

ORDINANCE NO. 1830

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, AMMENDING TITLE 17 (ZONING) OF THE OROVILLE MUNICIPAL CODE BY AMMENDING SECTION 17.04.060 (DEFINITIONS); REPEALING SECTION 17.08.120 (MARIJUANA DISPENSARIES); ADDING SECTION 17.16.XX (COMMERCIAL CANNABIS BUSINESSES); AND AMMENDING SECTIONS 17.28.010 (ALLOWED USES IN RESIDENTIAL DISTRICTS); 17.32.010 (ALLOWED USES IN COMMERCIAL DISTRICTS); 17.34.020 (ALLOWED USES IN INDUSTRIAL DISTRICTS); 17.36.010 (ALLOWED USES IN INDUSTRIAL DISTRICTS); 17.40.010 (ALLOWED USES IN SPECIAL PURPOSE DISTRICTS) TO ESTABLISH ZONING FOR COMMERCIAL CANNABIS ACTIVITIES WITHIN THE CITY OF OROVILLE.

WHEREAS, in 1996, the California electorate approved Proposition 215, the Compassionate Use Act of 1996, which allows a patient, with a doctor's recommendation, to use cannabis for medical purposes without the fear of prosecution or arrest; and

WHEREAS, in 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act) which amended the Health and Safety Code to permit the establishment of medical cannabis dispensaries for the distribution of cannabis for medical purposes; and

WHEREAS, in 2005 the California Board of Equalization began issuing seller's permits for sales consisting of medical cannabis; and

WHEREAS, in 2008 the California Attorney General issued guidelines for the security and non-diversion of cannabis grown for medical use; and

WHEREAS, in 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA") further amended in 2016 as the Medicinal Cannabis Regulation and Safety Act ("MCRSA"), which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing; and

WHEREAS, in 2016 the voters of the State of California approved and passed Proposition 64 also known as the Adult Use of Marijuana Act ("AUMA"); and

WHEREAS, Health & Safety Code Section 11362.83 provides that cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medical cannabis dispensaries and cultivation; and

WHEREAS, after studying various alternatives for the regulation of commercial cannabis considering input from stakeholders and a public hearing, and reviewing the legal status of cannabis under applicable law, the City Council finds that the regulation of commercial cannabis activities is necessary to protect the public health, safety, and welfare by mitigating the adverse secondary effects including but not limited to; impacts to sewer capacity, traffic, law enforcement, air quality, utilities, and municipal services, from the operations of these uses; and

WHEREAS, the City of Oroville has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access of cannabis to residents; and

WHEREAS, the City has conducted a CEQA review of all proposed commercial cannabis

projects and no further environmental analysis is required. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) "General Rule Exemption" and Section 15305 "Minor Alterations in Land Use Limitations."

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF OROVILLE DOES ORDAIN AS FOLLOWS:

SECTION 1: Findings.

The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporate them herein as findings.

SECTION 2: Title 17 (Zoning), Chapter 17.04 (General Provisions), Section 17.04.060 is amended to read as follows:

17.04.060 Definitions.

C. Definitions, "C."

Cannabis. All parts of the 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 marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "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. For the purpose of this chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

Cannabis business. The cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, distribution, delivery, or retail sale of cannabis or a cannabis product.

Cannabis canopy. Means all of the following:

- (A) The designated area(s) at a licensed premise that will contain mature plants at any point in time;
- (B) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
- (C) Canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space; and
- (D) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

Cannabis cultivation. Any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Cannabis delivery. 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, or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

Cannabis distribution. The procurement, sale, and transport of cannabis or cannabis products between licensed cannabis businesses.

Cannabis manufacturing. means the production, preparation, propagation, or compounding of manufactured cannabis or cannabis products including businesses involving the extraction of a substance from a cannabis plant, the infusion or mixture of cannabis into another substance, the preparation of an edible item that contains cannabis, and the packaging and labeling of cannabis or cannabis products.

Cannabis nursery. The wholesale sale of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

Cannabis retail, non-storefront. A brick-and-mortar cannabis retail use that is closed to the public but is authorized to conduct retail cannabis sales exclusively by delivery. This use does not include on-site retail sales of cannabis or cannabis products.

