption, and use of cannabis in any and all forms shall be prohibited in all public places. Public places is defined herein to include, but is not limited to, all public parks, buildings and other facilities owned, leased or operated by or on behalf of the city. Public

places shall include, but is not limited to, all municipal parking lots, public sidewalks, trails, and streets and roadways.

17.84.070 Violations and penalties.

In addition to any other enforcement permitted by this Chapter 17.85 of the Covina Municipal Code, 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 attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Chapter 17.85 of the Covina Municipal Code, this Chapter 17.84 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 Chapter 17.85 of the Covina 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 Ordinance to prohibit commercial cannabis activity and outdoor cannabis cultivation, and to regulate indoor cannabis 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. 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.

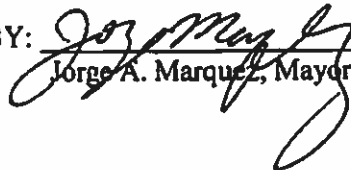
SECTION 7. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Covina hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 8. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local weekly newspaper of general circulation and which is hereby designated for that purpose.

PASSED, APPROVED and ADOPTED this 5th day of September, 2017.

City of Covina, California

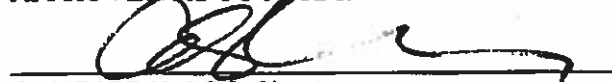
BY:


Jorge A. Marquez, Mayor

ATTEST:


SHARON F. CLARK, Chief Deputy City Clerk

APPROVED AS TO FORM:


CANDICE K. LEE, City Attorney

CERTIFICATION

I, Sharon F. Clark, Chief Deputy City Clerk of the City of Covina, do hereby certify that Ordinance 17-09 was introduced for first reading at a regular meeting on the 15th day of August, 2017. Thereafter, said Ordinance was duly approved and adopted at a regular meeting of said City Council on the 5th day of September, 2017, by the following vote:

AYES:	COUNCIL MEMBERS:	DELACH, KING, LINARES, ALLEN, MARQUEZ
NOES:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

Dated: September 6, 2017


SHARON F. CLARK, Chief Deputy City Clerk

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EXHIBIT 15

ORDINANCE NO. 17 - 008

AN ORDINANCE OF THE CITY OF DIXON AMENDING CHAPTER 6.12, MEDICAL MARIJUANA BUSINESSES, OF TITLE 6, REPEALING CHAPTER 11.13, MARIJUANA CULTIVATION, OF TITLE 11, AND AMENDING CHAPTER 18.03, CHAPTER 18.15, AND CHAPTER 18.16 OF TITLE 18 OF THE DIXON MUNICIPAL CODE

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 and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, On October 11, 2016, the City Council adopted Ordinance 16-009 to allow up to two medicinal cannabis dispensaries; and

WHEREAS, on November 8, 2016, Dixon voters approved Measure K, which authorized the City Council to impose a business license tax of up to fifteen percent (15%) of the gross receipts of any cannabis-related business; and

WHEREAS, in June of 2017, the City Council approved the circulation of a request for proposals to establish a Cannabis Pilot Program to evaluate potential City regulation of other cannabis businesses and gauge local interest in that regulation; 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, the City Council finds that establishing a structure to regulate all cannabis businesses contemplated by state law is in the best interest of the health, welfare, and safety of the public;

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

SECTION 1. Chapter 6.12 is hereby amended to read as follows:

CHAPTER 6.12 Cannabis Business Pilot Program

6.12.010 Title.

These regulations shall be known and cited as the "Cannabis Business Code" and may hereinafter be referred to as the "Code."

6.12.020 Purpose and intent.

The purpose and intent of this Code is to establish a cannabis business pilot program containing a comprehensive set of regulations with regulatory permits applicable to the operation of cannabis businesses and to protect the health, safety, and welfare of the residents of the City of Dixon. The regulations in this Code do not interfere with a qualified patient's right to obtain, cultivate, and use medicinal cannabis as authorized under state law, nor do they criminalize the possession or cultivation of cannabis by qualified patients or their primary caregivers. Cannabis businesses shall comply with all provisions of the Dixon Municipal Code, state law and regulations, and all other applicable local codes and regulations. It is neither the intent nor the effect of this Code to condone or legitimize the illegal use or consumption of cannabis under federal, state, or local law.

6.12.030 Definitions.

- A. "Applicant" means a person that files an application to operate a cannabis business pursuant this Code.
- B. "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.
- C. "Business" means a profession, trade, occupation, gainful activity, and all and every kind of calling whether or not carried on for profit.
- D. "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.
- E. "Cannabis business" means any business engaged in commercial cannabis activity. "Cannabis business" does not include any of the following:

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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.

F. "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, cultivates cannabis or cannabis products.

G. "Cannabis dispensary" means a business at a particular location or real property involving the distribution of cannabis to qualified patients, primary caregivers, persons with identification cards, or customer pursuant to a Type 10 state cannabis license that is consistent with state law and this chapter.

H. "Cannabis manufacturing business" means any cannabis business that, pursuant to a Type 6, Type 7, or Type 12 state cannabis licenses manufactures cannabis or cannabis products.

I. "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.

J. "Cannabis testing laboratory" means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license.

K. "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.

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L. "City" means the City of Dixon, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.

M. "City Manager" has the same meaning as that term is described in Chapter 2.09 of the D.M.C.

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

O. "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

P. "Juvenile" means any natural person who is under the age of eighteen (18) years of age.

Q. "License" means a state license issued pursuant to Cal. Bus. & Prof. Code § 26000.

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

S. "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.

T. "Primary caregiver" has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

U. "Qualified patient" has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

6.12.040 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 conditional use permit pursuant to the procedure in Chapter 18.25. Any conditional use permit relating to the location of a cannabis business may be approved based on all of the following findings:
 - i. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of Title 18 of the D.M.C.

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- ii. The proposed use is consistent with the General Plan and any applicable specific plan.
- iii. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.
- iv. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.
- v. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.
- vi. The proposed project has been reviewed in compliance with the California Environmental Quality Act.

C. At the time of application to the city, every cannabis business applicant shall submit to the Community Development Director a copy of its license or license application required for its operation.

D. A cannabis business shall only be allowed to operate in the areas identified in Title 18 of the D.M.C.

6.12.050 Applications for a cannabis business.

A. A person may apply to operate a cannabis business by filing an application with the City Manager on a form provided by the City. Every completed application shall be filed with a filing fee established by resolution adopted by the City Council.

B. A person shall not knowingly make a false statement of fact or knowingly omit any information that is required in an application to operate a cannabis business.

6.12.060 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 seven a.m. and nine p.m. on any day of the week or at any reasonable time to ensure compliance and enforcement of this Code.
- 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.

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3. A person shall not refuse, impede, obstruct, or interfere with an inspection pursuant to this Code.

B. Records.

1. 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.

6.12.070 Commercial cannabis cultivation.

- A. A cannabis cultivation business may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis cultivation business shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. A cannabis cultivation business shall not cultivate outdoors.
- D. All cannabis cultivation businesses shall maintain any applicable license, conditional use permit, 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 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 cultivation 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 thirty (30) days. The video recordings shall be made available to the City upon request.

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- 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. Cultivation site restricted. A cannabis cultivation business shall not open their cultivation site to the public. A cannabis cultivation 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.
- 8. Insurance. The applicant's certificate 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 cultivation business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed. If applicable, the plan shall include a description of measures to be taken relating to light bulb recycling.

6.12.080 Cannabis dispensaries.

- A. Up to two (2) cannabis dispensaries may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis dispensary shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. Any commercial cannabis activity related to delivery is prohibited unless that activity is performed by a cannabis dispensary authorized by this Code. The city reserves the right to prohibit a cannabis dispensary from performing delivery services.
- D. All cannabis dispensaries shall maintain any applicable license, conditional use permit, and comply with all of the following:

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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.
 - a. 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 dispensary 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.
 - b. 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 thirty (30) days. The video recordings shall be made available to the city upon request.
 - c. 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 dispensary shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
7. Insurance. The applicant's certificate 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.

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6.12.090 Cannabis manufacturing.

- A. A cannabis manufacturing business may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis manufacturing business shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. All cannabis manufacturing businesses shall maintain any applicable license, conditional use permit, 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 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.
 - a. 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.
 - b. 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 thirty (30) days. The video recordings shall be made available to the city upon request.
 - c. 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.

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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 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 manufacturing site at all times that 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 applicant's certificate 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.

6.12.100. Cannabis Testing Laboratory.

- A. A cannabis testing laboratory may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis testing laboratory shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. All cannabis testing laboratories shall maintain any applicable license, conditional use permit, 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. 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 thirty (30) 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 that 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 applicant's certificate 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.

6.12.110. Exemptions.

- A. A person twenty-one (21) years of age or older who cultivates, possesses, stores, or transports cannabis exclusively for his or her personal, adult-use pursuant to the limitations of state law is not engaged in commercial cannabis activity and is therefore exempt from the requirements of this Code.
- B. A qualified patient or primary caregiver who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute medical cannabis to any other person is not engaged in commercial cannabis activity and is therefore exempt from the requirements of this Code.

6.12.120 Violation and penalties.

- A. A violation of any provisions of this Code, or failure to comply with any of its requirements shall constitute a misdemeanor; except that, notwithstanding any other provision of this Code, a violation constituting a misdemeanor under this Code may, at the discretion of the City Attorney, be charged and prosecuted as an infraction.
- B. In addition to any other remedy allowed by this Code or law, any person who violates a provision of this Code is subject to the penalties in Chapter 1.06.
- C. Any person who violates a provision of this Code is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.

D. Each person shall be charged with a separate offense for each day during which any violation of a provision of this Code is committed, continued or permitted by that person and shall, upon conviction, be punished accordingly.

