

**CITY OF OJAI**  
**ORDINANCE NO. 886**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF OJAI, CALIFORNIA AMENDING SECTIONS 4-26.01  
("DEFINITIONS") AND 4-26.04 ("DELIVERIES AND  
DISPENSARIES") OF TITLE 4, CHAPTER 26 ("CANNABIS  
USE AND CULTIVATION") OF THE OJAI MUNICIPAL  
CODE REGULATING  
THE USE AND CULTIVATION OF CANNABIS AND  
ALLOWING COMMERCIAL ADULT-USE CANNABIS  
DISPENSARIES UNDER RULES AND REGULATIONS TO  
BE PROMULGATED BY THE CITY MANAGER**

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 adult use of cannabis by persons aged 21 years or older, and regulates personal and commercial activities related to adult 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

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WHEREAS, AUMA and MAUCRSA make it lawful for persons 21 years of age or older to cultivate not more than six (6) cannabis plants inside a private residence or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure; and

WHEREAS, the AUMA authorizes the City to “reasonably regulate,” but not “completely prohibit,” cultivation of cannabis “inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure”; and

WHEREAS, the AUMA authorizes the City to completely prohibit outdoor cultivation of cannabis on the grounds of a private residence, unless there is “a determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law” and to date, the Attorney General has not made that declaration; and

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

WHEREAS, absent appropriate local regulation authorized by the AUMA, state regulations will control;

WHEREAS, the California Supreme Court has held that cities have the authority to regulate or completely ban medical cannabis land uses (*City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729); and

WHEREAS, regulating the cultivation, use, and delivery of cannabis within the City is necessary to protect the health, safety and welfare of the community, and to prevent adverse impacts that such activities may have on nearby properties and residents while ensuring qualified patients and primary caregivers have access to medical cannabis.

**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.** Section 4-26.01 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.

**Sec. 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) "Cannabis, adult-use" means cannabis or cannabis products intended to be sold for use by adults 21 years of age and over who do not possess physician's recommendation for the use of cannabis issued in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code: § 11362.5).

(e) "Cannabis accessories" is defined as that term is defined in California Health and Safety Code section 11018.2

(f)(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.

(g)(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.).

(h)(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.

(i)(g) "Primary Caregiver" is defined as that term is defined in California Health and Safety Code section 11362.7, subdivision (d).

(j)(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."

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

(1)(f) 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 3. Code Amendment.** Section 4-26.04 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.

**Sec. 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 adult~~ use is prohibited absent a City-issued commercial adult-use cannabis delivery license, regardless of any license or other authorization a person may have to engage in any commercial activity related to adult use ~~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 and operating and security regulations 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 adult use~~ cannabis within the City's limits, unless the licensee also obtains a City license to operate a commercial adult-use cannabis dispensary. This is intended as a temporary measure, notwithstanding any other 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.

(d) A person may operate a commercial adult-use cannabis dispensary or delivery service 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 commercial adult-use 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 only as a commercial adult-use dispensary and/or delivery service for off-site consumption, without any on-site cannabis use or consumption. The business in question shall only sell cannabis and cannabis accessories to persons who are 21 years of age or older, and who are in possession of a valid government-issued identification card proving their age. The commercial adult-use cannabis dispensary shall not allow cannabis, cannabis products, or cannabis accessories on the dispensary site to be visible from the public

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right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby. A commercial adult-use cannabis dispensary or delivery service shall display at all times during business hours, its current valid commercial adult-use dispensary and/or delivery service City and state issued licenses in a conspicuous place so that they may be readily seen by all persons entering the business. All commercial adult-use cannabis dispensaries and/or delivery services shall comply with operating and security regulations issued by the City Manager or his or her designee. Only three licenses for commercial adult-use cannabis dispensary and/or delivery services shall be issued. The City Manager shall only issue initial commercial adult-use cannabis dispensary and/or delivery service licenses to existing lawfully operating City and state licensed medical cannabis dispensaries and/or delivery services. This is intended as a temporary measure, notwithstanding any other provision of the Ojai Municipal Code, to ensure the City's residents have safe and reliable access to commercial adult-use 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.

(e) All cannabis deliveries and dispensaries, whether medical, adult-use, or both, must comply with the City of Ojai's application, operating, and security regulations, as adopted by the City Manager, all other applicable local laws, and all applicable state laws and regulations.

(f) A City licensee shall operate as either a medical cannabis delivery and/or dispensary service or a medical and adult use cannabis delivery and/or dispensary service, if the licensee obtains all required state and City licenses. A commercial adult use cannabis delivery and/or dispensary service alone, without also providing medical cannabis, is prohibited.

**SECTION 4. 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 5. 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 6. 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