Cannabis retail, storefront. The retail sale of cannabis, cannabis products, or devices for the use of cannabis or cannabis products, either individually or in any combination, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

Cannabis testing. A facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body and registered with the State Department of Public Health.

Delete the Definition of "Marijuana dispensary" in its entirety.

M. "Definitions, "M":

~~**Marijuana dispensary.** "Marijuana dispensary" means any of the following:~~

~~1. Any for-profit or not-for-profit facility, building, structure, premises, or location, whether fixed, mobile, permanent or temporary, where any person(s) (including, but not limited to, any "primary caregiver(s)," "qualified patient(s)," or "person(s) with an identification card") makes available, sells, gives, distributes, or otherwise provides marijuana to any 2 or more other persons (including, but not limited to, any "primary caregiver(s)," "qualified patient(s)," or "person(s) with an identification card") pursuant to Health and Safety Code Sections 11362.8 and/or 11362.7 et seq., or otherwise; or~~

~~2. Any for-profit or not-for-profit facility, building, structure, premises, or location, whether fixed, mobile, permanent or temporary, where qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate to make available, sell, give away, distribute, or otherwise provide marijuana for medicinal marijuana "cooperatives" and "collectives."~~

~~The terms "primary caregiver," "qualified patient," "person with an identification card," "cooperative," and "collective" shall be as defined in Proposition 215 (Health and Safety Code Section 11362.5) and Senate Bill 420 (Health and Safety Code Section 11362.7 et seq.).~~

SECTION 3: Title 17 (Zoning), Chapter 17.08 (General Regulations), Section 17.08.120 is hereby repealed.

17.08.120 Marijuana dispensaries.

- A. ~~Pursuant to Government Code Section 65858, and notwithstanding any other provision of this Code, the establishment, development, construction, maintenance, or operation of a marijuana dispensary is hereby prohibited, and is not a permitted use in any of the following zoning districts, even if located within an otherwise permitted use: Urban Reserve 10 Acres (UR-10), Urban Reserve 5 Acres (UR-5), Agricultural Residential (RA), Rural Residential 1 Acre (RR-1), Rural Residential 20,000 Square Feet (RR-20), Rural Residential 10,000 Square Feet (RR-10), Large-Lot Residential (RL), Single-Family Residential (R-1), Medium-Density Residential (R-2), High-Density Residential (R-3), Urban-Density Residential (R-4), High-Density Residential/Professional (RP), Neighborhood Commercial (CN), Limited Commercial (C-1), Intensive Commercial (C-2), Highway Commercial Corridor (CH), Commercial Light Manufacturing (CLM), Office (OF), Downtown Mixed-Use (MXD), Neighborhood Mixed-Use (MXN), Corridor Mixed-Use (MXC), Airport Business Park (ABP), Light Industrial (M-1), Intensive Industrial (M-2), Public or Quasi-Public Facilities (PQ), and Open Space (OS). No person shall establish, develop, construct, maintain, or operate a marijuana dispensary, and no application for a building permit, use permit, variance, or any other entitlement authorizing the establishment, development, construction, maintenance, or operation of any marijuana dispensary shall be approved by the City of Oroville or any officer or employee thereof in any of the above districts.~~
- B. **Prohibition of Cannabis Delivery and Commercial Processing.**
1. ~~All deliveries of cannabis are expressly prohibited within the City of Oroville. No person shall conduct any deliveries that either originate or terminate within city limits.~~
 2. ~~All commercial processing of cannabis is expressly prohibited within the City of Oroville.~~
- C. **Permit or License Issuance.** ~~The city shall not issue any permit, license, or other entitlement for any activity prohibited by the Oroville Municipal Code for which a state license is required under the Medical Marijuana Regulation and Safety Act or the Control, Regulate and Tax Adult Use of Marijuana Act.~~
- D. **Public Nuisance.** ~~Any use or condition caused, or permitted to exist, in violation of any provision of this section 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 734 or any other remedy available to the city.~~
- E. **Civil Penalties.** ~~In addition to any other enforcement permitted by this section, city counsel may bring a civil action for injunctive relief and civil penalties, as permitted by law, against any person or entity that violates this section. In any civil action brought pursuant to this section, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party.~~

SECTION 4: Title 17 (Zoning), Chapter 17.16 (Use-Specific Regulations), Section 17.16.XXX is amended to read as follows:

17.16.XXX Commercial cannabis businesses.