E. All remedies prescribed under this Code shall be cumulative and the election of one or more remedies shall not bar the City from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

6.12.130 Cost Recovery.

A. The City shall be entitled to recover its abatement and enforcement costs incurred in obtaining compliance with this Code. Costs incurred by the city are recoverable even if a public nuisance, D.M.C, 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 Code 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 Code, 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 D.M.C. 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 D.M.C. 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 D.M.C. 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 Code 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 Code.

6.12.140. Notice.

A. All notices required by this Code shall be deemed issued and served upon the date they are deposited in the mail, via certified mail, or the date on which personal service is provided.

B. A mailed notice shall be addressed to the applicant or cannabis business at the mailing address identified in its application, the last updated address on file with the city manager's office, or the address on the appeal form.

6.12.150. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Code or part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this code or any part thereof. The City Council 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 subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

6.12.160. Consistency with statewide regulation.

This Code shall be read consistent with any statewide regulation of cannabis that is promulgated by the California legislature or by voter approval in the future.

SECTION 2. Chapter 11.13 of Title 11 of the Dixon Municipal Code is repealed.

SECTION 3. Section 18.03.020 "Land Use and Zoning Matrix" is amended as follows:

**Chapter 18.03
LAND USE AND ZONING MATRIX**

A. The table set entitled "Summary of Uses in Commercial Zoning Districts" is amended to add a row as follows:

Uses in Commercial Zoning Districts	CN	CC	CH	CD	CS	PMU	PAO	PS	A	T
Cannabis ⁽¹⁴⁾ Business		C	C		C	C	C	C	C	C

(14) A cannabis business, as defined by Section 6.12.030, may be allowed pursuant only to all of the following:

- (1) A conditional use permit pursuant to Chapter 18.25.
- (2) A development agreement pursuant to Chapter 6.12.
- (3) A cannabis business is prohibited from being located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center, as those terms are defined in Chapter 6.12, that is in existence at the time of application. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, day care center, or youth center to the closest property line of the lot on which the cannabis business is to be located without regard to intervening structures.

B. The table set entitled “Summary of Uses in Industrial Zoning Districts” is amended as follows:

Uses in industrial Zoning Districts	ML	MH
Cannabis Business	C ⁽⁷⁾	C ⁽⁷⁾

(7) A cannabis business, as defined by Section 6.12.030, may be allowed pursuant only to all of the following:

- A. A conditional use permit pursuant to Chapter 18.25.
- B. A development agreement pursuant to Chapter 6.12.
- C. A cannabis business is prohibited from being located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center, as those terms are defined in Chapter 6.12, that is in existence at the time of application. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, day care center, or youth center to the closest

property line of the lot on which the cannabis business is to be located without regard to intervening structures.

- C. Except as specifically amended in subsections A and B, the tables set forth in section 18.03.020 (Land use and zoning matrix) DMC remain unchanged and in full effect.

SECTION 4. Chapter 18.15 “ML – LIGHT INDUSTRIAL DISTRICT” is amended as follows:

18.15.030 Conditional Uses

The following uses shall be permitted upon the granting of a Use Permit in accord with the provisions of Chapter 18.25.

- A. Any use listed in Section 18.15.02 which is located within two hundred fifty (250) feet of an R District.
- B. Outdoor storage when completely screened from view from a public street or highway. Such storage area must be accessory to a permitted use.
- C. Public buildings and grounds including emergency shelters.
- D. Lumber yards including planing or saw mills.

SECTION 5. Chapter 18.16 “MH – HEAVY INDUSTRIAL DISTRICT” is amended as follows:

18.16.030 Conditional uses in the heavy industrial zone

The following uses shall be permitted upon the granting of a use permit as provided in Chapter 18.25 DMC:

- A. Airports and heliports;
- B. Cement, lime, gypsum and plaster of Paris manufacture;
- C. Charcoal, lampblack and fuel briquettes manufacture;
- D. Chemical products manufacture;
- E. Coal, coke and tar products manufacture;
- F. Drop forges;
- G. Dumps and slag piles;
- H. Explosive and fireworks manufacture and storage;
- I. Fertilizer manufacture;
- J. Film manufacture;
- K. Fish products processing and packaging;

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L. Garbage dumps;
 M. Gas manufacture or storage;
 N. Gas and oil wells;
 O. Gelatin, glue and size manufacture from animal or fish refuse;
 P. Insecticides, fungicides, disinfectants and similar industrial and household chemical compounds manufacture;
 Q. Incineration or reduction or dumping of garbage, offal and dead animals;
 R. Junkyards;
 S. Lard manufacture;
 T. Linoleum and oil cloth manufacture;
 U. Magnesium foundries;
 V. Manure, peat and topsoil processing and storage;
 W. Metal and metal ores reduction, refining, smelting and alloying;
 X. Motor vehicle wrecking yards;
 Y. Paint manufacture including enamel, lacquer, shellac, turpentine and varnish;
 Z. Paper mills;
 AA. Petroleum and petroleum products refining including gasoline, kerosene, naphtha and oil;
 BB. Petroleum and petroleum products storage;
 CC. Rifle ranges;
 DD. Rolling mills;
 EE. Soap manufacture including fat rendering;
 FF. Steam plants;
 GG. Stockyards, slaughter of animals;
 HH. Stone quarries, gravel pits, mines and stone mills;
 II. Storage of used building materials;
 JJ. Tallow manufacture;
 KK. Tanneries and curing and storage of rawhides;
 LL. Wood and bones distillation;
 MM. Wood pulp and fiber reduction and processing.

SECTION 6. 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 7. This ordinance shall take effect thirty (30) after its passage by the City Council, following the affirmative vote of a majority of the members of the City Council. Within 15 days of its adoption by City Council, a summary of the ordinance shall be published in a newspaper of general circulation in the City of Dixon, State of California, which summary shall include the names of those Council Members voting for and against

the ordinance. A certified copy of the full text of such adopted ordinance or amendment shall be on file in the office of the City Clerk.

SECTION 8. CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL. The foregoing Ordinance was introduced at a regular meeting of the Dixon City Council duly held on October 24, 2017, and was approved and enacted at a duly held regular meeting of the City Council of the City of Dixon held on November 28, 2017 by the following vote on roll call:

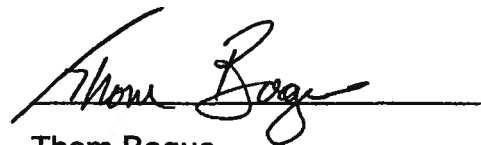
AYES: Bird, Hickman, Pederson, Bogue

NOES: Minnema

ABSTAIN: None

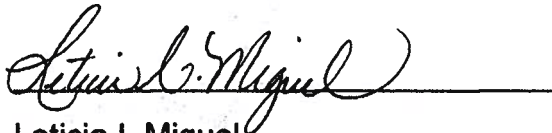
ABSENT: None

APPROVED:



Thom Bogue
Mayor of the City of Dixon

ATTEST:



Leticia I. Miguel
City Clerk of the City of Dixon

CERTIFIED AS A TRUE COPY
OF Ordinance 17-008

Jan. 31, 2020
DATE CERTIFIED


CITY CLERK, CITY OF DIXON

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EXHIBIT 16

ORDINANCE NO. 17-1384

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DOWNEY
AMENDING VARIOUS SECTIONS OF ARTICLE IX OF THE MUNICIPAL
CODE REGARDING PERSONAL CULTIVATION AND COMMERCIAL
ACTIVITIES OF MARIJUANA**

WHEREAS, the legal use of medical marijuana was established in the State of California in 1996 with voter approval of the Compassionate Use Act of 1996 (Proposition 215). Since approval of Proposition 215, the California Legislature has enacted several other pieces of legislation that expand and clarify the medical marijuana program in California; and,

WHEREAS, Congress created the High Intensity Drug Trafficking Areas (HIDTA), which are funded by the President's Office of National Drug Control Policy, and provide assistance to Federal, state, local and tribal law enforcement agencies operating in areas determined to be critical drug trafficking regions of the United States; and,

WHEREAS, in March, 2016 the Northwest HIDTA published a study, *the Washington State Marijuana Impact Report*, which examines the impacts of legalization of marijuana in Washington State. Their research found that since the legalization of marijuana (2012), calls to the Washington State Poison Center for youth have increased by 54.26% between 2012 and 2014. The Washington State Patrol Crime Lab (WSPCL) has found that since the legalization of marijuana, 80% of the marijuana cases examined within the first half of 2015 involved minors; and,

WHEREAS, in September, 2016, the Rocky Mountain HIDTA, published a study, *The Legalization of Marijuana in Colorado – The Impact, Volume 4*, examining the impacts of legalized marijuana in Colorado. Their research found that crime in Denver and Colorado has increase from 2013 (year marijuana was legalized) to 2015. In Denver, from 2014-2015, crime has increased 6.2 percent, violent crime increased 6.7 percent, and all crime has increased 6.2 percent. In addition, unlawful public display/consumption of marijuana has increased by 318 percent from 2013 to 2014. And in Boulder, marijuana public consumption citations have increased by 109 percent from 2013 to 2015. Since the legal legalization of marijuana in 2013, 68 percent of local jurisdictions in Colorado have banned medical and recreational marijuana businesses; and,

WHEREAS, on November, 8, 2016, California voters voted to approve Proposition 64 (Control, Regulation, and Tax Adult Use of Marijuana Act), which among other things, decriminalized certain forms of non-medical marijuana related activities under state law. Those same activities remain illegal under federal law; and,

