

ORDINANCE NO. 1056

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ADDING CHAPTER 7.31 [CANNABIS USE] TO TITLE 7 [HEALTH & SANITATION] OF THE MENLO PARK MUNICIPAL CODE

The City Council of the City Menlo Park does hereby ordain as follows:

SECTION 1. FINDINGS AND DETERMINATIONS. The City Council of the City of Menlo Park hereby finds:

- A. On November 8, 2016, the voters of the State of California passed the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), which took effect on November 9, 2016. The AUMA legalized the use of cannabis by persons 21 years of age or older and the personal cultivation of up to six plants.
- B. On June 26, 2017, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) was signed by Governor Brown. The MAUCRSA became effective immediately and blended together medical cannabis regulations (previously regulated under the Medical Cannabis Regulation and Safety Act) and the AUMA. The MAUCRSA requires a local jurisdiction to provide a copy of any ordinance related to commercial cannabis activity to the state.
- C. The State of California has developed regulations and licensing for the cultivation, testing, manufacture, and sale of cannabis. All cannabis businesses must have a state license.
- D. The state cannot issue a license to an applicant whose operations would violate local law. The AUMA identifies areas where local governments have the opportunity to impose business and land use regulations on cannabis activities. Cities may regulate personal indoor cultivation and ban personal outdoor cultivation and commercial cannabis land uses.
- E. Because cannabis related land uses are a new and emerging use, the City adopted and extended a moratorium on all cannabis uses, except those specifically allowed by state law and delivery of medicinal cannabis, to give the City time to study and consider potential impacts on the community. The moratorium expires September 29, 2019.
- F. On June 18, 2019, as a regular business item, the City Council discussed how to proceed with regard to cannabis land uses. The City Council directed staff to prepare an ordinance prohibiting personal outdoor cultivation and commercial cannabis land uses. Additionally, the City Council indicated their intent to revisit the issue with the next update of the El Camino Real/Downtown Specific Plan and the general plan.

SECTION 2. ADDITION OF CODE. Chapter 7.31 [Cannabis Use] is hereby added to Title 7 [Health & Sanitation] of the Menlo Park Municipal Code to read as follows:

Chapter: 7.31 CANNABIS USE

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| 7.31.010 | Permitted Personal Use and Regulations |
| 7.31.020 | Prohibited Personal Outdoor Cultivation |
| 7.31.030 | Smoking Regulations |
| 7.31.040 | Commercial Uses Regulated and Prohibited |

7.31.050 Penalty

7.31.010 Permitted Personal Use and Regulations

- A. For purposes of this chapter, "state law" means the Control, Regulate, and Tax Adult Use of Marijuana Act and the Medical and Adult-Use Cannabis Regulation and Safety Act.
- B. The personal use of cannabis is permitted in accordance with state law.
- C. Indoor cultivation for personal use is permitted in the City in accordance with state law. Indoor cultivation is limited to a maximum of six plants total per residence, whether immature or mature, regardless of how many residents reside at the private residence. Indoor cultivation includes cultivation that is fully enclosed within a private residence or inside an accessory structure located on the grounds of a private residence. Persons engaging in indoor cultivation shall comply with all state and local laws regarding health and safety, including fire and building codes. The residence shall maintain fully functional and useable kitchen, bathroom and bedroom areas for their intended use by the resident(s) and the premises shall not be used primarily or exclusively for cannabis cultivation.

7.31.020 Prohibited Personal Outdoor Cultivation

Personal outdoor cultivation of any cannabis plant(s) is prohibited in the City.

7.31.30 Smoking Regulations

In accordance with state law, smoking cannabis is prohibited in any public place, where smoking tobacco is prohibited, within 1000 feet of a school, daycare or youth center, or while driving or riding in the passenger seat of vehicle. Smoking is regulated or prohibited in the City pursuant to state law governing smoking and Chapter 7.31 of the Municipal Code.

7.31.040 Commercial Uses Regulated and Prohibited

- A. All commercial cannabis uses, including but not limited to, indoor cultivation, outdoor cultivation, retail, testing, manufacture or distribution, are prohibited in the City. No permit or license or any other entitlement shall be issued by the City for the establishment or operation of a commercial cannabis use anywhere in the City.
- B. Cannabis retailers and other cannabis delivery services are prohibited from physically locating in the City. However, state-licensed cannabis retailers that are legally established outside City limits, operating with a valid state-issued license and in compliance with all applicable laws may provide cannabis deliveries within the City.

7.31.050 Penalty

The City may enforce this chapter in any manner permitted by law and is entitled to recover all costs, including attorney's fees, related to enforcement. Any violation of this chapter is hereby declared to be a public nuisance and shall, at the discretion of the City, create a cause of action for injunctive relief.

SECTION 3. DIRECTION TO CITY CLERK. The City Council hereby directs the City Clerk to provide copy of this ordinance to all state licensing authorities, including the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health.

SECTION 4. If any section of this ordinance, or part hereof, is held by a court of

competent jurisdiction in a final judicial action to be void, voidable or enforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 5. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") because the activity is not a project as defined by Section 15378 of the CEQA Guidelines. The ordinance has no potential for resulting in physical change to the environment either directly or indirectly. Furthermore, pursuant to Section 15060(c)(2) of the CEQA Guidelines, the activity will not result in a direct and reasonably foreseeable indirect physical change in the environment because this ordinance prevents changes in the environment pending the contemplated review of possible additions or amendments to the City of Menlo Park Municipal Code.

SECTION 6. This City Clerk shall cause this ordinance to be published in a newspaper of general circulation as required by state law.

SECTION 7. The City Council shall conduct a review of this ordinance after two years, on or before September 30, 2021.

INTRODUCED on this twentieth day of August, 2019.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on this twenty-seventh day of August, 2019, by the following vote:

AYES: Carlton, Combs, Mueller, Taylor
NOES: Nash
ABSENT: None
ABSTAIN: None

APPROVED:



Ray Mueller, Mayor

ATTEST:



Judi A. Herren, City Clerk