

ORDINANCE NUMBER _____ (CCS)

(City Council Series)

AN INTERIM ZONING ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA EXTENDING INTERIM ZONING ORDINANCE NUMBER 2557 (CCS), WHICH REPLACED THE TERM "MEDICAL MARIJUANA DISPENSARY" WITH "MEDICINAL CANNABIS RETAILER" THROUGHOUT THE CITY'S ZONING ORDINANCE, CHAPTER 9.01 THROUGH CHAPTER 9.52 OF ARTICLE 9 OF THE SANTA MONICA MUNICIPAL CODE; CREATED A DEFINITION FOR "MEDICINAL CANNABIS RETAILER" TO REPLACE THE DEFINITION FOR "MEDICAL MARIJUANA DISPENSARY" TO CONFORM WITH STATE LAW; REMOVED CERTAIN REQUIREMENTS FOR MEDICINAL CANNABIS RETAILERS FOR CONSISTENCY WITH STATE LAW AND TO ALLOW FOR SEPARATE REGULATION AND RULEMAKING; AND MODIFIED THE DEFINITION OF "INDUSTRY, LIMITED" TO ALLOW FOR MEDICINAL CANNABIS LIGHT MANUFACTURING

WHEREAS, the State of California has had a long history of regulating medicinal cannabis uses within the State; and

WHEREAS, in 1996, California voters approved Proposition 215 (codified at Health and Safety Code section 11362.5 and titled the "Compassionate Use Act of 1996"), which provides criminal immunity for patients and primary caregivers for the cultivation and possession of cannabis if a doctor has recommended the cannabis for medical purposes; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified at Health and Safety Code section 11362.7 et seq. and titled the "Medical Marijuana Program Act") to clarify the scope of the Compassionate Use Act of 1996; and

WHEREAS, the Medical Marijuana Program Act allows cities and other governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, neither the Compassionate Use Act of 1996 nor the Medical Marijuana Program Act provided an effective statewide regulatory system for the medical cannabis industry, and this lack of uniform regulation created uncertainty about the legality of medical cannabis activities and endangered the safety of end users, who have not had the benefit of a monitored supply chain for medical cannabis, quality control, testing or labeling requirements; and

WHEREAS, in 2015, Assembly Bills 243 and 266 and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 et seq. and titled the “Medical Marijuana Regulation and Safety Act”) and provided for enhanced statewide marijuana regulations; and

WHEREAS, Assembly Bills 243 and 266 and Senate Bill 643 also amended provisions of the Medical Marijuana Program Act related to the cultivation of medical marijuana; and

WHEREAS, In November 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (“AUMA”). Under Proposition 64, adults 21 years of age or older may legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions; and

WHEREAS, beginning on January 1, 2018, AUMA authorizes the sale and distribution of cannabis for nonmedicinal purposes through a licensed business; and

WHEREAS, in 2017, the State legislature enacted Senate Bill 94 which created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) which establishes a robust set of regulations for the medicinal and adult use cannabis markets, aligns all permit types, and authorizes certain state agencies to establish rules governing cannabis operations and to implement the law; and

WHEREAS, MAUCRSA continues to preserve local control over cannabis-related uses by (1) requiring medicinal cannabis businesses to obtain both a state license and a local license or permit, if required, to operate legally in California, (2) terminating the ability of a medicinal cannabis business to operate if its local license or permit is terminated, (3) continuing to authorize local governments to enforce local cannabis-related laws, (4) providing for penalties for unlicensed activities, and (5) expressly protecting local licensing practices, zoning and business regulation laws, and local actions taken under the constitutional police power; and

WHEREAS, consistent with State actions, the City Council, when adopting its comprehensive update to its Zoning Ordinance in 2015, contemplated authorizing two medicinal cannabis retailers within the City to serve local needs; and

WHEREAS, it is necessary to amend certain provisions of the Zoning Ordinance to ensure consistency with the State law revisions that have occurred since the Zoning Ordinance adoption in 2015 and to remove certain provisions that are duplicative of State law; and

WHEREAS, certain provisions of the Zoning Ordinance related to medicinal marijuana retailers are more appropriately addressed through regulatory rulemaking; and

WHEREAS, the City Council, after reviewing public input, further directed staff to consider authorizing limited medicinal cannabis manufacturing facilities within the City; and

WHEREAS, providing for light manufacturing of medicinal cannabis products provides greater access to patients in need while protecting public health, safety and general welfare by prohibiting manufacturing that uses volatile solvents; and

WHEREAS, on October 24, 2017, the City Council adopted Interim Zoning Ordinance Number 2557 (CCS) which replaced the term “medical marijuana dispensary” with “medicinal cannabis retailer” throughout the Zoning Ordinance, created a definition for “medicinal cannabis retailer” to replace the definition for “medical marijuana dispensary” to conform with State law; removed certain requirements for medicinal cannabis retailers for consistency with State law and to allow for separate and more effective regulatory rulemaking; and modified the definition of “industry, limited” to allow for medicinal cannabis light manufacturing; and

