

ORDINANCE NO. 1146

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMARILLO, CALIFORNIA, AMENDING CHAPTER 19.55 PERTAINING TO CANNABIS FACILITIES, CULTIVATION AND DELIVERIES

The City Council of the City of Camarillo does ordain as follows:

SECTION 1. Findings. The City Council finds as follows:

A. As set forth in Municipal Code sections 19.55.030(A), (C), and (D), the City of Camarillo prohibits all medical marijuana dispensaries, cannabis cultivation facilities, and commercial marijuana activities. Municipal Code section 19.55.030(B) prohibits medical marijuana deliveries in the City unless the delivery is made by a Primary Caregiver to his or her Qualified Patient, as those terms are defined in Health and Safety Code sections 11362.5 and 11362.7.

B. The Medical Marijuana Regulation and Safety Act ("MCRSA") adopted by the Legislature in 2015, established a state regulatory framework for medical marijuana commencing at Business and Professions Code section 19300.

C. On November 8, 2016, the voters of the State of California approved Proposition 64, entitled the "Control, Regulate and Tax Adult Use of Marijuana Act." ("AUMA") which created a parallel regulatory framework for non-medical marijuana commencing at Business Professions Code section 26000.

D. On June 27, 2017, SB 94 combined the two regulatory frameworks under one heading by repealing MCRSA, inserting the medical cannabis regulations into the AUMA, and renaming the AUMA as the Medicinal and Adult Use Cannabis Regulation and Safety Act, or "MAUCRSA" which uses the word "cannabis" instead of "marijuana."

E. Proposition 64 legalizes and regulates recreational cannabis in California. Proposition 64 requires recreational cannabis businesses, including cultivators, manufacturers, distributors, retailers, and testing laboratories, to obtain a state license in order to operate lawfully. The state will not issue licenses if the proposed recreational cannabis business violates a local ordinance. The state anticipates that it will begin issuing licenses for recreational cannabis businesses on or about January 1, 2018.

F. Business and Professions Code section 26200, which is part of Proposition 64, expressly recognizes the ability of cities to completely prohibit all recreational cannabis businesses or to regulate such businesses.

G. Under Proposition 64, individuals may possess and use specified amounts of cannabis and may cultivate up to six cannabis plants per private residence. Under Health and Safety Code section 11362.2(b), cities may prohibit private outdoor cannabis cultivation, but may not prohibit completely private indoor cultivation of six cannabis plants or less. Cities, however, may reasonably regulate private indoor cultivation of six cannabis plants or less.

H. It is imperative that the City maintain local control over all cannabis land uses to the fullest extent allowed by law. The City anticipates that Proposition 64 may encourage

the establishment of various cannabis businesses within the City. The Municipal Code does not currently address recreational cannabis businesses. While no such business can operate in the City lawfully without a state license, express Municipal Code regulations regarding recreational cannabis dispensaries, cultivation facilities, manufacturing sites, transporters, distributors, testing laboratories, and microbusinesses are necessary to provide clear guidelines regarding the scope of prohibited conduct and minimize the potential for confusion regarding the City's policies.

I. Express Municipal Code regulations are also necessary to provide clear guidance regarding the scope of permissible private cultivation. The City anticipates that many individuals will begin to cultivate cannabis at their private residences following the passage of Proposition 64.

J. Cannabis establishments and activities often present health, welfare, and public safety issues for cities. Several California cities and counties have experienced serious adverse impacts associated with and resulting from cannabis dispensaries, delivery services, and cultivation sites. According to these communities and according to news stories widely reported, cannabis land uses have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, and illegal sales and use of cannabis in the areas immediately surrounding such cannabis activities. There have also been large numbers of complaints of odors related to cannabis cultivation and storage. Cannabis cultivation sites are often associated with illegal construction, unsafe electrical wiring, excessive water use, and fire hazards.

K. A California Police Chiefs Association compilation of police reports, news stories, and statistical research regarding crimes involving medical cannabis businesses and their secondary impacts on the community is contained in a 2009 white paper report which was Attachment 3 to the Agenda Report presented to the City Council on November 16, 2016 when the City Council voted to adopt an urgency ordinance establishing a 45 day temporary moratorium pertaining to private cannabis cultivation and non-medical cannabis facilities with this ordinance and on file with the City Clerk. The report details numerous violent crimes that occurred throughout the state in and around medical cannabis establishments.