WHEREAS, in 2017, researchers from Ohio State University published a research paper examining the crime rates in adjacent neighborhoods where marijuana dispensaries are located in the City of Denver between 2013 and 2015. This peer reviewed research found crime rates in the neighborhoods surrounding the dispensaries were notably impacted and showed a higher crime rate than those areas where they are not located. The lead author for the research, who is also a professor of social work at Ohio State University, was quoted as saying, "If you're looking strictly from a public health standpoint, there is reason to be somewhat concerned about having a marijuana outlet near your home." A similar study published by the same research group in 2016 that studied crime rates in the City of Long Beach revealed similar results, including a rise in violent crime in adjacent neighborhoods; and,

WHEREAS, on July 25, 2017, the City Council, initiated a Zone Text Amendment and directed staff to prohibit all commercial recreational marijuana activity, and to create provisions to "reasonably" regulate indoor personal cultivation of marijuana. "Reasonable" regulations may include a permitting scheme that requires each cultivator to obtain City permits prior to commencing cultivation; and,

WHEREAS, on September 6, 2017, the Planning Commission held a duly noticed public hearing, and after fully considering all oral and written testimony, and facts and opinions offered at the aforesaid public hearing, adopted Planning Commission Resolution No. 17-3031 recommending approval of the proposed Zone Text Amendment to the City Council by a 4-1 vote; and,

WHEREAS, on September 28, 2017, notice of the pending public hearing was published in the Downey Patriot as a 1/8th page ad in accordance with the requirements of the Downey Municipal Code; and,

WHEREAS, on October 10, 2017, the City Council held a duly noticed public hearing to fully consider all oral and written testimony and facts and opinions regarding the amendment to the Municipal Code; and,

WHEREAS, having considered all of the oral and written evidence presented to it at said public hearing, the City Council of the City of Downey finds, determines and declares that the requested Zone Text Amendment is not subject to CEQA, pursuant to Guideline Section No.15060(c)(2) of the State CEQA Guidelines, because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and,

WHEREAS, having further considered all of the oral and written evidence presented to it at said public hearing, the City Council of the City of Downey further finds, determines and declares that:

1. The adoption and implementation of the proposed Zone Text Amendment is necessary and desirable for the development of the community and is in the interests or furtherance of the public health, safety, and general welfare. This amendment will prohibit commercial cannabis establishments and activities, which include, but are not limited to deliveries, manufacturing, cultivation, processing, storing, laboratory testing, labeling, distribution, and sale of non-medical cannabis products and medical cannabis products, within the City of Downey, due to adverse secondary impacts that directly and indirectly result from the operations of the commercial cannabis establishments. Research papers produced by the Rocky Mountain HIDTA, the Northwest HIDTA, and Ohio State University found that there was an increase in various crime statistics, such as violent crime, public display/consumption of marijuana, specifically, in neighborhoods surrounding dispensaries. This increase in crime presents a hazard to the public health, safety, and welfare, particularly in view of the fact that members of the public may be victims of said crimes. In addition, responding to and investigating these types of crime would further strain overburdened City of Downey Police resources. Considering the adverse secondary impacts, the proposed code amendment will serve to protect the public health, safety, and welfare since it will prohibit the operation of commercial marijuana establishments and activities. Furthermore, the Adult Use of Marijuana Act (Proposition 64) allows cities to reasonably regulate personal indoor cultivation by adding specific regulations for indoor cultivation of marijuana in order to ensure the proper regulation and monitoring of these activities and to minimize adverse health

and safety impacts and threats to loss of property and life as a direct result of these activities. The Downey Police Department has reviewed the proposed ordinance and has expressed concerns regarding the potential increase in crimes in surrounding residential neighborhoods. The Police Department concluded that prohibiting commercial cannabis activities and establishments, as well as limiting personal cultivation to a fully enclosed and secure structure would limit threats to health and safety, and threats to loss of property.

2. The adoption and implementation of the proposed Zone Text Amendment is in general conformance with the General Plan. On January 25, 2005, the City of Downey adopted Vision 2025, a Comprehensive update to the General Plan. This update included adopting several policies to guide development in the City. The proposed code amendment will prohibit the operation of commercial cannabis establishments within the City. This amendment is consistent with General Plan Policy 1.3.1, which states, "Minimize or eliminate conflicts where incompatible land uses are in proximity to each other." As noted in the previous finding, there is evidence that shows that allowing the operation of commercial cannabis establishments and activities results in adverse secondary impacts to surrounding properties. By prohibiting the operation of these establishments, the City will eliminate a potential conflict between the commercial cannabis establishments and activities and existing land uses. In addition, reasonable regulations on indoor marijuana cultivation for personal consumption, such as limits on the minimum standards for indoor grow operations, the use of gas products, required ventilation and filtration systems to eliminate odors exiting the subject site, will comply with Policy 1.4.2--Program 1.4.2.1, which discourages residential construction that is not in harmony with the surrounding neighborhood, thereby being in compliance with the aforementioned General Plan Policies. Furthermore, the prohibition of outdoor marijuana cultivation encourages Goal 5.4 of the General Plan, which "promotes the protection of life and property from criminal activities", by requiring that marijuana cultivation take place indoors, within a fully enclosed and secure structure, thus mitigating the potential impacts associated with increase of trespassing and theft of property.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DOWNEY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The following definitions are hereby added to Section 9126 of Article IX of the Downey Municipal Code, and shall read as follow:

Commercial Cannabis Activity: The cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of marijuana and marijuana products, including medical and non-medical marijuana, non-medical cannabis products and medical cannabis products within the meaning of California Business and Professions Code Section 19300 et seq.

Commercial Cannabis Establishment: Any facility or location where commercial cannabis activity is conducted, where non-medical marijuana, non-medical marijuana products, medical marijuana, medical marijuana products are made available, sold and/or distributed.

SECTION 2. The following definition is hereby added to Section 9132 of Article IX of the Downey Municipal Code and shall read as follows:

Fully Enclosed and Secure Structure: A Building, Fire, and Zoning Code compliant space within a building, a 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 locking doors.

SECTION 3. The following definitions are hereby added to Section 9146 of Article IX of the Downey Municipal Code and shall read as follow:

Marijuana: Shall have the same definition as that set forth in California Health and Safety Code Section 11018.

Marijuana Accessories: 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.

Marijuana Distribution: The procurement, sale, and transport of marijuana and marijuana products between entities licensed by the State of California.

Marijuana Operation: Any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet or assist in the operation of commercial cannabis activity.

SECTION 4. The following definitions are hereby amended in Section 9146 of Article IX of the Downey Municipal Code and shall read as follow:

Marijuana, Medical: Marijuana used for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other serious medical condition for which marijuana is deemed to provide relief as defined in subsection (h) of Health and Safety Code Section 11362.7. "Medical marijuana" shall also include any edible or other products that contain marijuana, including, but not limited to, concentrates or extractions.

Marijuana Cultivation: The planting, growing, harvesting, drying or processing of marijuana plants or any part thereof for any purpose, including medical marijuana and non-medical recreational marijuana, and shall include both indoor and outdoor cultivation.

Marijuana Delivery: The commercial transfer of marijuana or marijuana products, medical marijuana or medical marijuana products from a dispensary or commercial cannabis establishment to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code. This shall also include the use by a dispensary,

and/or commercial cannabis establishment or other party, any technological platform that enables patients or primary caregivers to arrange for or facilitate the commercial

transfer by marijuana or marijuana products, medical marijuana or medical marijuana products.

Marijuana Manufacturing: The production, preparation, propagation, or compounding of marijuana, and/or medical marijuana, including, but not limited to, edibles or other products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

Marijuana Testing Laboratory: Any facility, entity or site that offers or performs test of marijuana or marijuana products, medical marijuana or medical marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both if following:

(a) Accredited by an accrediting body that is independent from all other persons involved in commercial or medical marijuana activity in the state.

(b) Registered with the State of California Department of Public Health.

SECTION 5. Section 9428 of Article IX of the Downey Municipal Code shall be deleted in its entirety and Section 9428 of Article IX of the Downey Municipal Code shall be added, and shall read as follows:

SECTION 9428. MARIJUANA REGULATIONS

SECTION 9428.02. INTENT AND PURPOSE.

It is the intent of these regulations to prohibit medical marijuana and non-medical commercial cannabis activity, including deliveries, manufacturing, cultivation, possession, processing, storing, laboratory testing, labeling, distribution, and sale of non-medical cannabis products and medical cannabis products within the meaning of the California Business and Professions Code Section 19300 et seq, and to prohibit personal outdoor cultivation, to the extent permitted by state law in order to protect public health, safety, and welfare; and to avoid adverse secondary impacts that are derived by the operation of said facilities.

SECTION 9428.04. COMMERCIAL CANNABIS ACTIVITY PROHIBITED.

It is unlawful for any person or entity to own, manage, conduct, or operate any commercial cannabis establishment or activity or to participate as an employee, contractor, agent or volunteer, primary caregiver, qualified patient, or in any other manner or capacity, in the City of Downey.

SECTION 9428.06. COMMERCIAL CANNABIS ESTABLISHMENT PROHIBITED.

It is unlawful for any person or entity to own, manage, conduct, or operate or to assist in the operation of any commercial cannabis establishment within the City of Downey.

SECTION 9428.08. MARIJUANA DELIVERY PROHIBITED.

Delivery of any medical marijuana, medical marijuana products, non-medical marijuana, and non-medical marijuana products, including, but not limited to any marijuana-infused product such as tinctures, baked goods or other consumable products from and/or to any location within the City is prohibited.

SECTION 9428.10. MARIJUANA CULTIVATION PROHIBITED.

Unless authorized pursuant to section 9428.12 of this code, it is unlawful for any person or entity to cultivate medical and/or non-medical marijuana for any purpose within the City of Downey.