WHEREAS, pursuant to Santa Monica Municipal Code Section 9.46.090(C) Interim Zoning Ordinance No. 2557 shall expire sixty days after its effective date, or on January 23, 2018; and

WHEREAS, the City desires to extend the amendments to the Zoning Ordinance enacted pursuant to Interim Zoning Ordinance No. 2557 until April 20, 2020 in order to allow for a more comprehensive review of commercial cannabis uses by City staff and the Planning Commission; and

WHEREAS, the City Council finds and declares that there continues to exist a current and immediate threat to the public health, safety and general welfare that requires the extension of Interim Zoning Ordinance 2557 (CCS) to April 20, 2020 in that the revisions to the Zoning Ordinance adopted pursuant to Interim Zoning Ordinance 2557 (CCS) provide for consistency with State law and allow for greater access to medicinal cannabis for patients in need.

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

SECTION 1. Interim Zoning Regulations. Santa Monica Municipal Code Chapters 9.01 through 9.52 are hereby amended as follows:

(a) The term "Medical Marijuana Dispensary" shall be replaced with "Medicinal Cannabis Retailer" throughout.

(b) Santa Monica Municipal Code Section 9.31.185 is hereby amended to read as follows:

9.31.185 Medicinal Cannabis Retailers ~~Medical Marijuana Dispensaries~~

A. **Purpose.** The purpose of this Subsection is to ensure that the development of Medicinal Cannabis Retailers ~~Medical Marijuana Dispensaries~~ does not adversely impact adjacent parcels or the surrounding neighborhoods in which they are located and that they will be developed in a manner that protects

the health, safety and general welfare of nearby residents and businesses while providing for the needs of all segments of the community: Medicinal Cannabis Retailers ~~Medical Marijuana Dispensaries~~ shall be permitted, located, developed and operated consistent with the following development standards:

B. **Conditional Use Permit.** Each Medicinal Cannabis Retailer ~~Medical Marijuana Dispensary~~ shall be subject to the approval of a Conditional Use Permit by the Planning Commission, appealable to the City Council.

C. **Number and Location.** A maximum of 2 Medicinal Cannabis Retailers ~~Medical Marijuana Dispensaries~~ no larger than 2,500 square feet shall be permitted. ~~Medical Marijuana Dispensaries~~ Medicinal Cannabis Retailers are prohibited within 600 feet of a Child Care and Early Education or Family Day Care Facility, park, school, library, Social Service Center, or other Medicinal Cannabis Retailer ~~Medical Marijuana Dispensary~~. The distance shall be established on the date of application for the Conditional Use Permit.

D. **Hours of Operation.** Medicinal Cannabis Retailers ~~Medical Marijuana Dispensaries~~ may operate between the hours of 10:00 a.m. and 8:00 p.m. Monday through Saturday and 12:00 p.m. to 7:00 p.m. on Sundays.

E. **Recommendations.** No recommendations for medicinal cannabis ~~medical marijuana~~ shall be issued on-site.

F. **Delivery.** Delivery of medicinal cannabis ~~medical marijuana~~ to patients or primary care givers as defined in Health and Safety Code Section 11362.5 et seq. is permitted.

G. **Source Requirement.** Only medicinal cannabis ~~medical marijuana~~ cultivated in California may be sold in a Medicinal Cannabis Retailer-Dispensary.

H. **On-site Cultivation.** A maximum area of 15% of the total floor area may be used for on-site cultivation of medicinal cannabis ~~medical marijuana~~.

I. ~~Staffing and Security.~~

~~1. **Security Plan.** The dispensary operator shall submit a security plan for review and approval by the Director of Planning with review and comment by the Police Department. The plan shall include but not be limited to provisions for qualified security staffing, alarms, video monitoring, securing cash, controlled customer access, and other similar elements the Director of Planning deems necessary to ensure security of the site.~~

~~2. **Alarm System.** A centrally monitored alarm system shall be installed and maintained in good working order.~~

~~3. **Staffing.**~~

~~a. An on-site supervisor must be present at all times that the Dispensary is in operation.~~

~~b. *Emergency Contact.* The dispensary operator shall provide the Chief of Police and neighbors within 500 feet of the Dispensary with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Dispensary. The Dispensary shall make a good faith effort to encourage members of the public to call this person to try to solve operating problems, if any, before calls or complaints are made to the City.~~

~~_____c._____ Employees of the establishment shall be at least 21 years of age and patients a minimum of 18 years of age.~~

J. **Litter.** Outdoor trash receptacles shall be available near the entrances to and exits from the establishment. The premises shall be continuously maintained in a safe, clean and orderly condition with twice daily litter pick-up within 500 feet of the Medicinal Cannabis Retailerdispensary.