- A. **Applicability.** This section applies to all commercial cannabis activities.
- B. **Permit Requirements.**
1. Any application for a commercial cannabis use must specify the State cannabis license type under which the business will operate.
 2. A commercial cannabis business shall be subject to and in conformance with the provisions of Oroville Municipal Code Chapter 5.XX, including the requirement for a

Cannabis Business Permit.

C. **Buffers.** The following limitations shall apply to all commercial cannabis uses:

1. A commercial cannabis use shall provide a minimum one thousand hundred (1000)-foot buffer from a school providing instruction in kindergarten or any grade one (1) through twelve (12), day care centers, public parks, the Downtown Historic Overlay District (DH-O), churches with 20 or more members, or youth centers as defined in Business and Professions Code section 26001 that is in existence at the time the permit is issued. All undeveloped parklands are excluded from the 1000-foot buffer.
2. The distance specified in this subsection shall be the horizontal distance measured in a straight line from the property line of the school or center to the closest property line of the lot on which the permittee is to be located without regard to intervening structures.

D. **Separation requirements between Cannabis Retail Businesses.** Cannabis retail businesses shall not be permitted or allowed to operate within one thousand (1000) feet of each other.

E. **Maximum Number of Cannabis Retail Businesses.** No more than three (3) cannabis retail businesses shall be permitted or allowed to operate within the jurisdictional limits of the City of Oroville.

F. **Development and Operational Standards.** Commercial cannabis uses shall comply with site development standards specified in the applicable zoning district, and must be located and operated in compliance with the following standards:

1. **Regulations Applicable to All Commercial Cannabis Uses.** All commercial cannabis uses shall comply with the following site development and operational standards:
 - a. **Parking.** Commercial cannabis uses shall comply with the parking requirements set forth in Oroville Municipal Code Chapter 17.12.070.
 - b. **Lighting.** Commercial cannabis uses shall comply with the lighting requirements set forth in Oroville Municipal Code Chapter 17.12.010.
 - c. **Fencing, Screening and Landscaping.** All commercial cannabis uses must comply with the fencing, screening, and landscaping requirements set forth in Oroville Municipal Code Chapter 17.12.020 and 17.12.050.
 - d. **Odor.** A sufficient odor-absorbing ventilation and exhaust system shall be installed to ensure that odor generated by the use is not detected outside the building, anywhere on adjacent properties or public rights-of-way, or within any other unit located within the same building or property as the commercial cannabis use. The escape of odors when delivering or transferring cannabis or cannabis products shall be prevented.
 - e. **Signs.** Signs for commercial cannabis uses shall comply with Oroville Municipal Code Chapter 17.20. In addition, commercial cannabis uses shall comply with the following provisions:
 - i. A sign shall be posted stating that the consumption of cannabis or cannabis products on or near the premises is prohibited;
 - ii. A sign shall be posted on the door or in view of the entrance stating that no person under the age of 18 (for medical cannabis uses) or 21 (for recreational cannabis use) is allowed on site. The operator of the establishment shall require all customers to show proof of age; and