SECTION 9428.12. INDOOR MARIJUANA CULTIVATION FOR PERSONAL CONSUMPTION.

Cultivation of marijuana indoors for personal consumption shall be permitted within a fully enclosed and secure structure by persons 21 years of age or older, which shall conform to the following minimum standards:

(a) Cultivation shall only be conducted within a fully enclosed and secure structure, and all areas used for cultivation shall comply with all applicable Zoning, Building, and Fire Codes adopted by the City of Downey, including obtaining all required permits, inspections and approvals;

(b) Cultivation shall be limited to up to six living marijuana plants:

i) For properties with a single-family or duplex residential dwelling unit(s), the cultivation of marijuana may be located within the residential unit or a fully enclosed and secure structure. An accessory structure to be used for marijuana cultivation shall not be located within any front yard or street side yard;

ii) For all other residentially developed properties, cultivation of marijuana may only be located within a fully enclosed and secure structure within a residential dwelling unit;

iii) For Accessory Dwelling Units, cultivation of marijuana is prohibited.

(c) Marijuana plants shall be cultivated by a person or primary caregiver exclusively for personal use only and shall not be donated, sold, distributed, transported, or given to any other person or entity.

(d) The person or primary caregiver cultivating the marijuana shall reside full-time in the unit where the marijuana cultivation occurs.

(e) Indoor lights required for marijuana cultivation in any structure shall not exceed an aggregate of one thousand two hundred watts and shall comply with all applicable building code regulations.

(f) Gas products (including, without limitation, CO₂, butane, propane, and natural gas) or generators shall not be used for the cultivation of marijuana.

(g) Any residential structure used for the cultivation of marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the unit or structure and that shall comply with all applicable building code

regulations, including obtaining all required permits, inspections and approvals. The ventilation and filtration system must be approved by the city and installed prior to

commencing cultivation within the fully-enclosed and secure structure.

(h) Marijuana cultivation occurring within a fully enclosed and secure structure shall be in a cumulative area totaling no larger than fifty square feet.

(i) The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms shall not be used for marijuana cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping, and bathing.

(j) The garage of a residential structure shall not be used for marijuana cultivation and shall remain free and clear of marijuana cultivation equipment or living marijuana plants.

(k) Marijuana cultivation areas shall have adequate mechanical locking or electronic security systems installed prior to cultivation, and said areas shall remain secure at all times and not be accessible to persons under 21 years of age.

(l) A portable fire extinguisher, which complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the same room as where the cultivation occurs.

(m) No exterior evidence of marijuana cultivation occurring at the property shall be visible from public view.

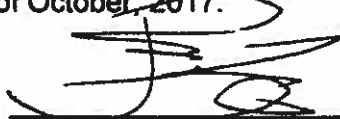
SECTION 9428.14. MEDICAL RESEARCH EXEMPTION.

The storage and testing of marijuana, and its derivatives, for federally funded medical research purposes that are conducted under strictly-controlled, clinical, research or laboratory settings, and approved by the Food and Drug Administration and the Drug Enforcement Agency, in association with a hospital and/or university, and licensed by the California Department of Public Health, is exempt from Sections 9428.04, 9428.06, and 9428.08 of this code.

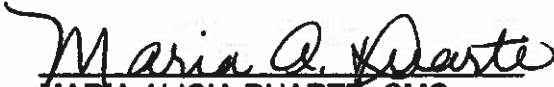
SECTION 6. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares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

SECTION 7. The City Clerk shall certify the adoption of this Ordinance and cause the same to be published in the manner prescribed by law.

APPROVED AND ADOPTED this 24th day of October, 2017.


FERNANDO VASQUEZ, Mayor

ATTEST:


MARIA ALICIA DUARTE, CMC
Interim City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss:
CITY OF DOWNEY)

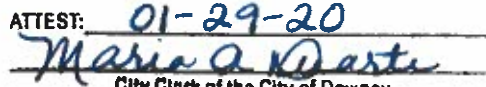
I HEREBY CERTIFY that the foregoing Ordinance No. 17-1384 was introduced at a Regular Meeting of the City Council of the City of Downey held on the 10th day of October, 2017, and adopted at a Regular Meeting of the City Council of the City of Downey held on the 24th day of October, 2017, by the following vote to wit:

AYES: Council Members: Rodriguez, Saab, Ashton, Mayor Vasquez
NOES: Council Member: None.
ABSENT: Council Member: Pacheco
ABSTAIN: Council Member: None.

I FURTHER CERTIFY that a summary of the foregoing Ordinance No. 17-1384 was published in the Downey Patriot, a newspaper of general circulation in the City of Downey, on October 12, 2017 (after introduction), and on October 26, 2017 (after adoption including the vote thereon). It was also posted in the Regular posting places in the City of Downey on the same dates.


MARIA ALICIA DUARTE, CMC
Interim City Clerk

The foregoing instrument is a full, true and correct copy
of the original on file in this office

ATTEST: 01-29-20

City Clerk of the City of Downey

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EXHIBIT 17

ORDINANCE NO. 075-2017

AN ORDINANCE OF THE CITY OF MCFARLAND PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL), MAKING RELATED MUNICIPAL CODE AMENDMENTS, PROHIBITING OUTDOOR CULTIVATION, AND ALLOWING LIMITED INDOOR CANNABIS CULTIVATION CONSISTENT WITH STATE LAW, AND MAKING ENVIRONMENTAL FINDINGS IN SUPPORT THEREOF

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

SECTION 1. Findings. The City Council of the City of McFarland, as the legislative body of the City, makes the following findings in support of the proposed amendments to the Municipal Code to prohibit all commercial cannabis activity (both medical and non-medical) and outdoor cannabis cultivation, and to allow limited indoor cannabis cultivation consistent with State law (referred to hereinafter as "Code Amendments").

A. The City of McFarland, 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 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.

C. 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. The AUMA 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.

D. On January 27, 2017, the City Council adopted Urgency Ordinance No. 063-2017 to amend the McFarland Municipal Code to prohibit all medical marijuana dispensaries, cooperatives, collectives, and mobile marijuana dispensaries and the cultivation of marijuana. On February 9, 2017, the City Council adopted Ordinance No. 064-2017 to prohibit medical marijuana dispensaries, cooperatives, collectives, and mobile marijuana dispensaries and the cultivation of marijuana.

E. 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 can 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 State licensing authorities 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. The MAUCRSA also requires that a city provide a copy of its ordinance regarding commercial cannabis activity to the Bureau of Cannabis Control.

F. On October 16, 2017, the Planning Commission of the City of McFarland held a public hearing regarding the proposed Code Amendments at which time all persons interested in the proposed Code Amendments 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. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2017-011-PC recommending that the City Council adopt the proposed Code Amendments to prohibit all commercial cannabis activity and uses, and outdoor cannabis cultivation, and to allow limited indoor cannabis cultivation as required by State law.

G. On October 12, 2017, the City Council of the City of McFarland held a public hearing on the proposed Ordinance at which time all persons interested in the changes had the opportunity and did address the City Council on these matters. Following the receipt of public testimony and all evidence, the City Council closed the public hearing.

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

SECTION 2. Environmental Determination. The proposed Ordinance is considered a "project" pursuant to the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (14 CCR § 15000, *et seq.*). The project is considered exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the project to prohibit commercial cannabis activity and uses will have a significant effect on the environment. The project will not result in a permanent alteration of property nor the construction of any new or expanded structures. Therefore, the project by itself does not result in any physical changes in the environment. The project is also eligible for a class 5 categorical exemption for minor changes in land use limitations with an average slope of less than 20% that do not result in any changes in land use or density. Since the project is prohibiting all commercial cannabis uses, it will not result in changes in land use or density and will not have a significant environmental impact. The project is, therefore, also exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations. 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 3. Section 5.04.020 (Definitions) of Chapter 5.04 (Business License) of Title 5 (Business Taxes, Licenses and Regulations) of the McFarland Municipal Code is hereby amended to delete the definitions of "Marijuana cultivation," "Marijuana dispensary," and "Mobile marijuana dispensary," and to add the definitions of "Cannabis," "Cannabis product," "Commercial cannabis activity," "MAUCRSA," "Primary caregiver," and "Qualified Patient" in alphabetical order as follows with all other provisions of Section 5.04.020 remaining unchanged:

"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, and any product containing 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.

"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.

"Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products for medical, non-medical, or any other purposes and includes the activities of any business licensed by the State under Division 10 of the Business and Professions Code. Commercial cannabis activity does not include the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient for his or her personal

medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person. Commercial cannabis activity also does not include the cultivation, possession, storage, manufacturing, transport, donation or provision of cannabis by a primary caregiver, exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with Health and Safety Code section 11362.765.

"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.

"Primary caregiver" shall have the same meaning as is defined in California Health and Safety Code section 11362.7(d), as the same may be amended from time to time.

"Qualified patient" means a person who is entitled to the protections of California Health and Safety Code section 11362.5, as the same may be amended from time to time, but who does not have an identification card.

SECTION 4. Section 5.04.045 of Chapter 5.04 (Business Licenses) of Title 5 (Business Taxes, Licenses and Regulations) of the McFarland Municipal Code is hereby amended to read as follows:

"A. Commercial cannabis activity, whether or not for profit, is prohibited in the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city.

B. No license shall be issued for any commercial cannabis activity in the city. The city shall also not issue any business license for any activity for which a State license is required under the MAUCRSA. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.

C. To the extent not already prohibited by subsection A above, all deliveries of cannabis or cannabis products to or from any location are expressly prohibited. No person shall conduct or perform any delivery of any cannabis or cannabis products, which delivery either originates or terminates within the city. Nothing in this Section shall 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."

