

ORDINANCE NO. 1272

AN ORDINANCE AMENDING TITLE 16 OF THE SANTA PAULA MUNICIPAL CODE PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITIES AND CANNABIS CULTIVATION IN ALL ZONES IN THE CITY AND IMPOSING REASONABLE REGULATIONS AND A PERMIT REQUIREMENT ON THE INDOOR PERSONAL CULTIVATION OF UP TO SIX CANNABIS PLANTS THAT IS AUTHORIZED UNDER STATE LAW

The Council of the City of Santa Paula does ordain as follows:

SECTION 1: Chapter 16.79 of Title XVI of the Santa Paula Municipal Code is amended in its entirety to read as follows:

16.79 - Regulation of Cannabis Activities

- 16.79.010 Purpose
- 16.79.020 Definitions
- 16.79.030 Prohibition
- 16.79.040 Personal Cultivation
- 16.79.050 Violations
- 16.79.060 Administrative Regulations
- 16.79.070 Public Nuisance

16.79.010 Purpose

The purpose of this Chapter is to expressly prohibit the establishment of commercial cannabis uses in the City. The City Council finds that prohibitions on commercial cannabis activity are necessary for the preservation and protection of the public health, safety and welfare of the City. The prohibition of such uses is within the authority conferred upon the City Council by state law and is an exercise of its police powers to enact and enforce regulations for the public health, safety and welfare of the City. This Chapter is also intended to and to apply reasonable regulations to the personal cultivation of cannabis that is authorized under state law. Nothing in this chapter shall be interpreted to conflict with state law, including without limitation the Compassionate Use Act, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as may be amended.

16.79.020 Definitions

For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. "Cannabis," or "Marijuana," shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, Manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin. "Cannabis" or "Marijuana" also

means the separated resin, whether crude or purified, obtained from Cannabis. "Cannabis" or "Marijuana" also includes cannabis that is used for medical, non-medical, or other purposes. "Cannabis" or "Marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, Manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or case, or the sterilized seed of the plant which is incapable of germination. "Cannabis" or "Marijuana" also does not include industrial hemp, as defined in California have the same definition as Health and Safety Code section 11018.5.

- B. "Cannabis/Marijuana Accessories" means any equipment, products or materials of any kind which is intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, Manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing Cannabis, or for ingesting, inhaling, or otherwise introducing Cannabis or Cannabis Products into the human body.
- C. "Cannabis/Marijuana Product" 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.
- D. "Cannabis Testing Laboratory" means a laboratory, facility, or entity that offers or performs tests of both adult use and medical cannabis or cannabis products and that is both of the following: (1) accredited by an accrediting body (i.e. International Organization for Standardization (ISO)) that is independent from all other persons involved in commercial cannabis activity in the state, and (2) is licensed by the Bureau of Cannabis Control.
- E. "Commercial Cannabis Activity" means cultivation, manufacture, processing, storing, labeling, transporting, distribution, delivery or sale of cannabis or a cannabis product for medical, non-medical, or any other purpose and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses. This definition includes operation of a dispensary, mobile marijuana dispensary and cannabis delivery activities. This definition does not include Cannabis Testing Laboratories.
- F. "Concentrated Cannabis" means Manufactured Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. "Concentrate" includes resin from granular trichomes from a Cannabis plant.
- G. "Cultivation of cannabis" or "cannabis cultivation" means any activity involving

the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

- H. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer. The term "delivery" does not include the distribution of cannabis from a mobile marijuana dispensary.
- I. "Dispensary" means a facility where Cannabis, Cannabis products, or devices for the use of Cannabis or Cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that Delivers Cannabis and Cannabis products as part of a retail sale.
- J. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed under Division 10 of the California Business and Professions Code, as they may be amended from time to time.
- K. "Fully-Enclosed Accessory Structure" means a structure or part of a structure not exceeding 12 feet in height, which is physically detached from the main building on the lot and the use of which is incidental to that of the main building or use on the same lot. A structure that is incorporated within the continuous roofline of the primary structure is part of the primary structure and is therefore exempt from this definition.
- L. "Manufacture Cannabis" means to compound, blend, extract, infuse, or otherwise prepare a Cannabis Product.
- M. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the Business and Professions Code, as the same may be amended from time to time.
- N. "Mobile Marijuana Dispensaries" means any Dispensary, clinic, cooperative, association, club, business, or group which transports or Delivers, or arranges the transportation or Delivery, of Medical Cannabis to a Person or conducts sales of cannabis from a non-fixed location.
- O. "Person" means any individual, firm, corporation, association, club, society, or other organization. The term Person shall include any owner, manager, proprietor, employee, volunteer or salesperson.
- P. "Personal Cannabis Cultivation" means Cannabis Cultivation of six or fewer live Cannabis plants within a single private residence or a fully-enclosed accessory structure that is accessory to a private residence in accordance with Health & Safety Code § 11362.2.
- Q. "Private Residence" means a house, an apartment unit, condominium, or other similar dwelling that is lawfully used as a residence.

