

RESOLUTION NO. 22-0098

A RESOLUTION OF THE MANHATTAN BEACH CITY COUNCIL ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN MEASURE RE-ADOPTING THE CITY'S CANNABIS SALES PROHIBITION AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, AS CALLED BY RESOLUTION NO. 22-0048; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, the Manhattan Beach City Council adopted Resolution No. 22-0048, on May 3, 2022, calling a General Municipal Election for Tuesday, November 8, 2022; and

WHEREAS, the Manhattan Beach City Council also desires to submit to the voters at the election a question re-adopting the City's cannabis sales prohibition.

NOW, THEREFORE, THE MANHATTAN BEACH CITY COUNCIL DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

| | |
|--|-----|
| Shall the measure readopting Manhattan Beach's existing: (1) prohibition of all commercial cannabis activities in the City; and (2) allowance of limited indoor cannabis cultivation consistent with state law, be adopted? | Yes |
| | No |

SECTION 2. That the proposed complete text of the measure submitted to the voters is attached as Exhibit A.

SECTION 3. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast. However, if provisions of this measure and any other measure(s) approved at the same November 8, 2022 election conflict, the provisions of the measure receiving the highest number of affirmative votes shall prevail.

SECTION 4. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections

SECTION 5. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 6. That the City Attorney's Impartial Analysis of the ballot measure and the arguments in favor or against the ballot measure shall proceed in accordance with the following:

- A) The City Council directs the City Clerk to transmit a copy of the above referenced measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure in accordance with California Elections Code Section 9280. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.
- B) Pursuant to California Elections Code Section 9282(b), the City Council, or a member or members of the City Council authorized by that body, or an individual voter who is eligible to vote on the measure, or bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against the measure. Persons filing arguments may change or withdraw their arguments until and including the date fixed by the City Clerk after which no arguments for or against the measure may be submitted to the City Clerk. Pursuant to Elections Code Section 9287, if more than one argument is submitted for or against the measure, the City Clerk shall select one argument in favor and one argument against, giving preference and priority in accordance with Section 9287.
- C) The City Council hereby adopts the provisions of Elections Code Section 9285(a) relating to rebuttal arguments.

SECTION 7. That the City Clerk is hereby directed to insert the letter of the conflicting measure into the appropriate places in this Resolution upon receiving the letter designation for such measure from Los Angeles County.

SECTION 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

ADOPTED on July 19, 2022.

AYES: Franklin, Hadley, Stern, and Mayor Napolitano.
NOES: None.
ABSENT: None.
ABSTAIN: Montgomery.



STEVE NAPOLITANO
Mayor

ATTEST:



LIZA TAMURA
City Clerk

EXHIBIT "A"

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MANHATTAN BEACH RE-ADOPTING ORDINANCES NUMBER 17-0024 AND 0025 TO CONTINUE TO PROHIBIT ALL COMMERCIAL CANNABIS ACTIVITIES IN THE CITY, AND DECLARING A CONFLICT WITH MEASURE ___ ON THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(B)(3) OF THE CEQA GUIDELINES

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MANHATTAN BEACH RE-ADOPTING ORDINANCE NOS. 17-0024 AND 17-0025 TO CONTINUE TO PROHIBIT ALL COMMERCIAL CANNABIS ACTIVITIES IN THE CITY, AND DECLARING A CONFLICT WITH MEASURE ___ ON THE NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

NOW, THEREFORE, THE PEOPLE OF THE CITY OF MANHATTAN BEACH DO ORDAIN AS FOLLOWS:

SECTION 1. Intent; Conflicting Measure. It is the intent of the voters that, pursuant to California Elections Code Section 9221, this Ordinance conflicts with Measure ___ on the November 8, 2022 General Municipal Election ballot and, if the measure adopting this Ordinance receives more affirmative votes, this Ordinance shall control and Measure ___ shall have no effect.

SECTION 2. On November 7, 2017, and in full compliance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), and Adult Use of Marijuana Act (AUMA), the Manhattan Beach City Council adopted Ordinance No. 17-0024 to amend the Manhattan Beach Municipal Code and Ordinance No. 17-0025 to amend the Manhattan Beach Local Coastal Program to, *inter alia*, prohibit all commercial cannabis activity in all zones in the City. Ordinance No. 17-0025 was subsequently certified by the California Coastal Commission.