SECTION 5. Sections 17.04.475, 17.04.476 and 17.04.535 are hereby deleted from Chapter 17.04 (Purposes and Definitions) of Title 17 (Zoning).

SECTION 6. Section 17.08.045 of Chapter 17.08 (Zones Generally) of Title 17 (Zoning) of the McFarland Municipal Code is hereby amended in its entirety to read as follows:

"SECTION 17.08.045 CANNABIS PROHIBITIONS AND REGULATIONS

A. Definitions. For purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"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.

"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.

"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. Commercial cannabis activity does not include the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person. Commercial cannabis activity also does not include the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver, exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765.

"Commercial cannabis use" means the use of any property for commercial cannabis activity.

"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.

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

"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.

"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 the same may be amended from time to time.

"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.

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

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

"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.

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

"Person" means any natural person, firm, corporation, association, club, society, partnership, joint venture, limited liability company, sole proprietorship, collective, cooperative, coop, non-profit, estate, trust, receiver, syndicate, or any other organization, group or entity or combination of organizations or entities of any kind whatsoever, however formed, as well as trustees, heirs, executors, administrators, and/or assigns, and shall also include any owner, operator, manager, proprietor, employee, agent, officer, volunteer, salesperson, trustees, heirs, executors, administrators and assigns.

"Primary caregiver" shall have the same meaning as is defined in California Health and Safety Code section 11362.7(d), as the same may be amended from time to time.

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

"Qualified patient" means a person who is entitled to the protections of California Health and Safety Code section 11362.5, as the same may be amended from time to time, but who does not have an identification card.

B. Prohibited activities and uses. Subject to the exceptions set forth below in Section 17.80.030, the following activities are prohibited in the city:

1) Commercial cannabis uses are expressly prohibited in all zones in the city. No person shall establish, operate, maintain, conduct or allow commercial cannabis uses anywhere within the city. The city shall not approve any application for a building permit, conditional use permit, variance, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any commercial cannabis use.

2) 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.

3) Outdoor cannabis cultivation is expressly prohibited everywhere in the city. No person owning, renting, leasing, occupying or having charge or possession of any parcel shall cause or allow such property to be used for cultivating cannabis outdoors.

4) Indoor cannabis cultivation, including cultivation by a qualified patient and primary caregiver, is prohibited except in strict compliance with Subsection C below.

C. Indoor cannabis cultivation. It is hereby declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any real property in the city to cause or allow such real property to be used for the cultivation of cannabis except in strict compliance with the requirements set forth below.

1) Cannabis cultivation shall only occur indoors at a private residence, or inside an accessory structure located upon the grounds of a private residence.

2) Only persons 21 years of age or older may cultivate cannabis. Any cannabis cultivation must comply with the requirements set forth in California Health and Safety Code sections 11362.1 and 11362.2.

3) Cannabis cultivation is permitted only within fully enclosed and secure structures.

D. Exceptions.

1) Nothing in this Section shall 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.

2) Nothing in this Section shall prohibit a person 21 years of age or older from engaging in any activities authorized under California Health and Safety Code section 11362.1.

3) Nothing in this Section shall prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant Business and Professions Code section 26054(c) and (d), as the same may be amended from time to time, or any other provision of the MAUCRSA.

E. Violation and Penalty.

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 1.12 Citations for Ordinance Violations of the McFarland Municipal Code, no provision of this Section 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 1.12 of the McFarland Municipal Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern."

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. Savings Clause. 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. Effective Date. This Ordinance shall take effect thirty days after the date of its passage and within fifteen days of the date of its passage shall be posted at the three public posting places in the City previously designated.

INTRODUCED at a regular meeting of the City this 1st day of November, 2017, upon the following vote:

AYES: Coker, Melendez, Santillano

NOES: None

ABSENT: Cantu, McFarland

ABSTAIN: None

PASSED, APPROVED AND ADOPTED UPON SECOND READING this 9th day of November, 2017, upon the following vote:

AYES: Cantu (Mayor), McFarland, Coker, Melendez

NOES: None


ABSENT: Santillano

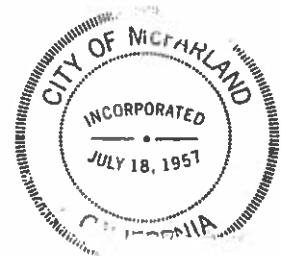
ABSTAIN: None



MANUEL CANTU, MAYOR OF THE
CITY OF MCFARLAND

ATTEST:


Blanca Reyes-Garza
City of Clerk



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EXHIBIT 18

ORDINANCE NO. 078-2017

**AN INTERIM URGENCY ORDINANCE OF THE CITY OF MCFARLAND
EXTENDING THE TERM OF INTERIM ORDINANCE NO. 059-2016 ENACTED
PURSUANT TO GOVERNMENT CODE SECTION 65858, ESTABLISHING A
MORATORIUM ON ALL COMMERCIAL NON-MEDICAL MARIJUANA ACTIVITY
IN THE CITY, PROHIBITING ALL OUTDOOR MARIJUANA CULTIVATION ON
PRIVATE RESIDENCES, AND DECLARING THE URGENCY THEREOF.**

I. Legislative Findings

A. The Control, Regulate and Tax Adult Use of Marijuana Act ("Proposition 64") was approved by California voters on November 8, 2016. Proposition 64 adds 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 not in the form of concentrated cannabis or up to eight grams of marijuana in the form of concentrated cannabis. Health and Safety Code section 11362.1 also makes it lawful to possess, plant, cultivate, harvest, dry, or process not more than six marijuana plants and possess the marijuana produced by the plants upon the grounds of, a private residence. The provisions of Proposition 64 related to the possession, use, and cultivation of marijuana became effective on November 9, 2016.

B. Proposition 64 grants State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for non-medical marijuana businesses. Proposition 64 provides that the State shall begin issuing licenses to non-medical marijuana businesses by January 1, 2018. Business and Professions Code section 26055(e) states that a State licensing authority shall not approve an application for a State license for commercial non-medical marijuana businesses if approval of the State license will violate the provisions of any local ordinance.

C. Proposition 64 permits a city to (1) adopt and enforce local ordinances to regulate non-medical marijuana businesses, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or (2) completely prohibit the establishment or operation of one or more types of non-medical marijuana businesses within its jurisdiction.

D. At its meeting on December 22, 2016, the City Council adopted Interim Ordinance No. 059-2016, an interim ordinance of the City of McFarland that temporarily prohibited all commercial non-medical marijuana activity and outdoor marijuana cultivation on private residences, so that City staff, the City Council, and the citizens of the City would have sufficient time to consider a comprehensive ordinance regulating marijuana. Interim Ordinance No. 059-2016 was effective upon expiration of Interim Ordinance No. 058-2016 and remains in effect for a period of ten (10) months and fifteen (15) days pursuant to Government Code Section 65858(a).

E. Under State law, the City may twice extend an interim ordinance that imposes a temporary moratorium on the approval of any building permit, conditional use permit, business license or other entitlement while contemplated zoning and permitting proposals are being considered upon a finding that there is a current and immediate threat to the public health, safety, or welfare. Pursuant to Government Code section 65858(a), this second extension of the interim ordinance must be adopted by not less than a four-fifths vote of this City Council and will be in effect for an additional 1 year from expiration of the existing extension.

F. The City Council finds that additional time is needed to consider a comprehensive ordinance regarding the regulation of commercial non-medical marijuana activity and outdoor marijuana cultivation, pursuant to Government Code section 65858. The comprehensive ordinance, together with the necessary public outreach, legal research, and City processes for consideration of such enactments, will require, at minimum, 1 year.

G. Pursuant to Government Code section 65858, a duly noticed public hearing was

held on November 9, 2017 in the City Hall Council Chambers. Notice of the time, place and purpose of the aforesaid hearing was duly given as required by law. Evidence, both written and oral, was duly presented to, and considered by, the City Council at the aforesaid public hearing.

H. At least ten (10) days prior to the expiration of Interim Ordinance No. 059-2016 the City Council issued a report as described in California Government Code section 65858(d).

I. The establishment of commercial non-medical marijuana businesses and outdoor marijuana cultivation before appropriate procedures and regulations are enacted has the potential to cause adverse impacts to surrounding development and risks to the public health, safety and welfare of the City's residents and the general public. Based upon experiences of other cities, unlawful marijuana sales occasionally increase in the vicinity of lawful marijuana dispensaries. Such criminal activities present a risk to the public health and safety and require additional study to be conducted to ascertain appropriate development standards, if such non-medical marijuana businesses are to be allowed, that will minimize this risk. It is urgent that the City have the opportunity to consider whether such uses should be permitted and, if so, to develop regulations governing the location and operation of commercial non-medical marijuana uses to prevent adverse impacts to the public health, safety and welfare that may result from unregulated placement and operation of such uses in the City. Additionally, cities in California have reported negative effects of marijuana cultivation, processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests. Furthermore, as marijuana plants begin to flower, and for a period of two months or more, the plants produce a strong, unique odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors. This odor can have the effect of encouraging theft by alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery of the plants and creating the potential for violent acts related to such criminal activity

J. The City has undertaken and intends to complete a study of whether commercial non-medical marijuana activity should be permitted and the appropriate regulations for such uses, within a reasonable time. During the course of this study and planning process, the City Council finds that persons desiring to open commercial non-medical marijuana businesses are likely to submit applications to develop such uses before appropriate regulations and safeguards are in place. The City also intends to study whether any reasonable regulations should be adopted pertaining to outdoor marijuana cultivation on private residences. Given the time required to undertake the necessary study and planning, the City Council finds that it is necessary that this Interim Ordinance be immediately enacted and effective concurrent with the expiration of Interim Ordinance No. 058-2016, to ensure that commercial non-medical marijuana uses that may be in conflict with any new development policies are not permitted in the interim, and that no outdoor marijuana cultivation occurs before appropriate standards and regulations are in effect.

