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18 COUNTY OF SANTA CRUZ, et al

19 SUPERIOR COURT OF THE STATE OF CALIFORNIA

20 COUNTY OF FRESNO

21 COUNTY OF SANTA CRUZ; CITY OF
22 AGOURA HILLS; CITY OF ANGELS CAMP;
23 CITY OF ARCADIA; CITY OF ATWATER;
24 CITY OF BEVERLY HILLS; CITY OF CERES;
25 CITY OF CLOVIS; CITY OF COVINA; CITY
26 OF DIXON; CITY OF DOWNEY; CITY OF
27 MCFARLAND; CITY OF NEWMAN; CITY OF
28 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

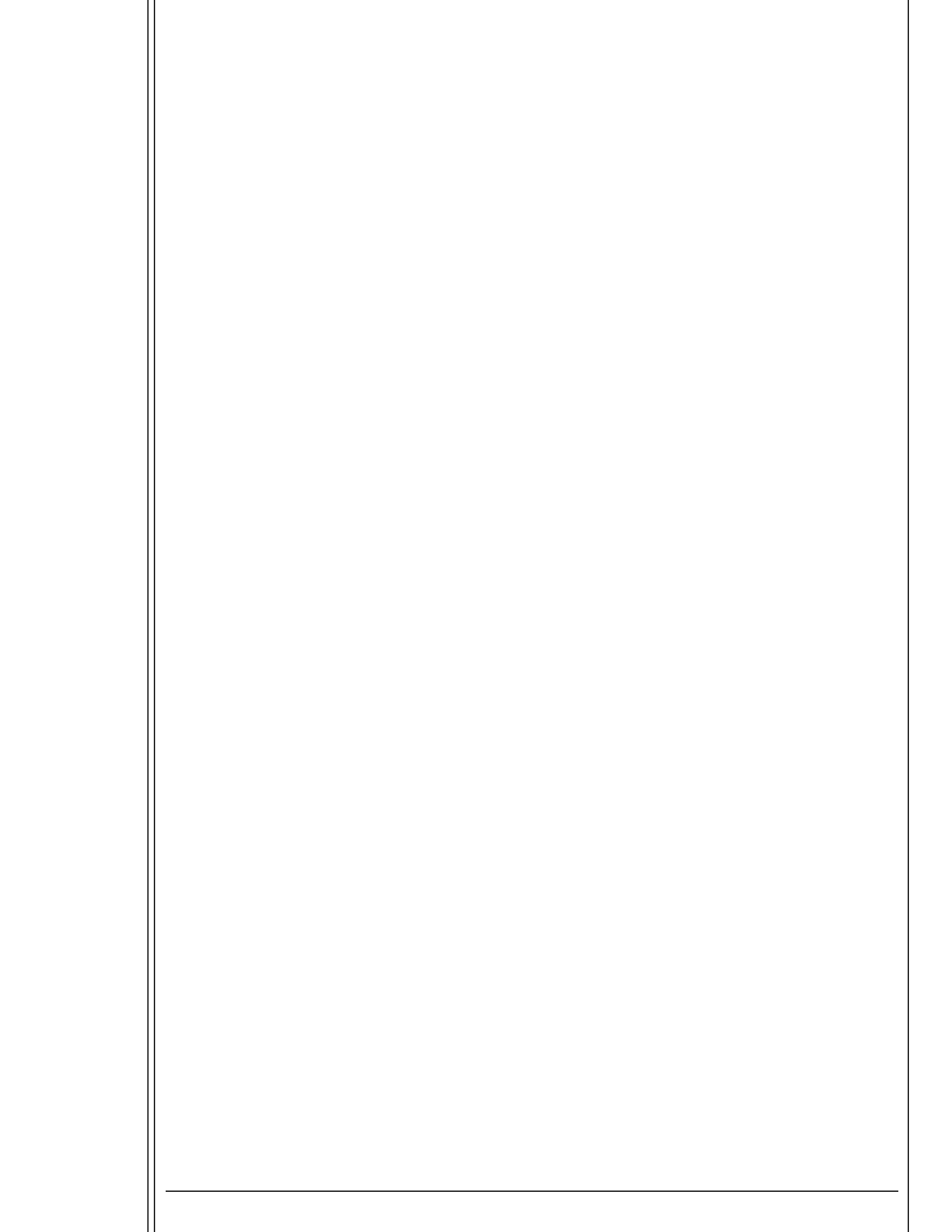
Case No.: 19CECG01224

**REQUEST FOR JUDICIAL NOTICE,
EXHIBITS VOLUME 3 (EXHIBITS 21-22)**

Complaint filed: April 4, 2019

Trial Date: July 16, 2020

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





**IN THE CITY COUNCIL
OF THE CITY OF OAKDALE
STATE OF CALIFORNIA
ORDINANCE 1251**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OAKDALE
REPEALING ARTICLE IV. MEDICAL MARIJUANA DISPENSARY, CULTIVATION
AND DELIVERY BAN, OF CHAPTER 14, HEALTH AND SANITATION, AND
ADDING CHAPTER 37, CANNABIS REGULATIONS TO THE
OAKDALE MUNICIPAL CODE TO REGULATE CANNABIS BUSINESSES**

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

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



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

SECTION 1: Article IV, Medical Marijuana Dispensary Ban, of Chapter 14, Health and Sanitation, of the Oakdale Municipal code is hereby repealed.

SECTION 2: Chapter 37, Cannabis Regulations, of the Oakdale Municipal Code is hereby added to read as follows:

Chapter 37. Cannabis Regulations.

Article I. In General.

Sec. 37-1 Legislative Intent.

It is the intent of the city to encourage responsible personal and commercial cannabis activities and to discourage violations of related state laws, especially those that prohibit the sale, use, or distribution of cannabis and cannabis products to minors. It is not the intent of the city to expand, reduce, or alter the penalties for violations of state cannabis laws.

Sec. 37-2 Definitions.

- (a) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis Indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" 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.



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- (b) "Cannabis business" means any business engaged in commercial cannabis activity. "Cannabis business" does not include any of the following:
- (1) A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
 - (2) A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
 - (3) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
 - (4) A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the Health and Safety Code.
 - (5) The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by Section 11362.7 of Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, Sections 11362.5 and 11362.765 of the Health and Safety Code.
- (c) "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.
- (d) "Cannabis delivery business" means any cannabis business that, pursuant to a Type 10 state cannabis license, delivers, makes available, or distributes cannabis and cannabis products to a consumer.
