

ORDINANCE NUMBER 2556 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA
SETTING FORTH REGULATIONS FOR COMMERCIAL MEDICINAL AND
NONMEDICINAL CANNABIS USES

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 medicinal cannabis industry, and this lack of uniform regulation created uncertainty about the legality of

medicinal cannabis activities and endangered the safety of end users, who have not had the benefit of a monitored supply chain for medicinal 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 nonmedicinal 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, contemplated authorizing two medicinal cannabis retailers within the City to serve local needs; and

WHEREAS, the Council, after reviewing public input, further directed staff to consider authorizing light 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, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors, and businesses by developing and implementing strict regulations governing the performance and operating standards for cannabis-related commercial activities; and

WHEREAS, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors, and businesses by selecting the most qualified permittees and licensees for commercial uses related to medicinal cannabis; and

WHEREAS, local regulation of medicinal cannabis activities within the City is necessary to protect the public health, safety, and general welfare of the community, and

is in the interest of qualified patients who obtain, possess, and use marijuana for medicinal purposes; and

WHEREAS, commercial nonmedicinal cannabis uses remain untested within the State of California, have the potential to create serious public health and safety concerns, and have comparably fewer and less significant benefits than medicinal cannabis uses; and

WHEREAS, it is prudent to continue to prohibit commercial nonmedicinal adult cannabis uses while continuing to study the impacts of such uses on local communities.

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

SECTION 1. TITLE, WORDS AND PHRASES

This Ordinance shall be known as the City of Santa Monica Cannabis Ordinance. The terms, phrases, and words used in this Ordinance shall be construed in compliance with the definitions set forth in Section 26001 of the Business and Professions Code.

SECTION 2. Section 6.200 of the City of Santa Monica Municipal Code is hereby added to read as follows:

Chapter 6.200 Commercial Cannabis

6.200.010 Purpose.

Chapters 6.200, 6.201, 6.202, and 6.203 of this Code shall be known as the City of Santa Monica Cannabis Ordinance (hereinafter this "Ordinance"). The City has a

compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors, and businesses by developing and implementing strict performance and operating standards for cannabis-related commercial activities so that only the most qualified operators of such businesses will operate within the City. The purpose of this Ordinance is to effectuate these compelling interests by establishing regulatory requirements for commercial cannabis activities within the City.

6.200.020 Definitions.

For purposes of this Chapter, the following words shall have the following meanings:

(a) "Cannabis" shall have the same meaning as set forth in Business & Professions Code § 26001 as the same may be amended from time to time.

(b) "Cannabis Product" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code as may be amended from time to time.

(c) "Commercial Cannabis Activity" shall have the same meaning as that set forth in Business & Professions Code § 26001 as the same may be amended from time to time.

(d) "Cultivation" shall have the same meaning as set forth in Business & Professions Code § 26001 as the same may be amended from time to time.

(e) "Delivery" shall have the same meaning as set forth in Business & Professions Code § 26001 as the same may be amended from time to time.

(f) "Director" shall mean the Director of Planning and Community Development or his or her designee.

(g) "Manufacture" shall have the same meaning as set forth in Business & Professions Code § 26001 as the same may be amended from time to time.

(h) "Manufacturer" shall have the same meaning as set forth in Business & Professions Code § 26001 as the same may be amended from time to time.

(i) "Medicinal Cannabis," "Medicinal Cannabis Product," and "Cannabis Product" shall have the same meanings as set forth in Business & Professions Code § 26001 as the same may be amended from time to time.

(j) "Permitee" means a person who has been issued a permit under this Chapter.

(k) "Retailer" shall have the same meaning as set forth in Business & Professions Code § 26070 as the same may be amended from time to time.

6.200.030 Administrative Regulations.

(a) The Director may adopt administrative regulations that are consistent with the purposes of this Chapter, to implement the provisions of this Ordinance, including, but not limited to, the timely exercise of rights granted by this Ordinance, the safe and lawful conduct of all commercial cannabis activities, permit application procedures, and permit standards.

(b) No person shall fail to comply with the City's administrative regulations. Any violation of any administrative regulation issued pursuant to this Section shall constitute a violation of this Code and shall subject the violator to the penalties set forth in this Chapter.

6.200.040 Conditions imposed on permit.

(a) The City may impose conditions, as part of any permit issued pursuant to this Ordinance, if the conditions are reasonably necessary to effectuate the purposes of this Ordinance, protect the peace and tranquility of any residential area, mitigate traffic impacts, protect other uses in the area, or protect the health, welfare, and safety of the public.