K. Based upon Recital Nos. (A) through (J) above, the City Council finds that there is a current and immediate threat to the public health, safety and welfare created by the enactment of Proposition 64 because marijuana can now be cultivated outdoors on private residences as of November 9, 2016. The enactment of Proposition 64 could also create the potential for commercial non-medical marijuana uses to be established in the City prior to the establishment of zoning regulations under normal planning and zoning processes of the City. Based on the City's need for additional time to fully evaluate the primary and secondary effects of the activities to be licensed under Proposition 64, the City Council finds that the immediate preservation of the public health, safety and welfare requires that the current prohibition against commercial non-medical marijuana activity and outdoor marijuana cultivation be extended. The City Council further finds and declares that this Interim Ordinance must be enacted as an urgency ordinance pursuant to California Government Code section 65858 and take effect concurrent with the expiration of Interim Ordinance No. 059-2016.

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

II. Interim Ordinance

NOW, THEREFORE, the City Council hereby ordains as follows:

Section 1. The City Council finds that the facts set forth in the Recitals, Section I, of this Interim Ordinance are true and correct.

Section 2. Authority. Pursuant to Government Code section 65858, the City Council may adopt as an urgency measure, an interim ordinance that prohibits any uses that may be in conflict with a contemplated zoning proposal which a legislative body is considering or studying or intends to study within a reasonable period of time.

Section 3. The City Council hereby extends the current, interim prohibition on the establishment, operation, maintenance, or conduct of all commercial non-medical marijuana activity in the City and the prohibition on outdoor marijuana cultivation on private residences, as established by Interim Ordinance No. 059-2016. For purposes of this Interim Ordinance, the following terms apply:

"Commercial non-medical marijuana activity" shall include the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery or sale of marijuana and marijuana products for non-medical purposes.

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

"Delivery" shall mean 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 retailer, or independently licensed under Proposition 64 that enables customers to arrange for or facilitate the commercial transfer by a State licensed retailer of marijuana or marijuana products.

"Marijuana" shall include 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 (a) industrial hemp, as defined in Section 11018.5 of the Health and Safety Code; (b) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product; and (c) marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8 of the Business and Professions Code.

"Proposition 64" refers to the Control, Regulate and Tax Adult Use of Marijuana Act.

Section 4. Prohibition.

A. Commercial non-medical marijuana activity is expressly prohibited in all zones and all specific plan areas in the City. No person shall establish, operate, maintain, conduct or allow commercial non-medical marijuana activity anywhere within the City. No 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 non-medical marijuana activity shall be approved during the term of the prohibition established in this Interim Ordinance.

B. Paragraph A of this section 4 is meant to prohibit all activities for which a State license is required pursuant to Proposition 64. Accordingly, the City shall not issue any permit, license or other entitlement for any activity for which a State license is required under Proposition 64. The City shall also not issue any local license to a non-profit pursuant to provisions of Business and Professions Code section 26070.5.

C. Marijuana shall not be cultivated outdoors upon the grounds of a private residence. Indoor marijuana cultivation will be allowed consistent with State law which permits no more than six live marijuana plants to be planted, cultivated, harvested, dried, or processed within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured. Any marijuana cultivation that exceeds the limits set forth in this subsection is hereby declared to be unlawful and a public nuisance.

D. Nothing in this Interim Ordinance, or its adoption, shall be deemed to affect any other prohibitions or regulations contained in the McFarland Municipal Code. Nothing in this Ordinance shall be deemed to affect or excuse any violation of the McFarland Municipal.

Section 5. Nothing in this Interim Ordinance shall be interpreted to the effect that the City's permissive zoning scheme allows any other use not specifically listed therein.

Section 6. Public Nuisance. Any use or condition caused, or permitted to exist, in violation of any provision of this Interim Ordinance shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure section 731 or by any other remedy available to the City.

Section 7. Penalty. Violation of any provision of this Interim Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Interim Ordinance. Notwithstanding the foregoing, nothing in this Interim Ordinance shall authorize a criminal prosecution or arrest prohibited by Health and Safety Code section 11362.71, *et seq.*

Section 8. Civil Penalties. In addition to any other enforcement permitted by this Interim Ordinance, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this Interim Ordinance. In any civil action brought pursuant to this Interim Ordinance, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party.

Section 9. CEQA. It can be seen with certainty that there is no possibility that the adoption of the Interim Ordinance may have a significant effect on the environment because the Interim Ordinance will only impose greater and temporary limitations on marijuana-related uses allowed in the City, and will thereby serve to prevent potentially significant adverse environmental impacts. 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 staff's determination of exemption and based on its own independent judgment, concurs in staff's determination that the Interim Ordinance is exempt from CEQA. The adoption of the Interim Ordinance is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations.

Section 10. Severability. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Interim Ordinance, is for any reason, 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 Interim Ordinance. The City Council hereby declares that it would have adopted this Interim 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 11. This Interim Ordinance shall become operative concurrent with the expiration of Interim Ordinance No. 059-2016 and shall expire, and the prohibition established hereby shall terminate, ten (10) months and fifteen days (15) days after said effective date pursuant to, and subject to, California Government Code section 65858, unless further extended by the City Council pursuant to California Government Code section 65858.

Section 12. The Mayor shall sign and the City Clerk shall attest to the adoption of this Interim Ordinance and shall cause the same to be published as required by law.

ADOPTED this 9th day of November, 2017.



MANUEL CANTU, MAYOR OF THE
CITY OF MCFARLAND

ATTEST:



BLANCA REYES-GARZA, CITY CLERK
OF THE CITY OF MCFARLAND

STATE OF CALIFORNIA
COUNTY OF KERN
CITY OF MCFARLAND

I, Blanca Reyes-Garza, City Clerk of the City of McFarland, do hereby certify that the foregoing Interim Ordinance was adopted by the City Council of the City of McFarland, signed by the Mayor and attested to by the City Clerk at a regular meeting thereof held on the 9th day of November, 2017.

The Interim Ordinance was adopted by the following vote, to wit:

AYES: CANTU, (MAYOR), MCFARLAND, COKER, MELENDEZ

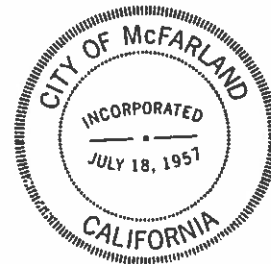
NOES: NONE

ABSENT: SANTILLANO

ABSTAIN: NONE



BLANCA REYES-GARZA, CITY CLERK
OF THE CITY OF MCFARLAND



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EXHIBIT 19

ORDINANCE NO. 2016-01

**AN ORDINANCE OF THE CITY OF NEWMAN AMENDING
TITLES 3 BUSINESS REGULATIONS AND 8 HEALTH AND SANITATION;
SECTIONS 3.01 REVENUE LICENSES AND 8.07 MEDICAL MARIJUANA
DISPENSARIES OF THE NEWMAN MUNICIPAL CODE.**

WHEREAS, the City Council believes that the cultivation of marijuana (cannabis) compromises the public peace, health and safety and quality of life for Newman residents; and

WHEREAS, the City of Newman is desirous of drafting a comprehensive policy to expressly make clear that the commercial and personal cultivation of medical marijuana (cannabis) as allowed by the CUA and MMP, and related commercial uses, are prohibited in all zones, planned developments, specific and master plan areas throughout the City; and

WHEREAS, the City Council of the City of Newman desires to prohibit the following:

- I. All Commercial Cannabis Activities,
 - II. Cannabis Deliveries Within The City,
 - III. All Activities For Which A License Is Required Under The Medical Marijuana Regulation And Safety Act,
 - IV. Cultivation Of Cannabis For Non-Commercial Purposes In The City Of Newman;
- and

WHEREAS, the proposed ordinance is not defined as a project under CEQA because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

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

SECTION 1.

FINDINGS AND PURPOSE.

- A. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code § 11362.5 and entitled “The Compassionate Use Act of 1996” or “CUA”).
- B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere.”
- C. In 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP”) to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances.
- D. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. . . .” Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that “there is no right – and certainly no constitutional right – to cultivate medical marijuana. . . .” The Court in *Maral* affirmed the

ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.

- E. The Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for medical purposes, although there is recent case law that raises a question as to whether the Federal Government may enforce the Act where medical marijuana is allowed.
- F. On October 9, 2015 Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereafter "MMRSA"). The MMRSA set up a State licensing scheme for commercial medical marijuana activities while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities.
- G. The City Council finds that commercial medical marijuana (cannabis) activities, as well as cultivation for personal medical use as allowed by the CUA and MMP can adversely affect the health, safety, and well-being of City residents. Citywide prohibition is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities. Further, as recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.
- H. The limited immunity from specified state marijuana laws provided by the Compassionate Use Act and Medical Marijuana Program does not confer a land use right or the right to create or maintain a public nuisance.
- I. The MMRSA contains language that requires the city to prohibit cultivation uses by March 1, 2016 either expressly or otherwise under the principles of permissive zoning, or the State will become the sole licensing authority. The MMRSA also contains language that requires delivery services to be expressly prohibited by local ordinance, if the City wishes to do so. The MMRSA is silent as to how the City must prohibit other type of commercial medical marijuana (cannabis) activities.
- J. While the City Council believes that cultivation and all commercial medical marijuana (cannabis) uses are prohibited under the City's permissive zoning regulations, it desires to enact this ordinance to expressly make clear that all such uses are prohibited in all zones, planned developments, specific and master plan areas throughout the City.

