

ORDINANCE NO. 18-__

AN URGENCY ORDINANCE OF THE CITY OF CULVER CITY,
CALIFORNIA, AMENDING SECTION 11.17.115(A)(5)(a) OF
CHAPTER 11.17 OF THE CULVER CITY MUNICIPAL CODE TO
CLARIFY WHEN A SENSITIVE RECEPTOR IS CONSIDERED "IN
EXISTENCE" FOR THE PURPOSE OF STOREFRONT RETAIL
CANNABIS BUSINESS PERMITTING

WHEREAS, in 1996 the voters of the State of California approved
Proposition 215, also known as the Compassionate Use Act (CUA), allowing medical
marijuana use by qualified patients within the state, and decriminalizing the possession
and cultivation of medical marijuana for limited personal medical purposes; and

WHEREAS, in 2004, the California legislature enacted Senate Bill 420,
the Medical Marijuana Program (the "MMP"), which, as codified in California Health and
Safety Code Section 11362.7 et seq., was intended to clarify the CUA's scope and
immunize from criminal prosecution, under specified state laws, certain activities and
conduct related to the provision of medical marijuana to qualified patients; and

WHEREAS, on October 9, 2015, Assembly Bills 243 and 266 and Senate
Bill 643 (collectively, the "Medical Cannabis Regulation and Safety Act" or "MCRSA")
were enacted to create a state regulatory and licensing system governing the
cultivation, testing, and distribution of medical marijuana, the manufacturing of medical
marijuana products, and physician recommendations for medical marijuana. MCRSA
expressly preserved local control over medical marijuana facilities and land uses,
including the authority to prohibit medical marijuana facilities and cultivation completely;
and

WHEREAS, on November 8, 2016, California voters approved Proposition
64, known as the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA),

1 legalizing the adult-use (recreational) marijuana within the state; and providing a
2 regulatory scheme for adult-use marijuana businesses; and

3 **WHEREAS**, on June 27, 2017, the Governor signed Senate Bill 94, which
4 repealed MCRSA and included provisions from MCRSA regarding medical marijuana in
5 the AUMA, so that the regulations governing both medical and non-medical marijuana
6 were contained under one regulatory structure. Senate Bill 94 renamed the AUMA as
7 the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). In
8 addition to consolidating state laws regarding medical marijuana and adult-use
9 marijuana, Senate Bill 94 introduced more uniform terminology including changing
10 "marijuana" or "medical marijuana" to "cannabis" or "medicinal cannabis", and changed
11 "nonmedical" to "adult-use;" and
12

13 **WHEREAS**, MAUCRSA expressly preserves a local jurisdiction's ability to
14 adopt and enforce local ordinances to regulate medicinal and adult-use cannabis
15 businesses; and
16

17 **WHEREAS**, on December 11, 2017, the City Council adopted an
18 Ordinance Amending Culver City Municipal Code (CCMC), Title 17 – Zoning, Section
19 17.700.01 – Definitions of Specialized Terms and Phrases; Section 17.220.015 –
20 Commercial District Land Uses and Permit Requirements; and 17.210.015 - Residential
21 Zoning District Land Uses and Permit Requirements, pertaining to commercial cannabis
22 activity and personal cannabis cultivation (Zoning Code Amendment) and an Ordinance
23 amending Title 11, "Business Regulations," of the CCMC to (1) add a new Chapter
24 11.17 "Commercial Cannabis Business; and (2) amend Section 11.01.075 "Unlawful
25
26
27
28

1 Businesses Prohibited” of Chapter 11.01 (Business Regulatory Ordinance) regarding
2 commercial cannabis businesses within the City; and

3 **WHEREAS**, on March 26, 2018 the City Council amended the commercial
4 cannabis business ordinance, codified in CCMC, Chapter 11.17, which included, among
5 other changes, moving the established distancing requirements of storefront retail
6 cannabis businesses from schools providing instruction in kindergarten or any grades
7 one (1) through twelve (12), day care centers, youth centers, or parks or playgrounds
8 (“sensitive receptors”) to CCMC Section 11.17.115; and
9

10 **WHEREAS**, the City’s regulatory ordinance for cannabis businesses
11 reflects a very careful balancing of competing interests following a lengthy drafting
12 process and substantial public input; and

13 **WHEREAS**, the existing provisions of CCMC Section 11.17.115.A.5.a
14 prohibit a storefront retail cannabis business from locating within a 600-foot radius of a
15 sensitive receptor that is “in existence at the time of the initial issuance of a Commercial
16 Cannabis Business Permit from the City.”; and
17