SECTION 3. Re-Adoption. Ordinance Nos. 17-0024 and 17-0025, as attached hereto as exhibits A and B and incorporated herein by this reference, are hereby re-adopted in full by the voters of the City of Manhattan Beach. It is the intent of the voters to continue to prohibit, without any interruption, all commercial cannabis activities (as defined in the above-referenced ordinances) in the City of Manhattan Beach, and to maintain the other terms and provisions of Ordinance No. 17-0024 and Ordinance No. 17-0025.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The voters hereby declare that they would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of the City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor

be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 6. Effective Date. This Ordinance shall take effect 10 days after the date the vote is declared by the City Council, and no conflicting ordinance shall take effect prior to the effective date of this Ordinance. The City Clerk shall take all actions necessary to publish this ordinance or a summary if required by law, and the Mayor is directed to sign this Ordinance upon its adoption.

SECTION 7. Notification. The City Attorney shall send a copy of this Ordinance and the ordinances it re-adopts to the Bureau of Cannabis Control immediately following its effective date.

SECTION 8. CEQA Exemption. The City Council’s action to place this Ordinance on the ballot and the voters’ adoption of this Ordinance are exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the ordinances re-adopted to continue to prohibit all commercial cannabis activities will have a significant effect on the environment since this represents no change from current law in the City. Since the re-adopted ordinances continue to prohibit all commercial activities and uses it will not result in changes in land use or density and will not have a significant environmental impact. Further, this ordinance is not a “project” within the meaning of CEQA. A Notice of Exemption shall be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 9. The City Clerk is hereby directed to insert the letter of the conflicting measure into the appropriate places in this Ordinance upon receiving the letter designation for such measure from Los Angeles County.

ADOPTED by the voters at the General Municipal Election held November 8, 2022, by the following vote:

STEVE NAPOLITANO
Mayor

ATTEST:

LIZA TAMURA
City Clerk

EXHIBIT A
ORDINANCE NO. 17-0024

ORDINANCE NO. 17-0024

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH AMENDING MUNICIPAL CODE TITLE 10 TO ADD THERETO CHAPTER 10.82 PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY IN ALL ZONES IN THE CITY, AND TO ALLOW LIMITED INDOOR CANNABIS CULTIVATION CONSISTENT WITH STATE LAW, AMENDING MUNICIPAL CODE SECTION 4.117.020 AND CHAPTER 4.136 OF TITLE 4, AND DELETING MUNICIPAL CODE SECTION 10.60.160

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. On September 13, 2017, the Planning Commission conducted a duly noticed public hearing and adopted Resolution No. 17-07 recommending that the City Council adopt the proposed text Amendments to Title 10 to prohibit commercial cannabis and allow limited indoor cannabis.

SECTION 2. On October 17, 2017, the City Council held a duly noticed public hearing regarding the proposed Code Amendments, and following receipt of all public testimony, closed the public hearing.

SECTION 3. The proposed text amendments are consistent with the following General Plan Goals and Policies:

Land Use Element Goal LU-5 : Protect residential neighborhoods from the intrusion of inappropriate and incompatible uses.

Community Safety Element Goal CS-1: Minimize the risks to public health, safety, and welfare resulting from natural and human-caused hazards.

SECTION 4. The proposed text amendments have been prepared in accordance with the provisions of Title 7, Division 4, Section 65853, et seq., of the State of California Government Code.

SECTION 5. Section 10.60.160 (Medical Marijuana Dispensaries) of Chapter 10.60 (Site Regulations – All Districts) of Title 10 (Planning and Zoning) is hereby deleted in its entirety.

SECTION 6. Chapter 4.136 (Medical Marijuana Delivery) of Title 4 (Public Welfare, Morals and Conduct) is hereby amended in its entirety to read as follows:

"Chapter 4.136 CANNABIS ACTIVITIES

Section 4.136.010 Definitions.

Section 4.136.020 Prohibitions.

Section 4.136.030 Violation.

Section 4.136.010 Definitions.