16.79.030 Prohibition

- A. Commercial cannabis activities of all types are expressly prohibited in all zones in the City. No person shall establish, operate, conduct, or allow, a commercial cannabis activity anywhere in the City. To the extent that this prohibition conflicts with any other provision of this code, this prohibition shall control.
- B. Mobile marijuana dispensaries are prohibited in all zones within the City. No person shall:
 - 1. Locate, operate, own, suffer, allow to be operated or abide, abet or assist in the operation of any mobile marijuana dispensary within the City;
 - 2. Deliver marijuana to any location within the City from a mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any operation for this purpose; or
 - 3. Deliver any cannabis product, including, but not limited to tinctures, baked goods, or other consumable products, to any location within the City from a mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any operation for this purpose.
- C. This section is meant to prohibit all activities for which a State license is required. Accordingly, the City shall not issue any permit, license, or other entitlement for any activity for which a State license is required under the MAUCRSA. The city shall also not issue any local license for any activity for which a state license is required under the MAUCRSA to a non-profit entity pursuant to California Business and Professions Code section 26070.5.
- D. To the extent not already prohibited above, all deliveries of cannabis or cannabis products, to or from any location in the City are expressly prohibited. No person shall conduct or perform any delivery of any cannabis or cannabis products which delivery either originates or terminates within the City. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the City for delivery or distribution to a person located outside the City, where such transport does not involve delivery or distribution within the jurisdictional limits of the City.
- E. To the extent not already prohibited above, Cultivation of cannabis for non-commercial purposes, including cultivation by a qualified patient or primary caregiver as those terms are defined in state law, is expressly prohibited in all zones in the City. No person shall cultivate any amount of cannabis in the City, even for medicinal purposes, except for Personal Cannabis Cultivation in accordance with Section 16.79.040 below, and where the City is preempted by federal or state law from enacting a prohibition on such activity.

- F. This section does not prohibit Cannabis Testing Laboratories, which are Laboratories and permitted in all zones where Laboratories are permitted.

16.79.040 Personal Cannabis Cultivation Permit

- A. Permit Required. Prior to commencing any Personal Cannabis Cultivation, the Person(s) owning, leasing, renting, occupying, or having charge or possession of any legal parcel or premises where Personal Cannabis Cultivation is proposed to occur must register for a Personal Cannabis Cultivation permit with the city. No Person shall engage in Personal Marijuana Cultivation unless that Person has a current valid Personal Cannabis Cultivation permit from the city, pursuant to this chapter.
- B. Personal Cannabis Cultivation Application. An applicant shall submit a complete Personal Cannabis Cultivation application to the Director on a form provided by the city, and prove of payment of the permit fee, in an amount set by resolution of the city council. Within 30 calendar days of receiving the application, the Director shall either accept the application for processing, or return the application to the applicant with a written description of the reasons for rejection of the application. The Cultivation application shall include the following information:
1. The property address where the Cannabis will be cultivated;
 2. The name and age of each Person owning, leasing, occupying or having charge of any legal parcel or premises where Cannabis will be cultivated;
 3. The name and age of each Person who will participate in the Cannabis Cultivation;
 4. Property owner acknowledgement of Personal Cannabis Cultivation at the subject property, affirmed under penalty of perjury, if the Property Owner is different from the Applicant;
 5. A Cultivation plan which includes a scaled property site plan and a scaled diagram of the floor plan within the residence or Fully-Enclosed Accessory Structure to be used for Personal Cultivation at the Personal Cannabis Cultivation Site, and an itemized list of measures taken to comply with the provisions of this Section including, but not limited to, odor control, security, electrical and building and safety provisions, as well as any Cannabis Accessories that will be used for Personal Cannabis Cultivation; and
 6. A signed consent form authorizing City staff, including the Fire and Police Department, the authority to conduct an inspection of the site used for the personal cultivation of cannabis, upon twenty-four (24)

hours' notice for the purpose of verifying compliance with this Chapter.