L. The Santa Clara County District Attorney's Office issued a May 2014 memorandum entitled "Issues Surrounding Cannabis in Santa Clara County," which outlined many of the negative secondary effects resulting from cannabis cultivation; a copy of this memorandum was Attachment 4 to the Agenda Report presented to the City Council on November 16, 2016. According the memorandum, cannabis cultivation sites were often associated with illegal construction, haphazard electrical wiring, electricity theft, fires, mold and fungus problems, diversion of public water, pollution of waterways, firearm violations, crimes, and organized crime and street gang involvement.

M. Manufacturing of cannabis products can involve the use of chemicals and solvents and, as a result, 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.

N. News stories regarding adverse impacts of cannabis businesses, including dispensaries, cultivation sites, and delivery services, were Attachment 5 to the Agenda Report presented to the City Council on November 16, 2016. As detailed in these stories, cannabis establishments and cultivation sites are frequent targets of violent crimes, including robberies and assaults, in part because banking institutions will not accept credit card payments for illegal drugs under federal law, forcing such businesses to be cash-only. There is also significant evidence that cannabis delivery services are targets of violent crime and pose a danger to the public.

O. Cannabis processing has led to explosions across the country because the processing of cannabis-related products, such as cannabis oils, often involves the use of butane gas flames.

P. In 2015, there reportedly were at least five-cannabis-related wildfires linked to cannabis growing operations.

Q. In 2016, a New York firefighter died in an explosion at a residential cannabis cultivation site.

R. On August 22, 2017, the Tribune newspaper reported on a fire that was caused by the misuse of electrical circuits, adapters and cords to support an indoor cannabis grow that destroyed a Morro Bay garage and damaged two homes.

S. It is reasonable to conclude that cannabis businesses and private cultivation under Proposition 64 would cause similar adverse impacts on the public health, safety, and welfare in Camarillo.

T. In order to protect the public health, safety, and welfare, the City Council desires to amend the Camarillo Municipal Code to address, in express terms, recreational cannabis businesses, cannabis deliveries, and private cannabis cultivation.

U. On November 16, 2016, the City Council adopted Urgency Ordinance No. 1133 establishing a 45 day moratorium pertaining to private cannabis cultivation and non-medical facilities.

V. On December 14, 2016, the City Council adopted Urgency Ordinance No. 1136 extending the moratorium pertaining to private cannabis cultivation and non-medical facilities to November 16, 2017.

W. Since November 16, 2016, City staff has undertaken an investigation of these matters including consideration of what provisions should be included in a permanent ordinance regarding non-medical cannabis with regard to cannabis businesses (including cultivation, manufacturing, distribution, testing, and retail sales), outdoor cultivation, indoor cultivation and delivery of non-medical cannabis to residents of the City of Camarillo. The State of California is currently reviewing Proposition 64 for the purpose of drafting regulations relating to non-medical cannabis and those regulations are still being drafted by the State.

X. On October 17, 2017, the Planning Commission conducted a duly noticed public hearing to consider proposed amendments to Chapter 19.55 of the Municipal Code and voted to recommend to the City Council that they adopt the proposed zoning text change.

Y. On November 1, 2017, the City Council conducted a duly noticed public hearing to consider the proposed amendments to Chapter 19.55 of the Municipal Code.

SECTION 2. Environmental Findings. The City Council exercises its independent judgment and finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3), because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed ordinance maintains the status quo and prevents changes in the environment pending the completion of the contemplated municipal code review. Because there is no possibility that this ordinance may have a significant adverse effect on the environment, the adoption of this ordinance is exempt from CEQA.

SECTION 3. Amendment to Chapter 19.55 of Title 19 of the Municipal Code. Chapter 19.55 of Title 19 of the Camarillo Municipal Code is amended and restated as set forth in the attached Exhibit A.


SECTION 4. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. Publication. The City Clerk is directed to certify this ordinance and cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED November 15, 2017.


Mayor

Attested to on 11/16/17.


City Clerk

I, Jeffrie Madland, City Clerk of the City of Camarillo, certify Ordinance No. 1146 was introduced by the City Council at a meeting held November 1, 2017, and subsequently passed and adopted by the City Council at a regular meeting held November 15, 2017, by the following vote:

AYES: Councilmembers: Craven, Kildee, Morgan, Trembley, Mayor McDonald
NOES: Councilmembers: None
ABSENT: Councilmembers: None


City Clerk

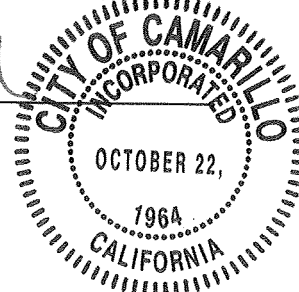


EXHIBIT A

Chapter 19.55 CANNABIS FACILITIES, CULTIVATION, AND DELIVERIES

19.55.010 - Definitions.