~~K._____ **Required Patron Notification.** Dispensary staff shall notify patrons of the following verbally and through posting of a sign in a conspicuous location readily visible to persons entering the premises:~~

~~_____1._____ Use of medical marijuana shall be limited to the patient identified on the doctor's recommendation. Secondary sale, barter, or distribution of medical marijuana is a crime and can lead to arrest.~~

~~_____2._____ Patrons must immediately leave the site and not consume medical marijuana until at home or in an equivalent private location. Dispensary staff shall monitor the site and vicinity to ensure compliance.~~

~~_____3._____ Forgery of medical documents is a felony crime.~~

~~_____4._____ Entry into the premises by persons under the age of eighteen is prohibited unless they are a qualified patient and accompanied by a parent or legal guardian.~~

~~L._____ **Prohibited Activities.** There shall be no on-site sales or consumption of alcohol or tobacco.~~

JM. **Inspections.** A Medicinal Cannabis Retailer Dispensary owner shall authorize reasonable City inspection of the property by Santa Monica Code

Enforcement and Police staff or other agents or employees of the City to ensure compliance with the conditions of approval imposed by the City in approving this project and will bear the reasonable cost of these inspections as established by the Santa Monica Municipal Code section 2.72.010 and Resolution No. 9905 (CCS) or any successor legislation thereto. These inspections shall be no more intrusive than necessary to ensure compliance with conditions of approval.

KN. Enforcement Cooperation. A Medicinal Cannabis Retailer, and all employees thereof, Dispensary shall use best efforts to assist the police in investigating and prosecuting any violations of this Chapter consistent with constitutional provisions.

(c) Santa Monica Municipal Code Section 9.51.030(C)(5) is hereby amended to read as follows:

Industry, Limited. Establishments engaged in light industrial activities taking place primarily within enclosed buildings and producing minimal impacts on nearby properties. This classification includes the manufacturing of finished parts or products primarily from previously prepared materials; commercial laundries and dry cleaning plants; monument works; printing, engraving, and publishing; sign painting shops; machine and electrical shops; computer and electronic product manufacturing; furniture and related product manufacturing; and industrial services. It also includes the preparation, manufacturing, and/or packaging of food, medicinal cannabis, and medicinal cannabis products for off-site use or consumption using nonvolatile solvents, or no solvents. Typical food manufacturing uses include canners, roasters, breweries, wholesale bakeries, and

frozen food manufacturers.

(d) Santa Monica Municipal Code Section 9.51.030(B)(22)(E) is hereby amended to read as follows:

Medicinal Cannabis Retailer. A licensed premises which is a physical location from which retail medicinal cannabis or medicinal cannabis products are intended to be sold for use, pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation. The premises may be closed to the public; sales may be made exclusively by delivery. ~~**Medical Marijuana Dispensary** Any facility, building, structure, or fixed location where one or more qualified patients and/or persons with identification cards and/or primary caregivers cultivate, distribute, sell, dispense, transmit, process, exchange, give away, or otherwise make available marijuana for medical purposes. The terms "primary caregiver," "qualified patient," and "person with an identification card" shall be as defined in California Health and Safety Code Section 11362.5 et seq.~~

~~i. A Medical Marijuana Dispensary shall not include the following uses, as long as the location of such uses are otherwise regulated by applicable law and as long as any such use complies strictly with applicable law including, but not limited to, California Health and Safety Code Section 11362.5 et seq.:~~

~~(1) A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code.~~

- ~~(2) A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code.~~
- ~~(3) A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code.~~
- ~~(4) A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code.~~
- ~~(5) A residential hospice, or a home health agency licensed pursuant to Chapter 8 of the California Health and Safety Code.~~
- ~~ii. A Medical Marijuana Dispensary shall also not include any dwelling unit where qualified patients or persons with an identification card permanently reside and collectively or cooperatively cultivate marijuana on-site for their own personal medical use and does not include the provision, cultivation, or distribution of medical marijuana at this dwelling unit by primary caregivers for the personal medical use of the qualified patients or persons with an identification card who have designated the individual(s) as a primary caregiver, in accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq.~~

SECTION 2. In accordance with CEQA Guidelines Section 15061(b)(3), this Interim Zoning Ordinance is exempt from CEQA as it can be seen with certainty that the proposed ordinance does not have the potential to significantly

impact the environment. The change in terminology from “Medical Marijuana Dispensary” to “Medicinal Cannabis Retailer” and the additional revisions to the requirements for Medicinal Cannabis Retailers within the City are consistent with recent changes to State law. The modification of the Industry, Light land use definition maintains the allowance of light industrial activities taking place primarily within enclosed buildings and producing minimal impacts on nearby properties.

SECTION 3. Any provision of the Santa Monica Municipal Code or any appendix thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. 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 shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby 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. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective thirty days after its adoption.

SECTION 6. This Ordinance shall be of no further force as of April 20, 2020, unless it is otherwise extended pursuant to Santa Monica Municipal Code Section 9.46.090.

APPROVED AS TO FORM:



LANE DILG
City Attorney