SECTION 2.

TITLE 3, Chapter 3.01.040 of the Newman City Code is amended as follows:

3.01.040 License and tax payment required.

A. It shall be unlawful for any person to commence, establish, maintain or carry on any business enterprise whatever in the City:

- 1. Without first obtaining a license from the City, whether the business enterprise or the person is subject to a City license tax under this chapter or not; and
- 2. Without fully complying with any and all other regulations of such business contained in this chapter, or other regulatory provisions now existing or hereafter to be adopted by the City.

B. This section shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with applicable statutes of the United States or the State of California. Persons not so required to obtain a license prior to doing business within the City nevertheless shall be liable for payment of the tax imposed by this chapter.

C. Notwithstanding any provision of this code to the contrary, any use, entitlement, authorization, license or permit allowed or issued under this code shall be consistent with state and federal law.

D. *The City shall not approve licenses or uses for a medical marijuana (cannabis) collective, cooperative or dispensary or any other commercial cannabis (marijuana) activity.*

E. *The City shall not approve licenses or uses for the distribution, cultivation, manufacturing, transportation, delivery, testing, or processing of medical marijuana (cannabis).*

F. *The City shall not approve licenses or uses for any activity that requires a license or any other authorization or approval under the Medical Marijuana Regulation and Safety Act.*

SECTION 3.

TITLE 8, Chapter 8.07 of the Newman City Code is amended as follows:

Chapter 8.07 MEDICAL MARIJUANA DISPENSARIES (CANNABIS) AND CULTIVATION

Sections:

8.07.010 Definitions.

8.07.020 ~~Medical marijuana dispensaries as prohibited use: Prohibition.~~

8.07.030 ~~Public Nuisance.~~

8.07.040 ~~Civil Penalties.~~

8.07.010 Definitions.

~~The term "medical marijuana dispensary" or "dispensary" means any facility or location, stationary or mobile, where medical marijuana is cultivated, made available to and/or distributed to any of the following: a primary caregiver, a qualified patient, or a person with an identification card, in accordance with Health and Safety Code Section 11362.5 et seq. The terms "primary caregiver," "qualified patient," and "person with an identification card" shall be as defined in Health and Safety Code Section 11362.5 et seq.~~

~~A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses is 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 residential care facility for persons with chronic life-threatening illnesses 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 the applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.~~

~~The term "medical marijuana dispensary" as defined herein is not intended, nor shall it be construed, to apply to the cultivation, delivering, giving away, providing, or furnishing of marijuana by a qualified patient, a primary caregiver, or a person with an identification card, as defined in Health and Safety Code Section 11362.5 et seq., provided such activity complies strictly with all applicable California law, including but not limited to Health and Safety Code Sections 11362.5, 11362.765, and 11362.77. (Ord. 2008-6, 10-28-2008)~~

~~"Cannabis" shall have the same meaning as set forth in Business & Professions Code § 19300.5(f) as the same may be amended from time to time.~~

~~"Caregiver" or "primary caregiver" shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.~~

~~"Commercial cannabis activity" shall have the same meaning as that set forth in Business & Professions Code § 19300.5(k) as the same may be amended from time to time.~~

~~"Cooperative/Collective" shall mean two or more persons collectively or cooperatively cultivating, distributing, using, transporting, possessing, administering, delivering or making available medical marijuana (cannabis), with or without compensation.~~

~~"Cultivation" shall have the same meaning as set forth in Business & Professions Code § 19300.5(l) as the same may be amended from time to time.~~

~~"Cultivation site" shall have the same meaning as set forth in Business & Professions Code § 19300.5(x) as the same may be amended from time to time.~~

"Delivery" shall have the same meaning as set forth in Business & Professions Code § 19300.5(m) as the same may be amended from time to time.

"Dispensary" shall have the same meaning as set forth in Business & Professions Code § 19300.5(n) as the same may be amended from time to time. For purposes of this Chapter, "Dispensary" shall also include a cooperative/collective.

"Dispensing" shall have the same meaning as set forth in Business & Professions Code § 19300.5(o) as the same may be amended from time to time.

"Distribution" shall have the same meaning as set forth in Business & Professions Code § 19300.5(p) as the same may be amended from time to time.

"Distributor" shall have the same meaning as set forth in Business & Professions Code § 19300.5(q) as the same may be amended from time to time.

"Manufacturer" shall have the same meaning as set forth in Business & Professions Code § 19300.5(y) as the same may be amended from time to time.

"Manufacturing site" shall have the same meaning as set forth in Business & Professions Code § 19300.5(af) as the same may be amended from time to time.

"Medical cannabis," "medical cannabis product," or "cannabis product" shall have the same meanings as set forth in Business & Professions Code § 19300.5(ag) as the same may be amended from time to time.

"Medical Marijuana Regulation and Safety Act" or "MMRSA" shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

"Nursery" shall have the same meaning as set forth in Business & Professions Code § 19300.5(ah) as the same may be amended from time to time.

"Qualifying patient" or "Qualified patient" shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.

"Testing laboratory" shall have the same meaning as set forth in Business & Professions Code § 19300.5(z) as the same may be amended from time to time.

"Transport" shall have the same meaning as set forth in Business & Professions Code § 19300.5(am) as the same may be amended from time to time.

"Transporter" shall have the same meaning as set forth in Business & Professions Code § 19300.5(aa) as the same may be amended from time to time.

~~8.07.020 Medical marijuana dispensaries as prohibited use. A medical marijuana dispensary as defined in this chapter is prohibited in all zones and planned developments as defined in NCC Title 5, Zoning, and no permit shall be issued therefor. (Ord. 2008-6, 10-28-2008)~~

8.07.020 Prohibition.

- A. Commercial cannabis (marijuana) activities of all types including, but not limited to, dispensaries, collectives, cooperatives, transportation, distribution, cultivation, manufacturing, delivery, testing, and processing are expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Newman. No person shall establish, operate, conduct or allow any commercial cannabis (marijuana) activity anywhere within the City.
- B. To the extent not already covered by subsection A above, all deliveries of medical cannabis (marijuana) are expressly prohibited within the City of Newman. No person shall conduct any deliveries that either originate or terminate within the City.
- C. This section is meant to prohibit all activities for which a State license is required. Accordingly, the City shall not issue any permit, license, authorization or other entitlement for any activity for which a State license is required under the MMRSA.
- D. Cultivation of cannabis (marijuana) for non-commercial purposes including, but not limited to, cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Newman. No person including, but not limited to, a qualified patient or primary caregiver, shall cultivate any amount of cannabis (marijuana) in the City, even for medical purposes.

- E. In the event that there is future legislation or an initiative that authorizes recreational marijuana (cannabis) use/activities, to the greatest extent permitted by law and to the extent not already prohibited by this Chapter, the prohibitions contained herein related to medical cannabis (marijuana) shall apply to recreational marijuana (cannabis).*

8.07.030 Public Nuisance.

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 Code of Civil Procedure Section 731 or any other remedy available to the City.

8.07.040 Civil Penalties.

In addition to any other enforcement remedies permitted by this Chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity violating 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.

SECTION 4.

All other sections and provisions of Titles 3 and 8 shall remain in full force and effect.

SECTION 5.

That a duly noticed public hearing was held by the City Council.

SECTION 6.

This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published and circulated in the City of Newman and thenceforth and thereafter the same shall be in full force and effect.

Introduced at a regular meeting of the City Council of the City of Newman held on the 12th day of January, 2016 by Council Member Graham, and adopted at a regular meeting of said City Council held on the 26th day of January, 2016 by the following vote:

AYES: Graham, Candea, Day and Mayor Martina.


NOES: None.

ABSENT: Davis.

APPROVED:


Mayor

ATTEST:


City Clerk

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EXHIBIT 20

ORDINANCE NO. 2017-1

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN AMENDING
SECTION 8.07.020 AND CHAPTER 8.08 OF, AND ADDING CHAPTER 8.09 TO, THE
NEWMAN MUNICIPAL CODE**

WHEREAS, the Newman City Council desires a comprehensive policy to address all uses of marijuana within the City of Newman; and

WHEREAS, Newman Municipal Code currently prohibits all commercial marijuana activity and all cultivation of marijuana for non-commercial purposes within the City of Newman; and

WHEREAS, the Adult Use of Marijuana Act legalizes the personal cultivation of marijuana within a private residence but authorizes the City of Newman to reasonably regulate that cultivation; and

WHEREAS, marijuana remains an illegal, Schedule I substance under federal law; and

WHEREAS, the City Council of the City of Newman finds that reasonable regulation of the personal cultivation of marijuana is in the best interest of the health, welfare and safety of the public.

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

SECTION 1.

Findings and Purpose.

- A. The Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana.
- B. On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (“AUMA”). AUMA legalizes the cultivation, commercial sale, and possession of recreational marijuana¹ for adults age 21 and older under state law. AUMA prohibits the City from entirely prohibiting personal cultivation of marijuana inside a private residence; however, it does allow the City to impose reasonable regulations on the practice.
- C. The City Council finds that cultivation for personal use of marijuana can adversely affect the health, safety, and well-being of City residents. Reasonably citywide regulations are proper and necessary to avoid the risks of criminal activity, access by persons under twenty-one (21), degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from such activities.
- D. The City Council believes that the regulations specified below for the cultivation of marijuana for personal uses are reasonable and allowable under AUMA.

SECTION 2.

Section 8.07.020, Prohibition, of the Newman Municipal Code is amended to read as follows:

- A. Commercial cannabis (marijuana) activities of all types including, but not limited to, dispensaries, collectives, cooperatives, transportation, distribution, cultivation, manufacturing, delivery, testing, and processing are expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Newman. No person shall establish, operate, conduct or allow any commercial cannabis (marijuana) activity anywhere within the City.