(b) A permittee shall comply with all conditions that are imposed as part of the permit pursuant to subsection (a) of this Section.

(c) Any violation of any permit condition shall constitute a violation of this Code and shall subject the violator to the penalties set forth in this Chapter.

6.200.060 Insurance requirements.

(a) Before a permit is issued pursuant to this Ordinance, the applicant shall furnish, and maintain at all times while the permit is in effect, public liability insurance in amounts as determined by the City's Risk Manager and name the City of Santa Monica as additional insured.

(b) The insurance policy shall be endorsed to state that coverage shall not be cancelled except after thirty days prior written notice by certified mail has been given to the City.

(c) If any insurance policy issued to a permittee is cancelled for any reason, the permit issued under this Ordinance is automatically suspended. In order to reinstate the permit, the permittee shall provide a new certificate and policy of insurance to the City.

(d) A permittee shall maintain in force and effect at all times while the permit is in effect Workers' Compensation insurance as required by law.

6.200.070 Conformance with applicable laws.

All permittees shall operate in full compliance with all applicable State laws. Nothing in this Ordinance is intended to authorize the operation of any commercial cannabis activity in a manner contrary to applicable State laws.

6.200.080 Enforcement.

(a) Any person who violates any provision of this Ordinance shall be guilty of an infraction, which shall be punishable by a fine not exceeding \$250.00, or a misdemeanor, which shall be punishable by a fine not exceeding \$500.00 per violation or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment. Violation of any provision of this Ordinance shall be considered strict liability; accordingly, the prosecution shall not be required to prove criminal intent or that the violator meant to violate any provision of this Ordinance.

(b) Any person who violates any provision of this Ordinance shall be subject to administrative fines and administrative penalties pursuant to Chapter 1.09 and Chapter 1.10 of this Code.

(c) Any person convicted of violating this Ordinance in a criminal case, or found to be in violation of this Ordinance in a civil or administrative case brought by a law enforcement agency, shall be ordered to reimburse the City and other participating law enforcement agencies their full investigative costs.

(d) Any commercial cannabis activity conducted or maintained contrary to this Ordinance may be, and the same is hereby declared to be, unlawful as defined in Section 1.08.010 of this Code and a public nuisance as defined in this Code and in Penal Code Section 373a. The City may, in addition to, or in lieu of, prosecuting a criminal action hereunder, pursue any available civil remedy, including, but not limited to an action or proceeding for the abatement, removal, and enjoinder of the operation of the commercial cannabis activity and for reimbursement of the costs of such abatement, removal and enjoinder.

6.200.090 Grounds for revocation, suspension or denial.

(a) Any permit authorized pursuant to this Ordinance may be revoked, suspended, or denied by the Director based upon any of the following grounds:

- (1) Making one or more false or misleading statements, or material omissions on the permit application or during the application process;
- (2) Failing to provide information requested or required by the City;
- (3) Any condition set forth in California Business and Professions Code Section 26057;
- (4) Multiple violations of any conditions of a permit issued pursuant to this Ordinance;
- (5) Repeated failure to comply with applicable laws or regulations;
- (6) Operating or proposing to operate in a manner that endangers the health, safety or welfare of the community.

SECTION 3. Chapter 6.201 of the City of Santa Monica Municipal Code is hereby added to read as follows:

Chapter 6.201 Medicinal Cannabis Retailer

6.201.010 Permit required.

(a) The City Council finds that Medicinal Cannabis Retailing requires specific regulation, in order to maintain the public health, safety and welfare. No person shall operate, or cause to be operated, a commercial Medicinal Cannabis Retail use without having first obtained a Medicinal Cannabis Retailer permit and a business license from the City.

(b) In accordance with the City's Zoning Ordinance, the City may, in its discretion, award no more than two active permits for the operation of Medicinal Cannabis Retail uses within the City.

(b) The permit(s) shall be awarded through a competitive process initiated through a request for applications issued by the City. Permit applications shall be evaluated based upon objective criteria including: experience; financial wherewithal and stability; insurance; familiarity and capability of operating in the City of Santa Monica; proposed community benefits; relevant record of the applicant or owner's violations of Federal, State or local law, or rules and regulations of local jurisdictions; and any other objective criteria established by administrative regulation.