- (e) "Cannabis for personal use" means the use or possession of cannabis that does not require a license pursuant to Chapter 1 of Division 10 of the Business and Professions Code.
- (f) "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.



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- (g) "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.
- (h) "Cannabis testing laboratory" means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license.
- (i) "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.
- (j) "Commercial cannabis waste" means cannabis plants and plant materials that are discarded by a cannabis business, including but not limited to extra vegetative plants, failed clones, and harvest waste.
- (k) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (l) "Cultivation site" means the location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occur.
- (m) "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 Section 1596.76 of the Health and Safety Code.
- (n) "Dispensary" means any cannabis business where medicinal or adult-use cannabis or cannabis products are sold at retail to customers, pursuant to a Type 10 state cannabis license.
- (o) "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.
- (p) "Indoor cultivation" means the cultivation of cannabis for personal use within a fully enclosed and secure structure that has a complete roof in which cannabis plants cannot be seen from any public right of way. Indoor cultivation does not include any commercial cannabis activity.



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- (q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (r) "Outdoor cultivation" means the cultivation of cannabis that does not meet the definition of indoor cultivation.
- (s) "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.
- (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.
- (v) "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.

Sec. 37-3 State and Local Requirements.

- (a) Any cannabis business that does not have an applicable state license is prohibited within the city.
- (b) Any cannabis business allowed in the city shall obtain a development agreement, a city business license, and a conditional use permit, as set forth in this chapter.
- (c) At the time of application to the city, every cannabis business applicant shall submit to the Public Services Director a copy of its state license or state license application required for its operation.

Article II. Regulation of Cannabis Cultivation for Personal Use.

Sec. 37-4 Administrative Cultivation Permit.

- (a) Outdoor cultivation for personal use is prohibited within the city.
- (b) All indoor cultivation is prohibited within the city unless a person first secures an Administrative Cultivation Permit from the Community Development Department.
- (c) A person shall be limited to a maximum of one (1) Administrative Cultivation Permit at a time.