- iii. A sign shall be posted stating that loitering on or near the premises is prohibited.
 - iv. All other signage shall be approved through a conditional use permit.
 - f. **Property Maintenance.** To prevent and deter crime, the site shall be maintained free of debris, litter, and trash.
 - g. **Consumption.** No use, inhalation, smoking, eating, ingestion, or other consumption of cannabis on the premises, are permitted. The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking area(s), walks or other immediate surroundings.
 - h. **Transactions.** No transactions outside, or partially outside, of an enclosed building are permitted.
2. **Regulations Applicable to Storefront Cannabis Retail Uses.** All storefront cannabis retail uses shall comply with the following site development and operational standards:
- a. The site shall not include patio or café seating, unless used exclusively for employees.
 - b. No alcohol or tobacco shall be consumed, made available, sold, offered for sale, given, distributed, traded, or otherwise provided to patrons, employees, guests, visitors, or volunteers of retail cannabis stores. The term "patron" refers to a customer, consumer, visitor, or guest of a retail establishment.
 - c. No advertisement signs shall be allowed.
3. **Regulations Applicable to Non-Storefront Cannabis Retail Uses.** All non-storefront cannabis retail uses shall comply with the following site development and operational standards:
- a. The site shall not be open to the general public.
 - b. No alcohol or tobacco shall be consumed, made available, sold, offered for sale, given, distributed, traded, or otherwise provided to patrons, employees, guests, visitors, or volunteers of retail cannabis stores. The term "patron" refers to a customer, consumer, visitor, or guest of a retail establishment.
 - c. No organized and advertised tours shall be permitted.
 - d. No exhibition or product sales area or retail sales are permitted on the site.
 - e. No advertisement signs shall be allowed.
4. **Regulations Applicable to Cannabis Manufacturing Uses.** All cannabis manufacturing uses shall comply with the following operational standards:
- a. The site shall not be open to the general public.
 - b. No organized and advertised tours shall be permitted.
 - c. No exhibition or product sales area or retail sales are permitted on the site.
 - d. No advertisement signs shall be allowed.
5. **Regulations Applicable to Cannabis Distribution Uses.** All cannabis distribution uses shall comply with the following operational standards:
- a. The site shall not be open to the general public.
 - b. No organized and advertised tours shall be permitted.
 - c. No advertisement signs shall be allowed.

6. Regulations Applicable to Cannabis Testing Uses. All cannabis testing uses shall comply with the following operational standards:
 - a. The site shall not be open to the general public.
 - b. No organized and advertised tours shall be permitted.
 - c. No advertisement signs shall be allowed.
7. Regulations Applicable to Cannabis Cultivation Uses. All cannabis cultivation uses shall comply with the following operational standards:
 - a. All cultivation shall occur indoors.
 - b. Cultivation shall not be visible from any exterior location.
 - c. Cultivation may rely on artificial lighting or mixed light, which is a combination of natural and supplemental artificial lighting.
 - d. The site shall not be open to the general public.
 - e. No organized and advertised tours shall be permitted.
 - f. No exhibition or product sales area or retail sales are permitted on the site.
 - g. No advertisement signs shall be allowed.
8. Regulations Applicable to Cannabis Nursery Uses. All cannabis cultivation uses shall comply with the following operational standards:
 - a. All nursery operations, including cultivation, shall occur indoors.
 - b. Cultivation shall not be visible from any exterior location.
 - c. Cultivation may rely on artificial lighting or mixed light, which is a combination of natural and supplemental artificial lighting.
 - d. The site shall not be open to the general public.
 - e. No organized and advertised tours shall be permitted.
 - f. All sales shall be wholesale transactions between licensed cannabis operators. No retail sales are permitted on the site.
 - g. No advertisement signs shall be allowed.
9. Regulations Applicable to Cannabis Microbusiness Uses.
 - a. Microbusinesses with Storefront Retail. All cannabis microbusiness uses that include storefront retail shall comply with the following operational standards:
 - i. The site shall not include patio or café seating, unless used exclusively for employees.
 - ii. No alcohol or tobacco shall be consumed, made available, sold, offered for sale, given, distributed, traded, or otherwise provided to patrons, employees, guests, visitors, or volunteers of retail cannabis stores. The term "patron" refers to a customer, consumer, visitor, or guest of a retail establishment.
 - iii. All cultivation shall occur indoors.
 - iv. Cultivation shall not be visible from any exterior location.
 - v. Cultivation may rely on artificial lighting or mixed light, which is a combination of natural and supplemental artificial lighting.
 - vi. No advertisement signs shall be allowed.

b. Microbusinesses with Non-Storefront Retail. All cannabis microbusiness uses that include non-storefront retail shall comply with the following operational standards:

- i. The site shall not be open to the general public.
- ii. No organized and advertised tours shall be permitted.
- iii. No exhibition or product sales area or retail sales are permitted on the site.
- iv. All cultivation shall occur indoors.
- v. Cultivation shall not be visible from any exterior location.
- vi. Cultivation may rely on artificial lighting or mixed light, which is a combination of natural and supplemental artificial lighting.
- vii. No advertisement signs shall be allowed.

