

**CITY OF OJAI**  
**ORDINANCE NO. 884**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF OJAI, CALIFORNIA AMENDING CHAPTER 26 OF  
TITLE 4 OF THE OJAI MUNICIPAL CODE REGULATING  
THE USE AND CULTIVATION OF CANNABIS TO  
PERMIT AND REGULATE CANNABIS TESTING  
LABORATORIES**

WHEREAS, California voters approved Proposition 215 (Health and Safety Code Section 11362.5), entitled the Compassionate Use Act (CUA), in 1996, which exempts patients and their primary caregivers from criminal prosecution or sanctions under H&S Code Sections 11357 and 11358 for qualified use and cultivation of medical cannabis; and

WHEREAS, the California Legislature passed Senate Bill 420 (H&S Code Sections 11362.7 et seq.) in 2003 to create the Medical Marijuana Program (MMPA), which established a voluntary program for the issuance of medical cannabis identification cards for qualified patients, set limits on the amount of cannabis any individual could possess, and provided an exemption from state criminal liability for persons “who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes”; and

WHEREAS, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) was passed by California voters on November 8, 2016, as Proposition 64; and

WHEREAS, many of the AUMA’s provisions took effect on November 9, 2016; and

WHEREAS, among other effects, the AUMA authorizes the recreational use of cannabis by persons aged 21 years or older, and regulates personal and commercial activities related to recreational cannabis use; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 creating a single regulatory mechanism for both medical and adult-use cannabis — the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA). Under MAUCRSA, local governments retain broad authority over most cannabis activity and businesses; and

WHEREAS, the AUMA authorizes the City to regulate the establishment or operation of cannabis businesses within its limits, including such businesses eligible for state licenses; and

WHEREAS, allowing and regulating the establishment of cannabis testing laboratories within the City is necessary to protect the health, safety and welfare of the community.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Findings.** The City Council hereby determines that the foregoing findings are true and correct, and incorporates them herein by reference.

**SECTION 2. Code Amendment.** Chapter 26 of Title 4 of the Ojai Municipal Code is amended to read in its entirety as follows. . Additions are denoted by underlined text and deletions are denoted by struck-through text.

**Chapter 26 CANNABIS USE AND CULTIVATION**

**Section 4-26.01. Definitions.**

- (a) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (b) "Delivery" means the commercial transfer of cannabis or cannabinoid preparations to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer or independently licensed under California law that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabinoid preparations.
- (c) "Cannabis" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" does not include:
- (1) Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
  - (2) The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other products.
- (d) "Cannabinoid preparations" 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.
- (e) "Medical use" of cannabis or cannabinoid preparations means the use permitted by the Compassionate Use Act (California Health & Safety Code, § 11362.5) and the Medical Marijuana Program Act (California Health & Safety Code, § 11362.7 et seq.).
- (f) "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (g) "Primary Caregiver" is defined as that term is defined in California Health and Safety Code section 11362.7, subdivision (d).
- (h) "Qualified Patient" means a seriously ill person who obtains a written recommendation from a physician licensed to practice medicine in the State of California to use

cannabis for personal medical purposes. In addition, persons currently under the care of a physician for a "serious medical condition" as that term is defined in California Health and Safety Code section 11362.7, subdivision (h) are presumed to be "qualified patients."

(i) "Recreational use" of cannabis or cannabinoid preparations means the use permitted by Section 11362.1 of the California Health & Safety Code.

(j) Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified.

**Section 4-26.02. Smoking or Consumption of Cannabis Prohibited in Public Places.**

Within the City's limits, no person may smoke or ingest cannabis or cannabinoid preparations in any public place or in any location where smoking tobacco is prohibited.

**Section 4-26.03. Prohibited Cannabis Activities.**

(a) Except as specifically allowed by Section 4-26.04 and Section 4-26.06 of this code and applicable state law, all cannabis activity, cultivation, and businesses shall be prohibited within the City of Ojai, regardless of any licenses issued under state law. This prohibition shall not prevent indoor cultivation of cannabis for personal use by a person over 21 years of age, conducted in accord with applicable state law and inside a private residence or inside an accessory structure to a private residence located upon the grounds of the private residence.

(b) Outdoor Cultivation Prohibited. No person may cultivate cannabis outdoors in any zoning district of the City. No conditional use permit, building permit, variance, or any other permit or entitlement, whether ministerial or discretionary, shall be approved or issued for any such use or activity.

**Section 4-26.04. Deliveries and Dispensaries.**

(a) To the extent such a prohibition is permitted under California law, delivery of cannabis or cannabinoid preparations within the City for recreational use is prohibited, regardless of any license or other authorization a person may have to engage in any commercial activity related to recreational cannabis outside of the City.

(b) A person may deliver cannabis or cannabinoid preparations within the City for medical use if he or she first obtains a license from the City to do so. The City Manager or his or her designee shall issue applications and processing guidelines for the City medical cannabis delivery license. No such license shall be issued prior to the release of these guidelines, and no license shall be granted that has not complied fully with the application and processing requirements.