“Accessory structure” means a completely enclosed and secure structure and, where required by law, must be constructed pursuant to a building permit issued by the City.

“Cannabis” has the meaning set forth in Business and Professions Code section 26001(f) and includes 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.

“Commercial cannabis activity” has the meaning set forth in Business and Professions Code section 26001(k), and includes the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or cannabis products as provided under MAUCRSA.

“Commercial cannabis facility” means any building, facility, use, establishment, property, or location where any person or entity establishes, commences, engages in, conducts, or carries on, or permits another person or entity to establish, commence, engage in, conduct, or carry on, any commercial cannabis activity that requires a state license or nonprofit license under Business and Professions Code sections 26000 and following, including but not limited to cannabis cultivation, cannabis distribution, cannabis transportation, cannabis storage, manufacturing of cannabis products, cannabis processing, the sale of any cannabis or cannabis products, and the operation of a cannabis microbusiness. Commercial cannabis facility also includes any building, facility, use, establishment, property, or location where cannabis and/or cannabis products are sold or distributed in exchange for compensation in any form for medicinal purposes under Health and Safety Code sections 11362.5 and 11362.7 and following.

“Cultivation” has the meaning set forth in Business and Professions Code section 26001(l) and includes any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Medical cannabis” or “medicinal cannabis” is cannabis 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 cannabis in the treatment of acquired immune deficiency syndrome (“AIDS”), anorexia, arthritis, cancer, chronic pain, glaucoma, migraine, spasticity, or any other serious medical condition for which cannabis is deemed to provide relief as defined in subsection (h) of Health and Safety Code § 11362.7.

"Primary caregiver" shall have the meaning set forth in Health and Safety Code sections 11362.5(e) and 11362.7(d).

"Private residence" means, as provided in Health & Safety Code § 11362.2(b)(5), a house, an apartment unit, a mobile home, or other similar dwelling.

"Qualified patient" shall have the meaning set forth in Health and Safety Code section 11362.7(f).

19.55.020 - Purpose and intent.

The purpose and intent of this chapter is to prohibit commercial cannabis facilities and to regulate cannabis cultivation, as defined above, within the city limits. It is recognized that it is a federal violation under the Controlled Substances Act to possess or distribute cannabis even if for medical purposes. Additionally, there is evidence of an increased incidence of crime-related secondary impacts in locations associated with a cannabis facilities, which is contrary to policies that are intended to promote and maintain the public's health, safety, and welfare.

19.55.030 - Prohibition on commercial cannabis facilities and cannabis deliveries.

- A. Commercial cannabis facilities are prohibited in all zones in the City. No person or entity may establish or operate a commercial cannabis facility within city limits. A property owner may not allow its property to be used by any person or entity as a commercial cannabis facility.
- B. The delivery of cannabis to any person within the city limits is prohibited, except for deliveries of medical cannabis by a primary care giver to one of the primary caregiver's qualified patients. These deliveries are subject to the following requirements: (1) Deliveries are only permitted to occur from the hours of 7:00 am to 8:00 pm; (2) The delivery must be in an unmarked vehicle and (3) Deliveries are only permitted to a private residence.

19.55.040 – Residential Cannabis Cultivation

- A. All cannabis cultivation within city limits is prohibited except that a person may cultivate no more than six living cannabis plants inside a private residence, or inside a fully enclosed and secure accessory structure to a private residence located upon the grounds of that private residence. Such cultivation shall only occur in residences and accessory structures that are fully enclosed and secured against unauthorized entry. If the accessory structure has windows, then the windows must be closed during any times that cannabis is being cultivated or located in the accessory structure.
- B. If a private residence is not occupied or inhabited by the owner of the private residence, then no persons living in the residence may cultivate cannabis without written consent signed by the owner expressly allowing cannabis cultivation to occur at the private residence.
- C. Persons cultivating cannabis in a residence shall comply with all applicable Building Code requirements set forth in the Camarillo Municipal Code.

- D. There shall be no use of gas products (CO₂, butane, propane, natural gas, etc.) on the property for purposes of cannabis cultivation.
- E. All private cultivation under this section shall comply with Health and Safety Code section 11362.2(a)(3).

19.55.050 - Violation—Separate offense.

Any person who violates any provision of this chapter is guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and may be penalized accordingly.

19.55.060 - Penalties.

Violation of any provision of this chapter is subject to penalties as set forth in Municipal Code Chapter 1.12.

19.55.070 - Civil injunction.

Any violation of this chapter is declared to be a public nuisance per se and contrary to the public interest and will at the discretion of the City, be subject to a cause of action for injunctive relief.