A. "Cannabis" means 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" also means the separated resin, whether crude or purified, obtained from cannabis, and any product containing cannabis. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes.

"Cannabis" 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 cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5, as the same may be amended from time to time.

B. "Cannabis products" 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.

C. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of cannabis and cannabis products, 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 other provision of State law that regulates the licensing of cannabis businesses.

D. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

E. "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.

F. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete solid roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

G. "Indoors" means within a fully enclosed and secure structure.

H. "Outdoors" means any location that is not within a fully enclosed and secure structure.

I. "Person" means any individual, firm, partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization,

non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

J. "Smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated cannabis or cannabis product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

Section 4.136.020 Prohibitions.

A. It is unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial cannabis activity in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial cannabis activity.

B. It is unlawful for any person to own, manage, conduct, or operate any cannabis delivery, or to participate as an employee, contractor, agent, or volunteer, in any manner or capacity, in any cannabis delivery in the city.

C. It is unlawful for any person to cultivate cannabis outdoors. Indoor cannabis cultivation is prohibited except as specified in section 10.82.040(A)(5) of this Code.

D. In accordance with Health and Safety Code Section 11362.3, as the same may be amended from time to time, it is unlawful for any person to smoke or ingest cannabis or cannabis products in a public place, or in any location where smoking tobacco is prohibited.

This Section shall be read and interpreted in conjunction with Municipal Code Chapter 10.82. It is the intent of the City Council to prohibit all commercial cannabis activity and uses in the City that are not otherwise preempted by State law.

Section 4.136.030 Violation.

Violations of this chapter are subject to the penalty provisions set forth in Municipal Code Chapters 1.04 and 1.06. In the discretion of the City Prosecutor, a violation of this chapter may be prosecuted as an infraction or misdemeanor. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Municipal Code Chapters 1.04 and 1.06, this chapter does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Municipal Code Chapters 1.04 and 1.06, and any penalties set forth in state law, the maximum penalties allowable under state law shall govern."

SECTION 7. Chapter 10.82 is hereby added to Title 10 (Planning and Zoning) to read as follows:

"Chapter 10.82 CANNABIS

- Section 10.82.010 Definitions.**
- Section 10.82.020 Prohibitions.**
- Section 10.82.030 Exceptions.**
- Section 10.82.040 Violation.**

10.82.010 Definitions.

For purposes of this chapter, the following definitions shall apply.

A. "Cannabis" means 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" also means the separated resin, whether crude or purified, obtained from cannabis, and any product containing cannabis. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes.

"Cannabis" 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 cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5, as the same may be amended from time to time.

B. "Cannabis accessories" means any equipment, products or materials of any kind which are used, 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 products" 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. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of cannabis and cannabis products, 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 other provision of State law that regulates the licensing of cannabis businesses.

E. "Concentrated cannabis" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate.

F. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

G. "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.

H. "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 the same may be amended from time to time.

I. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete solid roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

J. "Indoors" means within a fully enclosed and secure structure.

K. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

L. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

M. "Outdoors" means any location that is not within a fully enclosed and secure structure.

N. "Person" means any individual, firm, partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

O. "Private residence" means a house, an apartment unit, a condominium unit, a mobile home, or other similar dwelling, that is lawfully used as a residence.

10.82.020 Prohibitions.

A. Commercial cannabis activity, whether or not for profit, is not a permitted use anywhere in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial cannabis activity. This section shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time.

B. It shall be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial cannabis activity in the city.

C. To the extent not already prohibited by subsection A 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.

D. All outdoor cannabis cultivation is prohibited in the city. Indoor cannabis cultivation is prohibited except as specified in section 10.82.040(A)(5).

10.82.030 Exceptions.

A. To the extent that the following activities are permitted by State law, nothing in this chapter shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;

3. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons 21 years of age or older without compensation whatsoever; or

4. Engaging in the indoor cultivation of six or fewer live cannabis plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by California Health and Safety Code sections 11362.1 and 11362.2, as the same may be amended from time to time.

B. This chapter shall also not prohibit any commercial cannabis activity that the city is required by law to permit within its jurisdiction pursuant to state law.