(c) A person may operate a medical cannabis appointment-only dispensary if the person obtains a license from the City for such facility. The City Manager or his or her designee shall issue applications and processing guidelines for the City medical cannabis business license. No such license shall be issued prior to the release of these guidelines, and no license shall be granted that has not complied fully with the application and processing requirements. The business in question must operate as a medical cannabis delivery service and/or appointment-only medical dispensary service, providing cannabis to qualified patients and their primary caregivers. The business in question may not engage in any commercial activities related to recreational cannabis within the City's limits. This is intended as a temporary measure, notwithstanding any other

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provision of the Ojai Municipal Code, to ensure the City's residents have safe and reliable access to medical cannabis while the City Council considers a more permanent cannabis policy. This section creates no vested right to engage in any such activity or business.

**Section 4-26.05. Violations.**

(a) Every act prohibited or declared unlawful by this Chapter, and every failure to perform an act made mandatory by this Chapter, shall be punishable as a misdemeanor or an infraction at the discretion of the City Attorney or the District Attorney, in accord with Ojai Municipal Code section 1-2.03. In addition, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a public nuisance subject to abatement as provided in this Code or under California law.

(b) No conduct which is protected from criminal liability under state law shall be made criminal by this code. Conduct or uses which violate the requirements of this chapter are hereby declared to be a public nuisance, and shall be subject to non-criminal remedies, including, but not limited to, administrative citations and abatement.

**Section 4-26.06. Cannabis Testing Laboratories.**

(a) A person may operate a cannabis testing laboratory only if the person obtains a valid cannabis testing laboratory license from the City and obtains a valid cannabis Type 8 Testing Laboratory license from the state. The City Manager or his or her designee shall issue applications and operating regulations for the City cannabis testing laboratory license. No such license shall be issued prior to the release of these regulations, and no license shall be granted that has not complied fully with the application and operating regulations.

(b) A cannabis testing laboratory permittee shall only test cannabis in a fully enclosed building with adequate ventilation as determined necessary by the Building Official. A cannabis testing laboratory permittee shall not allow cannabis or cannabis products on the laboratory site to be visible from the public right of way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby and shall display its current valid cannabis testing laboratory permit issued in accordance with this article inside the lobby or waiting area of the main entrance to the laboratory site. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the lobby of the laboratory site. Cannabis testing laboratories shall have not have any signage indicating the nature of their operations, except as may be required by applicable law.

(c) No cannabis testing laboratory licensee shall open their laboratory site to the public and no cannabis testing laboratory permittee shall allow anyone on the laboratory site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, including contractors, inspectors, and cannabis transporters.

(d) No person shall conduct any retail sales of any good or services on or from a permitted cannabis testing laboratory site. As required by state law, including Business and Professions Code section 26053, subdivision (b), the owners and operators of a cannabis testing laboratory are prohibited from owning or operating any other cannabis business or entity, except another cannabis testing laboratory, and are prohibited from possessing any other state or local cannabis license, except for another cannabis testing laboratory license.

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(e) No person shall smoke, ingest, or otherwise consume cannabis in any form on or within the laboratory site or possess, consume, or store any alcoholic beverage on the laboratory site.

(f) Cannabis testing laboratories must comply with the City of Ojai's operating regulations, as adopted by the City Manager, all other applicable local laws, and all applicable state laws and regulations.

**Sec. 4-26.07 Permit Fees.**

(a) The City Council shall, by resolution, establish a schedule of fees for cannabis license applications, amendments, inspections, renewals and other matters pertaining to this chapter. The schedule of fees may be changed or modified by resolution of the City Council. None of the above fees shall be prorated, or refunded in the event of a denial, suspension or revocation of the permit. Failure to pay the applicable fees is grounds for denial of an application.

**SECTION 3. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

**SECTION 4. Environmental Determination.** The City Council determines that the following findings reflect the independent judgment of the City Council. The City Council finds that this amendment to the Municipal Code is exempt from California Environmental Quality Act (CEQA). The City Council has considered all of the evidence in the record, including the staff reports, the testimony received during the public hearing on the matter held by the City Council, and hereby determines that that the text amendments will not have a significant effect on the environment. This Ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061 (b)(3) of the California Code of Regulations.


**SECTION 5. Certification.** The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

**SECTION 6. Effective Date.** This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937.

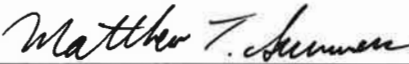
CITY OF OJAI, CALIFORNIA

By   
John F. Johnston, Mayor

ATTEST:

  
Gail Davis, Deputy City Clerk


APPROVED AS TO FORM:

  
Matthew T. Summers, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF VENTURA )  
CITY OF OJAI )

I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on May 8, 2018 and adopted at a regular meeting held on May 22, 2018 by the following vote:

AYES: Blatz, Francina, Haney, Johnston, Weirick  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
Gail Davis  
Deputy City Clerk for the City of Ojai