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- (d) An Administrative Cultivation Permit is not transferable. The Administrative Cultivation Permit shall only be used by the permittee to whom it is issued.
- (e) An Administrative Cultivation Permit shall expire one (1) year from the date of approval and may be renewed annually.

Sec. 37-5 Application for an Administrative Cultivation Permit.

- (a) An applicant shall be at least twenty-one (21) years of age.
- (b) The Administrative Cultivation Permit application shall require all of the following:
 - (1) Written consent signed by the property owner or legal tenant of the intended cultivation site.
 - (2) Identification of any chemicals, fertilizers, or pesticides that will be used for indoor cultivation. This information shall be used to aid public safety officials in case of an emergency response to the location.
- (c) An applicant shall pay a nonrefundable Administrative Cultivation Permit application fee as established by resolution of the City Council.
- (d) Within sixty (60) calendar days of receipt of a complete application, the city shall provide written notification to the applicant indicating whether the application has been approved or denied and the reason for denial, if any.

Sec. 37-6 Regulations for an Administrative Cultivation Permit.

- (a) A private residence shall not include more than one cultivation site.
- (b) A person shall not cultivate more than six (6) cannabis plants at a private residence. All cannabis plants and anything produced by the plants shall be kept within the permit holder's private residence, or upon the grounds of that 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. The private residence shall remain occupied and is required to maintain a functioning kitchen and bathroom.
- (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 or state regulations.



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- (3) To prevent persons under twenty-one (21) years of age from entering the cultivation site or accessing cannabis, the cultivation site shall have one lockable door.
- (4) The cultivation site shall not produce odors, sounds, or other emissions that are detectable outside of the private residence by persons with reasonable sensitivity.
- (e) All of the following shall be prohibited in the cultivation site:
 - (1) Volatile solvents including, but not limited to explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, or Kerosene.
 - (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 Administrative Cultivation 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.
- (g) 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 37-6 and does not pose a health or safety risk to the applicant or public. If the inspection is denied, the applicant will have ten (10) calendar days to have the cultivation site re-inspected.
- (h) Enhancements for Egregious Violations. In addition to any other enforcement permitted by this chapter, the city may impose a penalty for egregious violations of this article pursuant to Section 37-15.

Sec. 37-7 Expiration and Renewal of an Administrative Cultivation Permit.

- (a) An Administrative Cultivation Permit may be renewed within no sooner than sixty (60) days of expiration.
- (b) The Administrative Cultivation Permit holder shall pass a re-inspection of the cultivation site by the Community Development Department.
- (c) Renewal of an Administrative Cultivation Permit is subject to a renewal fee as approved by resolution by the City Council.



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Sec. 37-8 Suspension and Termination.

- (a) The city may suspend or terminate an Administrative Cultivation Permit at any time for failure to comply with this chapter or any local or state law or regulation.
- (b) If a person's Administrative Cultivation Permit is suspended, terminated, or expired, the permit holder's marijuana plants that exceeds 28.5 grams may be impounded by ~~the City~~ law enforcement officer until both of the following are met:
 - (1) The person reinstates their Administrative Cultivation Permit.
 - (2) The person pays an administration penalty pursuant to section 37-15 Penalties.
- (c) A person may appeal any suspension or termination of an Administrative Cultivation Permit pursuant to section 37-14 Appeals Procedure.

Sec. 37-9 Multiple Administrative Cultivation Permit Applications.

- (a) Application for Administrative Cultivation Permit in a New Private Residence.
 - (1) An Administrative Cultivation Permit holder may apply for an Administrative Cultivation Permit for a private residence other than the private residence specified on the existing permit. If the application is approved, the former Administrative Cultivation Permit shall be immediately null and void. If the application is denied, the existing Administrative Cultivation Permit shall continue under its applicable terms and conditions. If the applicant appeals a denial of the application, the existing Administrative Cultivation 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 Administrative Cultivation Permit holder applies for an Administrative Cultivation Permit for the private residence on the existing permit but for a cultivation site other than the one 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 an Administrative Cultivation Permit for the same cultivation site within the same private residence of a current Administrative Cultivation Permit holder, a permit shall not be issued if the existing permit has been terminated or suspended. If the Administrative Cultivation 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).