10.82.040 Violation.

Violations of this chapter are subject to the penalty provisions set forth in Municipal Code Chapters 1.04 and 1.06. In the discretion of the City Prosecutor, a violation of this chapter may be prosecuted as an infraction or misdemeanor. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Municipal Code Chapters 1.04 and 1.06, this chapter does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code

Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Municipal Code Chapters 1.04 and 1.06, and any penalties set forth in state law, the maximum penalties allowable under state law shall govern."

SECTION 8. Section 4.117.020 (Definitions) of Chapter 4.117 (Regulation of Smoking in Multi-unit Housing) of Title 4 (Public Welfare, Morals and Conduct) is hereby amended to revise the definition of "Smoke" with all other provisions of Section 4.117.020 remaining unchanged:

"“Smoke” shall have the meaning ascribed in Section 4.116.020 of this Code."

SECTION 9. CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines"). It can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the regulations established hereby, may have a significant effect on the environment, and the action taken herein is not a "project" within the meaning of CEQA.

SECTION 10. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 11. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.


SECTION 12. SAVINGS CLAUSE. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall waive of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.

SECTION 13. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 14. EFFECTIVE DATE. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.


ADOPTED on November 7, 2017.

AYES: Montgomery, Hersman, Napolitano, Howorth and Mayor Lesser.
NOES: None.
ABSENT: None.
ABSTAIN: None.



DAVID LESSER
Mayor

ATTEST:



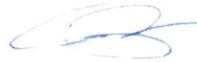
LIZA TAMURA
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 17-0024 was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 7th day of November 2017, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Montgomery, Hersman, Napolitano, Howorth and Mayor Lesser.
Noes: None.
Absent: None.
Abstain: None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 8th day of November, 2017.



City Clerk of the City of
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 17-0024 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit November 16th, 2017 and in witness whereof, I have hereunto subscribed my name this 17th day of November, 2017.



City Clerk of the City of
Manhattan Beach, California

Res. 22-0098

EXHIBIT B
ORDINANCE NO. 17-0025

ORDINANCE NO. 17-0025

ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING LOCAL COASTAL PROGRAM TITLE A TO ADD
THERETO CHAPTER A.82 PROHIBITING ALL
COMMERCIAL CANNABIS ACTIVITY IN ALL ZONES IN
THE CITY, AND TO ALLOW LIMITED INDOOR CANNABIS
CULTIVATION CONSISTENT WITH STATE LAW, AND
DELETING LOCAL COASTAL PROGRAM SECTION
A.60.160

THE CITY OF MANHATTAN BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. On September 13, 2017, the Planning Commission conducted a duly noticed public hearing and adopted Resolution No. 17-07 recommending that the City Council adopt the proposed text Amendments to Title A to prohibit commercial cannabis and allow limited indoor cannabis.

SECTION 2. On October 17, 2017, the City Council held a duly noticed public hearing regarding the proposed Code Amendments, and following receipt of all public testimony, closed the public hearing.

SECTION 3. The proposed text amendments are consistent with the following Local Coastal Program Policy:

II. Coastal Locating and Planning New Development Policy- Policy II.1:
Control Development within the Manhattan Beach coastal zone.

SECTION 4. The proposed text amendments have been prepared in accordance with the provisions of Title 7, Division 4, Section 65853, et seq., of the State of California Government Code.

SECTION 5. Section A.60.160 (Medical Marijuana Dispensaries) of Chapter A.60 (Site Regulations – All Districts) of Title A (Planning and Zoning) is hereby deleted in its entirety.

SECTION 6. Chapter A.82 is hereby added to Title A (Planning and Zoning) to read as follows:

“Chapter A.82 CANNABIS

Section A.82.010 Definitions.
Section A.82.020 Prohibitions.
Section A.82.030 Exceptions.
Section A.82.040 Violation.

A.82.10 Definitions.

For purposes of this chapter, the following definitions shall apply.

A. "Cannabis" means 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" also means the separated resin, whether crude or purified, obtained from cannabis, and any product containing cannabis. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes.

"Cannabis" 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 cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5, as the same may be amended from time to time.

B. "Cannabis accessories" means any equipment, products or materials of any kind which are used, 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 products" 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. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of cannabis and cannabis products, 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 other provision of State law that regulates the licensing of cannabis businesses.