6.201.020 Permit application requirements.

(a) All permit applications shall be completed on a form designated by the City, and signed by the applicant under penalty of perjury.

(b) Renewal applications shall be filed a minimum of thirty days prior to the expiration of any existing permit.

(c) All applicants shall provide the following information with their applications:

(1) The names, residence and business addresses of all officers, persons and entities having any share of ownership of the applicant or the proposed operation, including but not limited to ownership interest in the overall operation, inventory, equipment or real estate.

(2) The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity.

(3) Names and address of any or all persons responsible for the activities of the retailer, including principals, officers, directors, managers and employees.

(4) Copies of articles of organization or incorporation.

(5) Detailed financial information, including information on existing and proposed loans to the applicant for the proposed operation and the names and contact information for the lenders.

(6) A description of the proposed plan of operation, including the proposed business plan, a detailed description of the business's regulatory compliance program, and intent to operate as non-profit or for-profit business.

(7) A detailed description of any plans for on-site cultivation, including a detailed description of chemical and water use.

(8) A detailed description of any community benefits created by the proposed operation.

(9) If known, the name and address of the owner and owner's representative of the real property upon which the retail establishment will be located. If no lease has been signed, a list of the names and addresses of any owner and owner representatives for properties related to which bona fide leasing discussions have begun.

(10) Authorization to conduct background checks on all individuals associated with the operation of the retailer, including but not limited to all principals, officers, directors, managers and employees.

(11) Names, addresses, and complete licensing information for all current and anticipated suppliers of cannabis products proposed to be sold.

(12) Names, addresses, and complete licensing information for all current and anticipated cannabis testing facilities to be used.

(13) A listing of all other cannabis-related business locations owned or operated by the applicant, including any person with any financial interest in any such cannabis-related operation, along with copies of any operating permits for all locations.

(14) Any other requirements set forth by administrative regulation.

6.201.030 Permit application selection

(a) Each Medicinal Cannabis Retailer permit application shall first be examined by the Director to determine if the applicant is qualified. An applicant is qualified if the application meets all standards set forth in this Ordinance and administrative regulations, and is not subject to denial pursuant to Section 6.200.090 of this Code.

(b) The Director shall establish a committee to evaluate and provide to the Director recommendations and a ranking of all qualified applicants based on established objective criteria set forth by this Ordinance and administrative regulation, including background checks completed by the Police Department.

(c) The Director shall review de novo the committee's recommendations, along with any other information the Director deems relevant, and establish the final rankings of the qualified applicants. The Director may request additional information from either the committee, the Police Department, any applicant, or any other source that would assist in determining the final rankings.

(d) The highest-ranked applicant(s), corresponding to the number of positions available, shall be awarded with a Preliminary Selection Letter, stating the City's intent to issue a Medicinal Cannabis Retail permit, subject to the applicant complying with all other permit conditions and requirements. The Preliminary Selection Letter shall not guarantee final issuance of a permit, and the Letter shall expire if not timely exercised. If there is a tie in the rankings, a lottery shall be used to establish the final rankings for any applicants that achieved the same score. If an applicant who is issued a Preliminary Selection Letter

is disqualified or withdraws prior to the expiration of the ranking, the next applicant on the ranking may be issued a Preliminary Selection Letter.

(e) Any applicant in receipt of a Preliminary Selection Letter may proceed to seek all other permits and approvals, including the City's land-use approvals, the City's Medicinal Cannabis Regulatory Permit pursuant to this Ordinance, and a City Business License.

(f) Any applicant may appeal the Director's qualification or ranking determination, with respect to that applicant, to a Hearing Examiner for consideration pursuant to the procedures set forth in Chapter 6.16 of this Code.

(1) The Hearing Examiner shall review the Director's qualification determination de novo and shall render a final decision regarding qualification.

(2) The Hearing Examiner shall review the Director's ranking decisions based on an abuse of discretion standard. The Hearing Examiner shall affirm the Director's ranking decisions if he or she finds, based on a preponderance of the evidence, that the City conducted the ranking process in compliance with all applicable laws and that the Director did not act in an arbitrary or capricious manner. If otherwise, the Hearing Officers shall remand the matter back to the Director so that a new ranking process can be completed.

(g) Any final ranking results shall expire after 12 months. The Director may extend any final ranking result by up to 12 months, if the Director finds that the extension is appropriate given the City's progress in permit processing. Upon expiration of the ranking results or the lack of qualified applicants, the City may re-initiate the ranking process set forth in this Chapter.