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- (2) An additional Administrative Cultivation Permit for the same cultivation site shall only be issued if all Administrative Cultivation Permits related to that cultivation site are in good standing with the City.

Article. III. Regulations for Cannabis Businesses.

Sec. 37-10 Commercial Cannabis Cultivation.

- (a) A cannabis cultivation business may be permitted pursuant to a development agreement and conditional use permit.
- (b) A cannabis cultivation business shall only be allowed in a Limited Industrial (L-M) or Light Industrial (M-1) districts [as further described in Chapter 36 of the Oakdale Municipal Code](#).
- (c) A commercial cannabis cultivation business shall not cultivate outdoors anywhere within the city.
- (d) All commercial cannabis cultivation businesses shall maintain any applicable state permit, city business license, conditional use permit, and comply with all of the following:
- (1) **Employee Permits.** Every employee or independent contractor working at a cannabis cultivation business within the city shall obtain an employee permit from the Public Services Department. The Police Department shall perform a background check before issuing an employee permit. All information submitted to the city shall be under the penalty of perjury.
- (2) **Secure Building.** All commercial cannabis activity shall occur entirely inside of a building that is secure, locked, and fully enclosed, with a ceiling, roof, or other enclosure. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures (including, without limitation, commercial greenhouse structures), and include material strong enough to prevent entry except through an open door. Notwithstanding the foregoing, the roof may be of solid translucent material provided other security measures exist to ensure that the commercial cannabis activity cannot be seen, heard, or smelled beyond the property line.



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- (3) **Security Plan.** A cannabis cultivation business shall comply with security requirements acceptable to the Police Chief on an individual project basis. The security requirements will specify at a minimum, provisions for perimeter fencing plan, interior and exterior lighting plan, security camera layouts, security team plan, alarm system details, transportation, remote monitoring, electronic track and trace, fire suppression plan, and record keeping.
- (4) **Insurance.** A cannabis cultivation business shall maintain insurance in the amounts and of the types that are acceptable to the City Manager or his or her designee. The city shall be named as additional insured on all city-required insurance policies.
- (5) **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.

Sec. 37-11 Cannabis Testing Laboratory.

- (a) A cannabis testing laboratory may be permitted pursuant to a development agreement and conditional use permit.
- (b) A cannabis testing laboratory shall only be located in Limited Industrial (L-M) or Light Industrial (M-1) districts [as further described in Chapter 36 of the Oakdale Municipal Code.](#)
- (c) A cannabis testing laboratory shall meet the accreditation criteria in the International Organization for Standardization (ISO) guidelines known as ISO 17025.
- (d) All cannabis testing laboratories shall maintain any applicable state permit, city business license, conditional use permit, and maintain compliance with all of the following:
 - (1) **Employee Permits.** Every employee or independent contractor working at a cannabis testing laboratory within the city shall obtain an employee permit from the Public Services Department. The Police Department shall perform



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a background check before issuing an employee permit. All information submitted to the city shall be under the penalty of perjury.

- (2) **Secure Building.** All commercial cannabis activity shall occur entirely inside of a building that is secure, locked, and fully enclosed, with a ceiling, roof, or other enclosure. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures, and include material strong enough to prevent entry except through an open door. Notwithstanding the foregoing, the roof may be of solid translucent material provided other security measures exist to ensure that the commercial cannabis activity cannot be seen, heard, or smelled beyond the property line.
- (3) **Security Plan.** A cannabis testing laboratory shall comply with security requirements acceptable to the Police Chief on an individual project basis. The security requirements will specify at a minimum, provisions for perimeter fencing plan, interior and exterior lighting plan, security camera layouts, security team plan, alarm system details, transportation, remote monitoring, electronic track and trace, fire suppression plan, and record keeping.
- (4) **Insurance.** A cannabis testing laboratory business shall maintain insurance in the amounts and of the types that are acceptable to the City Manager or his or her designee. The city shall be named as additional insured on all city-required insurance policies.
- (5) **Waste Management Plan.** A cannabis testing laboratory shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

Sec. 37-12 Dispensary.