SECTION 5: Title 17 (Zoning), Chapter 17.28 (Residential Districts), Section 17.28.010 is amended to read as follows:

17.28.010 Allowed uses in residential districts.

Land Use	Zoning Districts												Use-Specific Regulations
	UR-10	UR-5	RA	RR-1	RR-20	RR-10	RL	R-1	R-2	R-3	R-4	RP	
<i>Residential</i>	—	—	—	—	—	—	—	—	—	—	—	—	
Marijuana dispensary	—	—	—	—	—	—	—	—	—	—	—	—	—

SECTION 6: Title 17 (Zoning), Chapter 17.32 (Commercial Districts), Section 17.32.010 is amended to read as follows:

17.32.010 Allowed uses in commercial districts.

Land Use	Zoning Districts						Use-Specific Regulations
	CN	C-1	C-2	CH	CLM	OF	
<i>Retail</i>							
Cannabis Marijuana Retail	—	CUP	CUP	CUP	CUP	CUP	17.16.XXX
<i>Services</i>							
Cannabis Testing	—	CUP	CUP	CUP	CUP	CUP	17.16.XXX

SECTION 7: Title 17 (Zoning), Chapter 17.34 (Mixed-Use Districts), Section 17.34.020 is amended to read as follows:

17.34.020 Allowed uses in mixed-use districts.

Land Use	Zoning Districts			Use-Specific Regulations
	MXD	MXN	MXC	
<i>Retail</i>				
Marijuana dispensary	—	—	—	—

SECTION 8: Title 17 (Zoning), Chapter 17.36 (Industrial Districts), Section 17.36.010 is amended to read as follows:

17.36.010 Allowed uses in industrial districts.

	Zoning Districts			
Land Use	ABP	M-1	M-2	Use-Specific Regulations
<i>Retail</i>				
Cannabis Marijuana Retail	—	CUP	CUP	17.16.XXX
<i>Manufacturing, Wholesale, Repair and Storage</i>				
Cannabis Cultivation	—	CUP	CUP	17.16.XXX
Cannabis Distribution	—	CUP	CUP	17.16.XXX
Cannabis Manufacturing	—	CUP	CUP	17.16.XXX
Cannabis Microbusiness	—	CUP	CUP	17.16.XXX
Cannabis Nursery	—	CUP	CUP	17.16.XXX
Cannabis Testing	—	CUP	CUP	17.16.XXX

SECTION 9: Title 17 (Zoning), Chapter 17.40 (Special Purpose Districts), Section 17.40.010 is amended to read as follows:

17.40.010 Allowed uses in industrial districts.

	Zoning Districts		
Land Use	PQ	OS	Use-Specific Regulations
<i>Retail</i>			
Marijuana dispensary	—	—	—

SECTION 10: Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 11: Effective Date.

This ordinance shall take effect thirty (30) days after the date of its final adoption. The City Clerk shall certify to adoption thereof and cause its publication according to law.

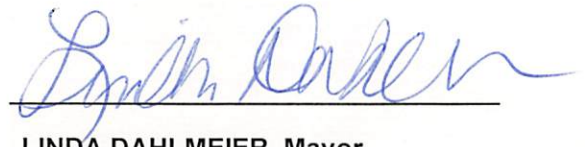
I HEREBY CERTIFY that the foregoing ordinance was introduced and read by the City Council of the City of Oroville on the 7th day of August, 2018, and was duly read and adopted at a regular meeting on the 4th_ day of December, 2018, by the following vote:

AYES: COUNCIL MEMBERS: Council Member Berry, Draper, Del Rosario, Goodson

NOES: COUNCIL MEMBERS: Dahlmeier, Thomson

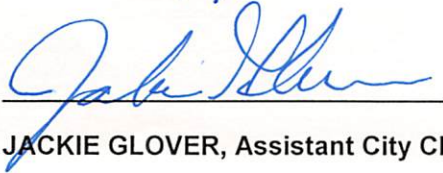
ABSENT: COUNCIL MEMBERS: Hatley

ABSTAIN: COUNCIL MEMBERS: None

A handwritten signature in blue ink, appearing to read "Linda Dahlmeier", written over a horizontal line.

LINDA DAHLMEIER, Mayor

ATTEST: 11/7/19

A handwritten signature in blue ink, appearing to read "Jackie Glover", written over a horizontal line.

JACKIE GLOVER, Assistant City Clerk

FORM APPROVED

A handwritten signature in blue ink, appearing to read "Scott Huber", written over a horizontal line.

SCOTT HUBER, City Attorney