6.201.040 Regulatory Permit

(a) The City shall issue a Medicinal Cannabis Retailer Regulatory Permit to any applicant who:

- 1) is in possession of a valid Preliminary Selection Letter and remains in substantial compliance with the original proposal;
- 2) has obtained all applicable City land-use approvals;
- 3) has a valid medicinal marijuana retailer license from the State of California;
- 4) has paid all required fees;
- 5) meets all applicable standards set forth in this Code, administrative regulations and any other applicable laws; and
- 6) whose application is not subject to denial pursuant to Section 6.200.090 of this Code or any other applicable laws or regulations.

(b) The Medicinal Cannabis Retailer Regulatory Permit shall expire if it is not timely exercised.

SECTION 4. Section 6.202 of the City of Santa Monica Municipal Code is hereby added to read as follows:

Chapter 6.202 Medicinal Cannabis Light Manufacturer

6.202.010 Permit required.

The City Council finds that Medicinal Cannabis Manufacturing requires specific regulation, in order to maintain the public health, safety and welfare. No person shall operate, or cause to be operated, a commercial medicinal cannabis manufacturing use

without having first obtained a Medicinal Cannabis Light Manufacturer permit and business license from the City.

6.202.020 Permit application requirements.

(a) All permit applications shall be completed on a form designated by the City, and signed by the applicant under penalty of perjury.

(b) Renewal applications shall be filed a minimum of thirty days prior to the expiration of any existing permit.

(c) All applicants shall provide the following information with their applications:

(1) The names, residence and business addresses of all officers, persons and entities having any share of ownership of the applicant or the proposed operation, including but not limited to ownership interest in the overall operation, inventory, equipment or real estate.

(2) The names and addresses of any parent or subsidiary of the applicant, namely, any other business entity owning or controlling the applicant in whole or in part, or owned or controlled in whole or in part by the applicant, and a statement describing the nature of any such parent or subsidiary business entity.

(3) Names and address of any or all persons responsible for the activities of the manufacturer, including principals, officers, directors, managers and employees.

(4) Copies of articles of organization or incorporation.

(5) A copy of the applicant's application to the State for the proposed manufacturing operation.

(6) Authorization to conduct background checks on all individuals associated with the business, including but not limited to including principals, officers, directors, managers and employees.

(7) Any other information required by administrative regulation.

6.202.030 Regulatory Permit

The City shall issue a Medicinal Cannabis Light Manufacturer Regulatory Permit to any applicant who

- 1) has a valid medicinal marijuana manufacturing license from the State of California;
- 2) has obtained all City land-use approvals authorizing the commercial Medicinal Cannabis Light Manufacturing use;
- 3) has paid all required fees;
- 4) meets all applicable standards set forth in this Code, administrative regulations and any other applicable laws; and
- 5) whose application is not subject to denial pursuant to Section 6.200.090 of this Code or any other applicable laws or regulations.

SECTION 5. Chapter 6.203 of the City of Santa Monica Municipal Code is hereby added to read as follows:

Chapter 6.203 Commercial Nonmedicinal Cannabis Uses

6.203.010 Commercial Nonmedicinal Uses Prohibited.

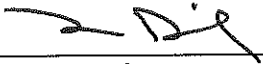
It shall be unlawful to undertake, establish, operate, maintain, or permit any Commercial Nonmedicinal Cannabis use in the City. No use permit, business license, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued. The possession of a state license for Commercial Nonmedicinal Cannabis use shall not be sufficient to authorize the operation of such a use within the City.

SECTION 6. Any provision of the City of Santa Monica Municipal Code or appendices thereto, inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, are hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 7. 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 any 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 8. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause this Ordinance, or a summary thereof to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective thirty (30) days from the second reading of the ordinance.

APPROVED AS TO FORM:



LANE DILG
City Attorney

Approved and adopted this 24th day of October, 2017.



Ted Winterer, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)


I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2556 (CCS) had its introduction on October 10, 2017, and was adopted at the Santa Monica City Council meeting held on October 24, 2017, by the following vote:

AYES: Councilmembers Himmelrich, McKeown, O'Connor, O'Day, Vazquez, Mayor Pro Tem Davis, Mayor Winterer

NOES: None

ABSENT: None

ATTEST:



Denise Anderson-Warren, City Clerk

11/7/17
Date

A summary of Ordinance No. 2556 (CCS) was duly published pursuant to California Government Code Section 40806.