- C. **Application Approval.** Upon verification of the information described in Subsection B, above, the Director shall issue a notice of decision of a Personal Marijuana Cultivation permit within 60 calendar days, pursuant to the following findings:
1. The applicant meets all the requirements of this Section, and any regulations promulgated under this Chapter.
 2. The applicant for the permit and the Personal Cannabis Cultivation Site are both in compliance with state law, including but not limited to, Health and Safety Code sections 11362.1, 11362.2 and 11362.3, as may be amended.
- D. **Permits Not Transferable.** A Personal Cannabis Cultivation permit issued pursuant to this chapter is non-transferable and is specific to the permit holder and the Private Residence or Fully-Enclosed Accessory Structure for which it is issued.
- E. **Permit Renewal.** A Personal Cannabis Cultivation permit issued under this chapter shall automatically expire one year after the notice of decision. Permit renewal shall be requested through compliance with the procedures for issuance of a permit as provided in this section. An applicant for a permit renewal shall be required to pay a permit renewal fee in an amount to be set by resolution of the city council. However, an applicant for permit renewal shall not be required to submit a new Cultivation plan (pursuant to subsection (B)(5) above), provided the Personal Cannabis Cultivation Site follows the original Cultivation plan and the permit holder is not engaged in additional or expanded Cannabis Cultivation, as affirmed in the renewal form. Renewal applications must be received at least 30 calendar days prior to such expiration.
- F. **Permit Revocation.** Permits issued under this section may be revoked by the Director, following notice to the permit holder and an opportunity to submit written comments on the proposed revocation, upon making any of the following findings:
1. The permit was issued in error or the Cultivation plan (pursuant to subsection (B)(5) above) included incorrect information;
 2. The Cannabis cultivated at the Personal Cultivation Site has been sold or used for any commercial activity which is prohibited under this Chapter, or any other use or activity has occurred that is prohibited by Health and Safety Code sections 11362.1, 11362.2 or 11362.3, as may be amended;
 3. Violation of any of the provisions of this chapter has occurred at the

Cannabis Cultivation Site;

4. The Personal Cannabis Cultivation Site has become a public nuisance or has been operated in a manner constituting a public nuisance;
 5. The Cannabis Cultivation is not in compliance with the conditions of the permit; or
 6. The permit holder has engaged in an activity for which the Personal Cannabis Cultivation permit could have been denied originally. Appeals. The applicant may appeal the Director's decision on an application, renewal or revocation of a Personal Cannabis Cultivation permit to the planning commission and the planning commission's decision to the city council, pursuant to Chapter 16.206 of the code. An appeal of a decision on a Personal Cannabis Cultivation permit is not timely if not filed within 15 days of the date of the notice of the Director's (or planning commission's) decision.
- G. Personal Cannabis Cultivation is only permitted when all of the following conditions and standards are met:
- A. Generally.
 1. Residence. Personal Cannabis Cultivation is permitted only on parcels with residential units where the Personal Cannabis Cultivation permit holder resides full-time. Personal Cannabis Cultivation permit holders shall not participate in Personal Cannabis Cultivation in more than one location within the city. Personal Cannabis Cultivation activities may only occur within a residential unit, garage or Fully-Enclosed Accessory Structure.
 2. Visibility. From the public right-of-way, there shall be no exterior evidence of Personal Cannabis Cultivation. All Personal Cannabis Cultivation authorized by this section shall be conducted inside a Private Residence or within a Fully-Enclosed Accessory Structure.
 3. Security. Any Structure used for Personal Cannabis Cultivation shall be secured with locks to prevent unauthorized entry and/or theft, remain secure at all times.
 4. Code Compliance. The Personal Cannabis Cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, excessive light, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to the use of storage of materials, processes, products or waste. The cultivation area shall be in full compliance with the city building code, electrical code, mechanical code, plumbing code, and fire code.

5. Number of plants. Cultivation shall not exceed six (6) living Marijuana plants of any size per Private Residence.
6. Cultivation area. Personal Marijuana Cultivation must occur within a cumulative area totaling no larger than 100 square feet.
7. Ventilation. Any multi-family dwelling used for Personal Marijuana Cultivation must have a ventilation and filtration system installed in the dwelling unit that shall prevent Marijuana plant odors from exiting the interior of the unit, and shall comply with all applicable building code regulations, including obtaining all required permits and approvals for the ventilation and filtration system. Personal Cannabis Cultivation shall not create humidity or mold within the Private Residence or Fully-Enclosed Accessory Structure in violation of the building code, as adopted by the city, or the city's health and safety regulations, as codified in Chapter 150 Building Regulations of the Santa Paula Municipal Code.
8. Residential structure. The Primary Residence shall, at all times, maintain a kitchen, bathroom, and primary bedroom(s) for their intended purpose, and shall not be used for Cannabis Cultivation where such Cultivation will prevent their primary use for cooking of meals, sleeping, and bathing.
9. Accessory structure. A Fully-Enclosed Accessory Structure, as defined herein, shall be located within the rear yard area of any legal parcel or premises. The structure shall maintain a minimum setback of 10-feet from any property line and the marijuana plants shall not be visible from outside the structure.