- (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 located in _____ of _____ district the area of the City as further described in Chapter 36 of the Oakdale Municipal Code.



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- (c) A cannabis delivery business is prohibited within the city. Any commercial cannabis activity related to delivery is prohibited unless that activity is performed by a cannabis dispensary permitted by this chapter. The city reserves the right to prohibit a cannabis dispensary from performing delivery services.
- (d) All cannabis dispensaries shall obtain any applicable state permit, obtain a city business license, and maintain compliance with all of the following:
- (1) **Employee Permits.** Every employee or independent contractor working at a cannabis dispensary within the city shall obtain an employee permit from the Public Services Department. The Police Department shall perform a background check before issuing an employee permit. All information submitted to the city shall be under the penalty of perjury.
 - (2) **Secure Building.** All commercial cannabis activity shall occur entirely inside of a building that is secure, locked, and fully enclosed, with a ceiling, roof, or other enclosure. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures, and include material strong enough to prevent entry except through an open door. Notwithstanding the foregoing, the roof may be of solid translucent material provided other security measures exist to ensure that the commercial cannabis activity cannot be seen, heard, or smelled beyond the property line.
 - (3) **Security Plan.** A cannabis dispensary shall comply with security requirements acceptable to the Police Chief on an individual project basis. The security requirements will specify at a minimum, provisions for perimeter fencing plan, interior and exterior lighting plan, security camera layouts, security team plan, alarm system details, transportation, remote monitoring, electronic track and trace, fire suppression plan, and record keeping.
 - (4) **Insurance.** A cannabis dispensary shall maintain insurance in the amounts and of the types that are acceptable to the City Manager or his or her designee. The city shall be named as additional insured on all city-required insurance policies.



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- (5) **Waste Management Plan.** A cannabis dispensary shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

Sec. 37-13 Cannabis Manufacturing Business.

- (a) A cannabis manufacturing business may be permitted pursuant to a development agreement and conditional use permit.
- (b) A cannabis manufacturing business shall only be located in Limited Industrial (M-1) or Heavy Industrial (M-2) district.
- (c) All cannabis manufacturing business shall obtain any applicable state permit, obtain a city business license, and maintain compliance with all of the following:
- (1) **Employee Permits.** Every employee or independent contractor working at a cannabis dispensary within the city shall obtain an employee permit from the Public Services Department. The Police Department shall perform a background check before issuing an employee permit. All information submitted to the city shall be under the penalty of perjury.
- (2) **Secure Building.** All commercial cannabis activity shall occur entirely inside of a building that is secure, locked, and fully enclosed, with a ceiling, roof, or other enclosure. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures, and include material strong enough to prevent entry except through an open door. Notwithstanding the foregoing, the roof may be of solid translucent material provided other security measures exist to ensure that the commercial cannabis activity cannot be seen, heard, or smelled beyond the property line.
- (3) **Security Plan.** A cannabis manufacturing business shall comply with security requirements acceptable to the Police Chief on an individual project basis. The security requirements will specify at a minimum, provisions for perimeter fencing plan, interior and exterior lighting plan, security camera layouts, security team plan, alarm system details, transportation, remote monitoring, electronic track and trace, fire suppression plan, and record keeping.



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- (4) **Insurance.** A cannabis manufacturing business shall maintain insurance in the amounts and of the types that are acceptable to the City Manager or his or her designee. The city shall be named as additional insured on all city-required insurance policies.

- (5) **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.

Article. IV. Appeals and Enforcement.

Sec. 37-14 Appeals.

- (a) Any permit applicant may appeal any adverse action taken under this chapter to the City Council.

- (b) All appeals taken under this chapter must be taken within thirty (30) days after the adverse action by filing with the office of the City Clerk a written notice of appeal specifying the grounds thereof. An appeal shall be accompanied by a non-refundable filing fee, as established by resolution adopted by the City Council from time to time.

- (c) The City Clerk, upon the filing of such appeal and payment of an appeal fee, shall place the matter upon the agenda for the next regular meeting of the City Council occurring not earlier than five days after the filing of the appeal, and shall notify the appealing permit applicant by letter of the meeting date and place at which the appeal will be heard.