E. "Concentrated cannabis" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate.

F. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

G. "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.

H. "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 the same may be amended from time to time.

I. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete solid roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

J. "Indoors" means within a fully enclosed and secure structure.

K. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

L. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

M. "Outdoors" means any location that is not within a fully enclosed and secure structure.

N. "Person" means any individual, firm, partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

O. "Private residence" means a house, an apartment unit, a condominium unit, a mobile home, or other similar dwelling, that is lawfully used as a residence.

A.82.020 Prohibitions.

A. Commercial cannabis activity, whether or not for profit, is not a permitted use anywhere in the city. The city shall not approve any application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial cannabis activity. This section shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time.

B. It shall be unlawful for any person to own, manage, establish, conduct, or operate, or to participate as a landlord, owner, employee, contractor, agent or volunteer, or in any other manner or capacity, in any commercial cannabis activity in the city.

C. To the extent not already prohibited by subsection A 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.

D. All outdoor cannabis cultivation is prohibited in the city. Indoor cannabis cultivation is prohibited except as specified in section A.82.040(A)(5).

A.82.030 Exceptions.

A. To the extent that the following activities are permitted by State law, nothing in this chapter shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;
2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;
3. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons 21 years of age or older without compensation whatsoever; or
4. Engaging in the indoor cultivation of six or fewer live cannabis plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by California Health and Safety Code sections 11362.1 and 11362.2, as the same may be amended from time to time.

B. This chapter shall also not prohibit any commercial cannabis activity that the city is required by law to permit within its jurisdiction pursuant to state law.

A.82.040 Violation.

Violations of this chapter are subject to the penalty provisions set forth in Municipal Code Chapters 1.04 and 1.06. In the discretion of the City Prosecutor, a violation of this chapter may be prosecuted as an infraction or misdemeanor. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Municipal Code Chapters 1.04 and 1.06, this chapter does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Municipal Code Chapters 1.04 and 1.06, and any penalties set forth in state law, the maximum penalties allowable under state law shall govern."

SECTION 7. CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTION. The City Council determines that this ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 California Code of Regulations §§ 15000, *et seq.*, the "CEQA Guidelines"). It can be seen with certainty that there is no possibility that the adoption of this Ordinance, and the regulations established hereby, may have a significant effect on the environment, and the action taken herein is not a "project" within the meaning of CEQA.

SECTION 8. INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 9. SEVERABILITY. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.


SECTION 10. SAVINGS CLAUSE. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the City, or within the territory comprising the City, shall waive of any license, fee or penalty or the penal provisions applicable to any violation of such ordinance.

SECTION 11. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 12. EFFECTIVE DATE. This Ordinance shall go into effect and be in full force and effect after certification by the California Coastal Commission.


ADOPTED on November 7, 2017.

AYES: Montgomery, Hersman, Napolitano, Howorth and Mayor Lesser.
NOES: None.
ABSENT: None.
ABSTAIN: None.



DAVID LESSER
Mayor

ATTEST:



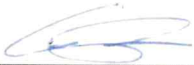
LIZA TAMURA
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being Ordinance No. 17-0025 was duly passed and adopted by the said City Council, approved and signed by the Mayor, and attested by the City Clerk, of said City, all at a regular meeting of the said Council duly and regularly held on the 7th day of November 2017, and that the same was so passed and adopted by the following vote, to wit:

Ayes: Montgomery, Hersman, Napolitano, Howorth and Mayor Lesser.
Noes: None.
Absent: None.
Abstain: None.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 8th day of November, 2017.




City Clerk of the City of
Manhattan Beach, California

(SEAL)

CERTIFICATE OF PUBLICATION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.
CITY OF MANHATTAN BEACH)

I, Liza Tamura, City Clerk of the City of Manhattan Beach, California, do hereby certify that Ordinance No. 17-0025 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in The Beach Reporter, a weekly newspaper of general circulation on the following date, to wit November 16th, 2017 and in witness whereof, I have hereunto subscribed my name this 17th day of November, 2017.



City Clerk of the City of
Manhattan Beach, California