- H. Upon twenty-four (24) hours' notice, the City may conduct an inspection of the Private Residence or Fully Enclosed Accessory Structure used for Personal Cannabis Cultivation for the purpose of verifying compliance with this Chapter.

16.79.050 Administrative Regulations

The City Manager and his/her designee is hereby authorized to promulgate and enforce administrative regulations in the implementation and enforcement of this chapter.

16.79.060 Violations

In addition to any other remedy available under law, violations of this subchapter are subject to the administrative citations and penalties provisions in Title 1, Chapter 14, of this Code.

16.79.070 Public Nuisance

Any use or condition caused, or permitted to exist, in violation of any provisions of this subchapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

SECTION 2: Environmental Assessment. This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines (the Guidelines), and the environmental regulations of the City. The City Council hereby finds that under Section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. These commercial uses and outdoor cultivation are already prohibited in the city and this ordinance clarifies and expands the prohibition to include new uses that are now authorized under state law. Limited indoor personal cultivation is allowed under state law and this ordinance imposes reasonable regulations to prevent impacts. Therefore, there will be no change to the physical environment,

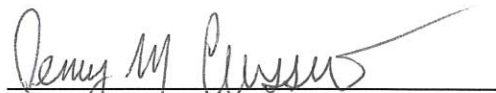
SECTION 3: Notice. The City Clerk is directed to certify the passage and adoption of the Ordinance, make a note of the passage and adoption in the records of this meeting, and within fifteen days after the passage and adoption of this Ordinance cause it to be published and posted in accordance with California law.

PASSED AND ADOPTED this 4th day of December, 2017.

ATTEST:




Lucy Blanco, City Clerk



Jenny Crosswhite, Mayor

APPROVED AS TO FORM:

By: 

John C. Cotti, City Attorney

APPROVED AS TO CONENT

By: 

Michael Rock, City Manager

**PROOF OF PUBLICATION
(2015.5 C.C.P.)
CASE NO. CIV143781**

**STATE OF CALIFORNIA
COUNTY OF VENTURA
CITY OF SANTA PAULA**

I am a citizen of the United States and a resident of the County of aforesaid; I am over the age of eighteen and not interested in the above entitled matter. I am now and at all times embraced in the publication herein mentioned, was a principle clerk of the printers and publishers of the SANTA PAULA TIMES, a newspaper of general circulation, published Wednesday and Friday at Santa Paula in the above named County and State; that the Legal Advertisement:

Number: 17-526

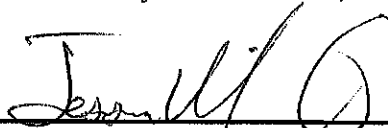
of which the annexed clipping is a true printed copy, was published in the above-named newspaper, and not in any supplement thereof, on the following dates, to wit:

November 15, 2017

That said newspaper was duly and regularly ascertained and established a newspaper of general circulation by Decree entered in the Superior Court of the County of Ventura, State of California, on June 10, 1994, under the provision of Chapter 1, Division 7, Title 1 of the California Government Code 6000 et seq. of the State of California.

I certify (or declare) under penalty of perjury that the foregoing is true and correct:

Dated at Santa Paula, California,
this 15th day of November, 2017


Signature

The space is for the County Clerk's Filing Stamp

**LEGAL NOTICE
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The Santa Paula City Council introduced Ordinance No. 1272 at the Regular City Council Meeting of November 6, 2017. If adopted, Ordinance No. 1272 will amend Title 16 of the Santa Paula Municipal Code prohibiting all commercial cannabis activities and cannabis cultivation in all zones in the City and imposing reasonable regulations and a permit requirement on the indoor personal cultivation of up to six cannabis plants that is authorized under State law.

Adoption of the proposed Ordinance is scheduled to take place at the Regular City Council meeting of December 4, 2017 at 6:30 p.m., at the City Council Chambers of City Hall, 970 Ventura Street, Santa Paula, California, or as soon thereafter as possible.

A copy of the ordinance is available for viewing in the City Clerk's Office, 970 Ventura Street, Santa Paula, California.

Approved as submitted above:
John C. Cotti, City Attorney

ATTEST:
Lucy Blanco, City Clerk

To be published in the Santa Paula Times on No-
vember 15, 2017
Publication No. 17-526

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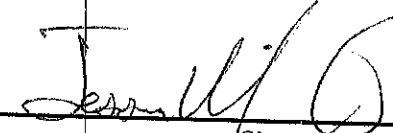
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