18 **WHEREAS**, the City Council has determined it is necessary to amend
19 CCMC Section 11.17.115.A.5.a, in order to (1) avoid confusion over the interpretation
20 of when a sensitive receptor is “in existence” for purposes of applying the provisions of
21 Section 11.17.115.A.5.a, which could lead to unintended consequences of a storefront
22 retail cannabis business locating next to an unknown sensitive receptor and result in an
23 incompatible use; (2) provide clarity and certainty, for both the cannabis storefront
24 applicants and for sensitive receptor businesses and locations; and (3) protect the
25 public health, safety and welfare, as well as the City’s rights to regulate cannabis
26
27
28

1 businesses, and to promote the orderly development of cannabis businesses in the
2 City.

3 **NOW, THEREFORE,** the City Council of the City of Culver City, California,
4 DOES HEREBY ORDAIN as follows:

5 **SECTION 1.** Section 11.17.115.A.5.a "Permittee Selection Process" is
6 hereby amended to read as follows (underline denotes addition, ~~strikethrough~~ denotes
7 deletion):

8
9 5. No Applicant shall be selected if the proposed location is not in
10 compliance with the following distancing requirements:

11 a. No storefront retailer shall be located within a 600-foot
12 radius of a school providing instruction in kindergarten or any grades 1 through
13 12, day care center, youth center, or park or playground ("sensitive receptor"),
14 that is in existence at the time of ~~the initial issuance of the City receives a~~
15 Commercial Cannabis Business Permit application from the proposed storefront
retailer City. One or more of the following factors may be considered by the City
to determine if the sensitive receptor was in existence at the time of the City's
receipt of the commercial cannabis business permit application:

16 (1) The sensitive receptor is open and operating;

17 (2) The sensitive receptor has a Culver City Business Tax
Certificate for the specific location and sensitive use;

18 (3) The sensitive receptor has submitted a business tax
certificate application to the City for the specific location and sensitive use
and is undergoing construction or other tenant improvements at the
specific location in question; and

20 (4) Other factors that may indicate a sensitive receptor was in
21 existence as determined by the City Manager.

22 Notwithstanding the foregoing, an application for a storefront retail Commercial
23 Cannabis Business Permit may be deemed in compliance with this Section
24 11.17.115.A.5.a if evidence is submitted, to the satisfaction of the City Manager,
that the sensitive receptor will cease operation at the location prior to the
issuance of a building permit for the storefront retail location.

25 The distance specified in this subsection 5.a shall be the horizontal distance
26 measured in a straight line from the property line of the sensitive receptor to the
27 closest property line of the lot on which the cannabis business is to be located
28 without regard to intervening structures.

1 **SECTION 2.** Based on the recitals set forth above, the City Council finds
2 and declares this Ordinance to be necessary for the immediate preservation of the
3 public health safety and welfare, and upon that basis has determined that an urgency
4 measure, pursuant to Government Code Section 36937(b) and Culver City Charter
5 Section 614, is warranted.
6

7 **SECTION 3:** On November 27, 2017, the City Council adopted a
8 Negative Declaration, in accordance with the California Environmental Quality Act
9 ("CEQA") pursuant to CEQA guidelines, California Code of Regulations, Title 14,
10 Chapter 3, finding the Zoning Code Amendment and Business Regulatory Ordinance
11 will not have a significant effect on the environment. No new information has become
12 available and no substantial changes have been made since the City Council adopted
13 the Negative Declaration; therefore, no additional environmental analysis is required.
14

15 **SECTION 4:** Nothing in this Ordinance shall be construed to affect any
16 suit or proceeding impending in any court, or any rights acquired, or liability incurred, or
17 any cause or causes of action acquired or existing, under any act or Ordinance hereby
18 repealed as cited in Section 1 of this Ordinance; nor shall any just or legal right or
19 remedy of any character be lost, impaired or affected by this Ordinance.
20

21 **SECTION 5.** Pursuant to Section 614 of the City Charter, this Ordinance
22 shall be introduced and adopted at one and the same meeting and shall take effect
23 immediately upon its adoption by a four-fifths vote of the City Council. Pursuant to
24 Sections 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days
25 after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to
26 be published in the Culver City News and shall post this Ordinance or a summary
27 thereof in at least three places within the City.
28

SECTION 6. The City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this ordinance is rendered or declared invalid or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases or words of this ordinance and as such they shall remain in full force and effect.

APPROVED and ADOPTED this _____ day of _____ 2018.

THOMAS AUJERO SMALL, MAYOR
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

JEREMY GREEN
City Clerk

CAROL A. SCHWAB
City Attorney