¹ The terms “marijuana” and “cannabis” are used interchangeably. Cannabis is the term used in MCRSA, while marijuana is used in AUMA.

- B. To the extent not already covered by subsection (A) of this section, all deliveries of medical cannabis (marijuana) are expressly prohibited within the City of Newman. No person shall conduct any deliveries that either originate or terminate within the City.
- C. This section is meant to prohibit all activities for which a State license is required. Accordingly, the City shall not issue any permit, license, authorization or other entitlement for any activity for which a State license is required under the MMRSA.
- ~~D. Cultivation of cannabis (marijuana) for non-commercial purposes, including, but not limited to, cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Newman. No person, including, but not limited to, a qualified patient or primary caregiver, shall cultivate any amount of cannabis (marijuana) in the City, even for medical purposes.~~
- D. In the event that there is future legislation or an initiative that authorizes recreational marijuana (cannabis) use/activities, to the greatest extent permitted by law and to the extent not already prohibited by this chapter, the prohibitions contained herein related to medical cannabis (marijuana) shall apply to recreational marijuana (cannabis).

SECTION 3.

Chapter 8.08, Abandoned and Vacant Property, of the Newman Municipal Code is renumbered to Chapter 8.09.

SECTION 4

Succeeding Section 3 above, Chapter 8.08 of the Newman Municipal Code is hereby renamed, Personal Cultivation of Marijuana, and amended to read as follows:

8.08.010 Purpose

The purpose of this chapter is to prescribe reasonable regulations for Residential Indoor Marijuana Cultivation ("RIMC") pursuant to California Health and Safety Code section 11362.2(b).

8.08.020 Definitions.

- A. "Applicant" means a person applying for a RIMC Permit pursuant to Section 8.08.030.
- B. "Adult Use of Marijuana Act" or "AUMA" shall mean the Proposition 64, now codified in state law.
- C. "Caregiver" or "primary caregiver" shall have the same meaning as set forth in Health and Safety Code section 11362.7.
- D. "Cultivation" shall have the same meaning as set forth in Business and Professions Code section 26001(e).
- E. "Cultivation site" shall have the same meaning as set forth in Business and Professions Code section 19300.5(1).
- F. "Day care" means a facility, center, or home requiring a license that is issued by the State of California which provides for the care, health, safety, supervision, or guidance of a child's social, emotional, and educational growth on a regular basis, in a place other than the child's own home, or any facility meeting the definition of California Health and Safety Code Section 1596.76.
- G. "Group Home" means any community care facility regulated and licensed by a Federal or State agency. Unlicensed community care facilities or those community care facilities the regulation of which is not otherwise preempted by State or Federal law shall not constitute group homes.
- H. "Marijuana" has the same meaning as set forth in in Business and Professions Code section 26001(s).
- I. "Person" means an individual.
- J. "Personal Use" means to possess, use, or give away to persons 21 years of age or older without any compensation whatsoever.
- K. "Private residence" has the same meaning as set forth California Health and Safety Code section 11362.2.
- L. "Qualifying patient" or "qualified patient" shall have the same meaning as set forth in Health and Safety Code section 11362.7.
- M. "RIMC Permit" means the permit for personal cultivation of marijuana issued pursuant to

Section 8.08.040.

- N. "Youth Center" means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.*

8.08.030 Residential Indoor Marijuana Cultivation Permit.

- A. It shall be unlawful for any person to cultivate marijuana outdoors for personal use within the City.*
- B. It shall be unlawful for any person to cultivate marijuana within a private residence without first having secured a RIMC Permit from the Community Development Department.*
- C. A person shall be limited to a maximum of one (1) RIMC Permit.*
- D. A RIMC Permit is not transferable. The RIMC Permit shall only be used by the permittee to whom it is issued.*
- E. A RIMC Permit shall expire one (1) year from the date of approval and may be renewed annually.*

8.08.040 Application for Residential Indoor Marijuana Cultivation Permit.

- A. An Applicant shall be at least twenty-one (21) years of age.*
- B. The RIMC Permit application shall include all of the following:*
 - 1. Verification that the property owner or legal tenant is aware of the intended cultivation.*
 - 2. Identification of any chemicals, fertilizers, or pesticides that will be used to cultivate plants to aid public safety officials in case of an emergency response to the location.*
- C. An Applicant shall pay a nonrefundable RIMC Permit application fee as established by resolution of the City Council.*
- D. The City will provide written notification of the complete application to the Applicant, indicating whether the application has been approved or denied.*
- E. Each Applicant shall pass an inspection of their cultivation site by a City building inspector to ensure that the private residence meets the requirements of Section 8.08.050 and does not pose a health or safety risk to the Applicant or public.*

8.08.050 Cultivation Rules and Regulations.

- A. A private residence shall not include more than one cultivation site.*
- B. A person shall not cultivate more than six (6) living plants at a private residence. All marijuana plants and anything produced by the plants shall be kept within the permit holder's private residence and not be visible by normal unaided vision from a public place.*
- C. A private residence shall not also be used for a day care, youth center, or group home.*
- D. Each of the following shall apply to the cultivation site:*
 - 1. The cultivation site shall be located within the private residence.*
 - 2. To prevent safety hazards, the private residence shall not have plumbing, electrical, or other utilities that violate applicable local, state, or federal regulations.*
 - 3. To prevent persons under twenty-one (21) years of age from entering the cultivation site, the cultivation site shall have one lockable door.*
 - 4. The cultivation site shall not produce odors, sounds, or other emissions that are detectable by persons with reasonable sensitivity.*
- E. All of the following shall be prohibited in the cultivation site:*
 - 1. Explosive gases, such as butane, propane, xylene, styrene, gasoline, kerosene, O₂ or H₂.*
 - 2. Dangerous poisons, toxins, or carcinogens, such as methanol, isopropyl alcohol, methylene chloride, acetone, benzene, toluene, and trichloroethylene, unless evidence of a current license to operate such solvents is provided.*
 - 3. Generators or gas products used to power electrical or lighting fixtures or equipment.*
- F. Multiple RIMC Permit holders may cultivate marijuana at the same private residence; however, the private residence shall not include more than one cultivation site or more than a total of six (6) plants at one time.*

8.08.060 Expiration and Renewal of A Residential Indoor Marijuana Cultivation Permit.

- A. A RIMC Permit may be renewed within no sooner than sixty (60) days of expiration.*
- B. The RIMC Permit holder shall pass a re-inspection of the cultivation site by the Community Development Department.*
- C. Renewal of a RIMC Permit is subject to a renewal fee as approved by resolution by the City Council.*

8.08.070 Suspension and Termination.

- A. The City may suspend or terminate a RIMC Permit at any time for failure to comply with this chapter, or state or federal law or regulation.*
- B. If a person's RIMC Permit is suspended, terminated, or expired, the permit holder's marijuana plants that exceeds 28.5 grams may be impounded by the City.*
- C. A person may appeal any suspension or termination of a RIMC Permit pursuant to Section 8.08.100.*

8.08.080 Multiple RIMC Applications.

- A. Application for RIMC Permit in a New Private Residence.*
 - 1. A RIMC Permit holder may apply for a RIMC Permit for a private residence other than the private residence specified on the existing permit. If the application is approved, the former RIMC Permit shall be immediately null and void. If the application is denied, the existing RIMC Permit shall continue under its applicable terms and conditions. If the applicant appeals a denial of the application, the existing RIMC Permit shall continue under its applicable terms and conditions.*
- B. Application for a Different Cultivation Site within the Same Private Residence.*
 - 1. If a current RIMC Permit holder applies for a RIMC Permit for the private residence on the existing permit but for cultivation site other than specified on the existing permit, the existing permit will terminate upon approval of the application.*
- C. Application for the Same Cultivation Site in Same Private Residence.*
 - 1. If an additional person applies for a RIMC Permit for the same cultivation site within the same private residence of a current RIMC Permit holder, a permit shall not be issued if the existing permit has been terminated or suspended. If the RIMC Permit is approved for the additional Applicant, the total number of marijuana plants within a single private residence shall be limited to six (6). In no event shall the number of marijuana plants exceed six (6).*
 - 2. An additional RIMC Permit for the same cultivation site shall only be issued if all RIMC Permits related to that cultivation site are in good standing with the City.*

8.08.090 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 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 phrase be declared unconstitutional.

8.08.100 Review and Appellate Authority.

- A. Applications for a RIMC Permit shall be reviewed by the Community Development Director or his or her designee. The Community Development Director may approve or deny an application based on the requirements provided in this chapter or state law.*
- B. An Applicant may appeal a decision by the Community Development Director to the City Manager or his or her designee within fifteen (15) days after receipt of the Community Development Director's final decision. An Applicant may appeal the City Manager's decision to the City Council.*

8.08.110 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 California Code of Civil Procedure section 731 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 two hundred and fifty dollars (\$250) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000.00) for any subsequent offense.

8.08.111 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 Federal, 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 Federal, 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 Federal, 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 Federal, 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 5.

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 6.

All other sections and provisions of Title 8 shall remain in full force and effect.

SECTION 7.

That a duly noticed public hearing was held by the City Council.

SECTION 8.

This ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 9.

CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL.

Introduced at a regular meeting of the City Council of the City of Newman held on the 9th day of May, 2017 by Council Member Day, and adopted at a regular meeting of said City Council held on the 11th day of July, 2017 by the following vote:

AYES: McDonald, Graham, Candea, Day and Mayor Martina.

NOES: None.

ABSENT: None.

ABSENT: None.

APPROVED:



Bob Martina
Mayor of the City of Newman

ATTEST:



Mike Maier
City Clerk of the City of Newman