Sec. 37-15 Penalties.

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

- (b) In addition to any other enforcement permitted by this chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.



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(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 first offense within a 12 month period~~, seven hundred and fifty dollars (\$750) for the ~~second offense within a 12 month period~~, and one thousand dollars (\$1,000.00) for any subsequent offense ~~within a 12 month period~~.

(d) **Enhancements for Egregious Violations.**

- (1) In addition to any other enforcement permitted by this chapter, the city may double any administrative penalty for egregious violations of this chapter. Egregious violations include (i) the unpermitted use of volatile solvents in connection with indoor cultivation, (ii) a permittee under Article II, Regulation of Cannabis Cultivation for Personal Use, allowing a minor to consume cannabis from that permittee's indoor cultivation, (iii) for the unpermitted use of volatile solvents in connection with cannabis business, or (iv) a cannabis business allowing minors to consume or possess cannabis or cannabis products.
- (2) If a cannabis business receives four or more penalties for violating this chapter within any 12-month period, that business shall be immediately prohibited from operating within the city.
- (3) If a person receives four or more penalties for violating Article II, Regulation of Cannabis Cultivation for Personal Use, within any 12-month period, that permittee's penalty shall be doubled upon the fourth violation and each subsequent violation thereafter.

Sec. 37-16 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:



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- (1) "Abatement costs" include the actual and reasonable costs incurred by the city to abate a public nuisance. These costs include all direct and indirect costs to the city that result from the total abatement action, including but not limited to, investigation costs, costs to enforce the Municipal code and any applicable State or County law, clerical and administrative costs to process paperwork, costs incurred to provide notices and prepare for and conduct administrative appeal hearings, and costs to conduct actual abatement of the nuisance. Costs include personnel costs, administrative overhead, costs for equipment such as cameras and vehicles, staff time to hire a contractor, and reasonable attorneys' fees incurred by city.
- (2) "Enforcement costs" include all actual and reasonable costs incurred by the city to enforce compliance with the Municipal code and any applicable State, County, or city public health and safety law that are not included within abatement costs. Enforcement costs shall also include, but are not limited to, costs of fringe benefits for personnel, administrative overhead, costs of equipment, costs of materials, costs related to investigations, costs related to issuing and defending administrative or court citations, costs incurred investigating and abating violations of the Municipal code or State or County law violations, and reasonable attorneys' fees related to these activities.
- (3) "Responsible party" means a person or entity responsible for creating, causing, committing, or maintaining the violation of this chapter or State or County law.
- (4) "Subject property" means the real property that is the subject of any abatement or enforcement action by the city for which the city incurred costs and seeks recovery under this chapter.

Sec. 37-17 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter, 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 chapter 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.



**IN THE CITY COUNCIL
OF THE CITY OF OAKDALE
STATE OF CALIFORNIA
ORDINANCE 1251**

SECTION 3. 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 4: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

This ordinance was introduced at a regular meeting of the City Council of the City of Oakdale held on November 6, 2017. At a regular meeting of the City Council held on November 20, 2017 on motion by Council Member McCarty, seconded by Council Member Murdoch, and moved for adoption and upon roll call the foregoing Ordinance was passed and adopted by the following vote:

AYES:	COUNCIL MEMBERS:	Bairos, McCarty, Murdoch and Paul	(4)
NOES:	COUNCIL MEMBERS:	None	(0)
ABSENT:	COUNCIL MEMBERS:	Dunlop	(1)
ABSTAIN:	COUNCIL MEMBERS:	None	(0)

ATTEST:



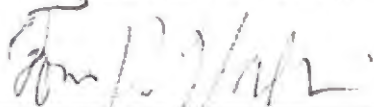
 Kathy Teixeira, CMC
 City Clerk

APPROVED:



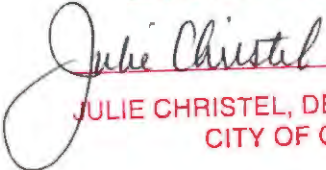
 Pat Paul
 Mayor

APPROVED AS TO FORM:

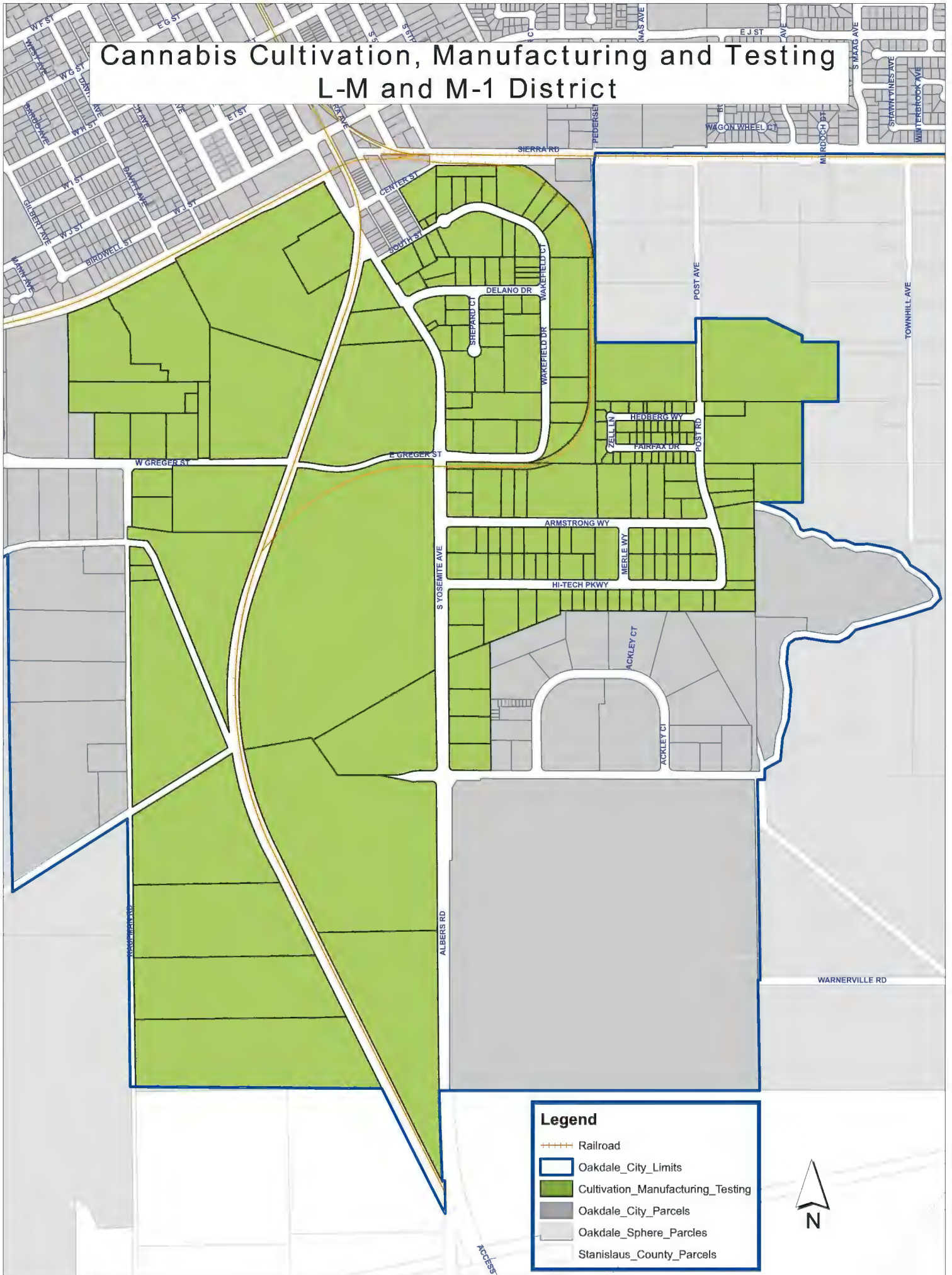


 Tom Hallinan, City Attorney

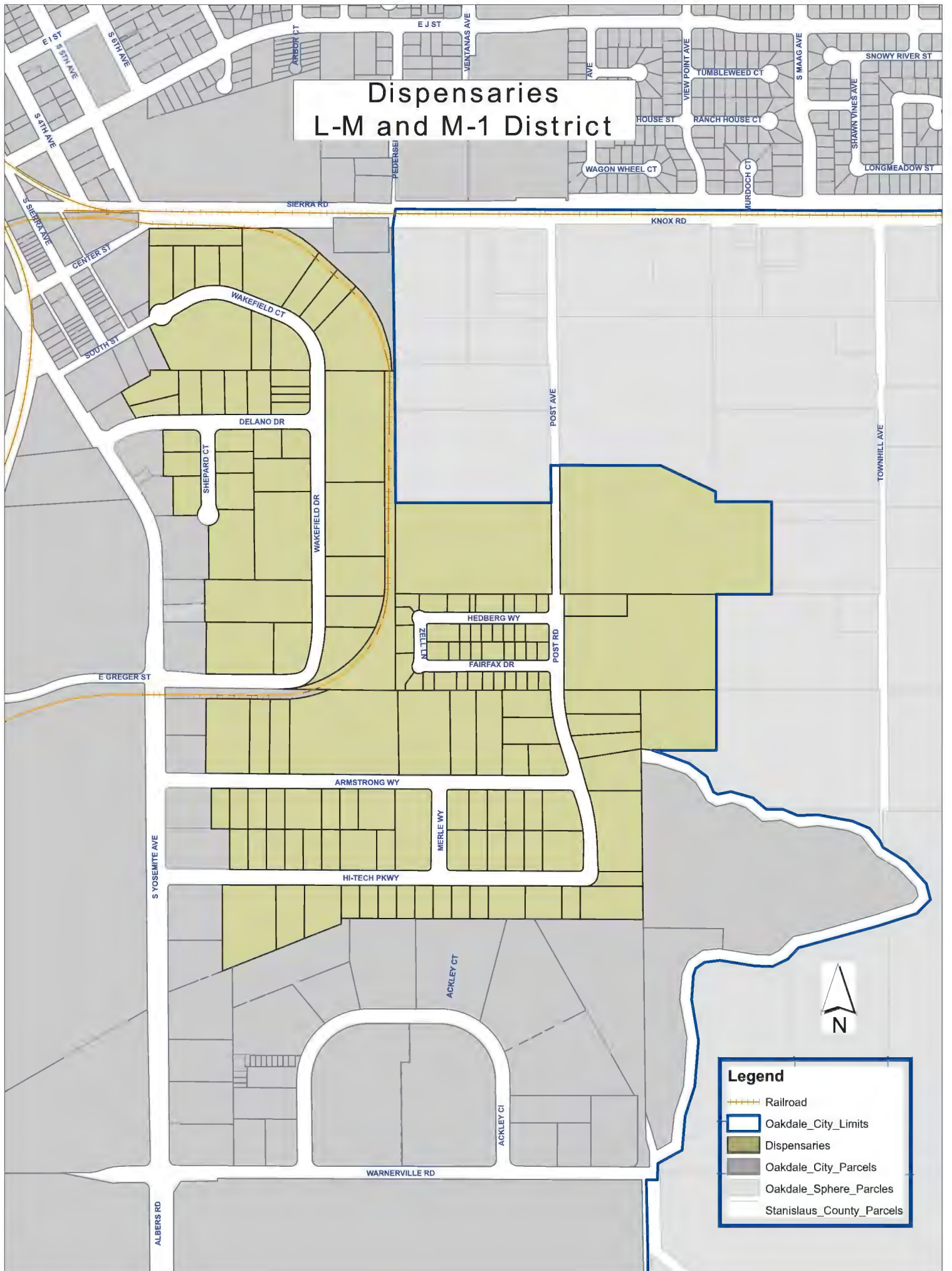
**CERTIFIED TO BE A TRUE AND
EXACT COPY OF ORIGINAL**

 DATE 1/29/2020
**JULIE CHRISTEL, DEPUTY CITY CLERK
CITY OF OAKDALE**

Cannabis Cultivation, Manufacturing and Testing L-M and M-1 District



Dispensaries L-M and M-1 District



Legend

- Railroad
- Oakdale_City_Limits
- Dispensaries
- Oakdale_City_Parcels
- Oakdale_Sphere_Parcels
- Stanislaus_County_Parcels

