

ORDINANCE O2018-__

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, AMENDING NAPA MUNICIPAL CODE SECTION 17.52.275 TO MODIFY THE DISTANCE SEPARATION STANDARDS FOR MEDICINAL CANNABIS RETAILERS AND SMALL CANNABIS MANUFACTURES FROM YOUTH ORIENTED PROPERTY AND THE VISIBILITY REQUIREMENTS OF CANNABIS-RELATED USES FROM A PUBLIC STREET; AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE ARE EXEMPT FROM CEQA

WHEREAS, on December 19, 2017, the City Council adopted Ordinance No. O2018-19 (the “Ordinance”), as codified in Napa Municipal Code Section 17.52.275, which established regulations relating to medicinal and adult-use cannabis; and

WHEREAS, nearly five months after adoption of the Ordinance, the City has received just two applications to locate medicinal cannabis-related businesses in Napa that meet the separation standards from youth oriented property; and

WHEREAS, on March 6, 2018, the City Council directed staff to update the Ordinance in order to modify: (a) the distance separation standards between medicinal cannabis retailers and youth oriented properties, (b) the standards for measuring distance separation standards when considering impenetrable barriers to pedestrian travel, and (c) the standards for visibility of medicinal cannabis retailers from public rights of way; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff and recommendations by the Planning Commission, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Napa as follows:

SECTION 1: Amendment. Napa Municipal Code Subsection 17.52.275(E)(1)(b) is hereby amended by repealing the previous language in its entirety, and by adopting new language to read as set forth below:

“(b) No medicinal cannabis retailer may be located on a property that is within 600 feet of any youth oriented property.”

SECTION 2: Amendment. Napa Municipal Code Subsection 17.52.275(E)(2)(b) is hereby amended by repealing the previous language in its entirety, and by adopting new language to read as set forth below:

“(b) No small cannabis manufacturers may be located on a property that is within 600feet of any youth oriented property.”

SECTION 3: Amendment. Napa Municipal Code Subsection 17.52.275(E)(3) is hereby amended by repealing the previous language in its entirety, and by adopting new language to read as set forth below:

“3. Exceptions for Distance Separation Standards

(a) The distance separation standards set forth in this section may be reduced only to the extent that the Director determines, based on substantial evidence, that an impenetrable barrier to pedestrian access between the uses exists, so that the separation of the uses is functionally equivalent to the requirements of this section, including but not limited to a highway, watercourse, or similar barrier.

(b) The distance separation standards from youth oriented property set forth in this section shall not apply to any commercial cannabis activity if: (1) at the time the commercial cannabis activity first received a Cannabis Establishment Clearance in accordance with this section, there was no youth oriented property within 600 feet of the property on which the commercial cannabis activity is located, and (2) the commercial cannabis activity has continuously held a valid Cannabis Establishment Clearance (in accordance with subsections (D)(2) through (D)(5)).”

SECTION 4: Amendment. Napa Municipal Code Subsection 17.52.275.F(24) is hereby amended by repealing the previous language in its entirety, and by adopting new language to read as set forth below:

“24. The public entry to the medicinal cannabis retailer must be visible from a public right-of-way.”

SECTION 5: CEQA. The City Council hereby determines that this ordinance is not a project within the meaning of the California Environmental Quality Act (“CEQA,” as codified in the California Public Resources Code Division 13), because it has no potential for resulting in physical change in the environment, directly or ultimately (see CEQA Guidelines Section 15378). In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in California Business and Professions Code Section 26055(h) (adoption of an ordinance that establishes other authorizations to engage in commercial cannabis activity); and it is subject to the CEQA exemption contained in CEQA Guideline Section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment. Finally, in the event that the ordinance is not exempt from CEQA, the potential environmental effects of the ordinance fall within the scope of, and were adequately examined by, the Environmental Impact Report (EIR) for Envision Napa 2020, the City’s General Plan (the “General Plan EIR”), certified on December 1, 1998, pursuant to CEQA Guidelines section 15168. Section 15168(c) states that if the City determines that, pursuant to CEQA

Guidelines section 15162, no new effects could occur and no new mitigation measures would be required due to adoption of the ordinance, then the City can approve the ordinance as being within the scope of the impacts examined in the General Plan EIR. The City has made such a determination based on substantial evidence in the record, and therefore no subsequent environmental review is required.

SECTION 6: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 7: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

City of Napa, a municipal corporation

MAYOR: _____

ATTEST: _____
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA
COUNTY OF NAPA SS:
CITY OF NAPA

I, Dorothy R. Roberts, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the regular meeting of the City Council on the ____ day of _____, 2018, and had its second reading and was adopted and passed during the regular meeting of the City Council on the ____ day of _____, 2018, by the following vote:

ATTACHMENT 1

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Dorothy Roberts
City Clerk

Approved as to Form:

Michael W. Barrett
City Attorney