

ORDINANCE NUMBER 1372

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, CALIFORNIA, AMENDING SECTIONS 5.58.040 AND 5.58.050 OF CHAPTER 5.58 OF TITLE 5 OF THE PERRIS MUNICIPAL CODE IN ORDER TO PERMIT ADULT USE CANNABIS DISPENSARIES (TYPE 10 = RETAILER (ADULT-USE/NON-MEDICAL)) WITHIN THE CITY OF PERRIS, DELETING SECTION 5.54.230(B) OF TITLE 5 OF CHAPTER 5.58 OF TITLE 5 OF THE PERRIS MUNICIPAL CODE, ADDING A NEW DEFINITION TO SECTION 5.58.030 OF CHAPTER 5.58 OF TITLE 5 OF THE PERRIS MUNICIPAL CODE, AND ADDING SECTION 5.58.127 TO CHAPTER 5.58 OF TITLE 5 OF THE PERRIS MUNICIPAL CODE, WHICH PROVIDES REGULATIONS FOR ADULT USE CANNABIS DISPENSARIES

WHEREAS, in 1996 California voters approved Proposition 215, the Compassionate Use Act (“CUA”), codified as Section 11362.5 of the Health and Safety Code, to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for medical purposes; and

WHEREAS, in 2003 the California legislature enacted Senate Bill 420, the Medical Marijuana Program Act (“MMPA”), codified as Sections 11362.7, et seq., of the Health & Safety Code, and as later amended, to clarify the scope of the Compassionate Use Act of 1996 relating to the possession and cultivation of marijuana for medical purpose, and to authorize local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in October 2015, the State of California adopted AB 266, AB 243, and SB 643, collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), which established a comprehensive regulatory and licensing scheme for commercial medical marijuana operations; and

WHEREAS, at the November 8, 2016, general election, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) was approved by California voters as Proposition 64, which established a comprehensive regulatory and licensing scheme for commercial recreational (adult use) marijuana operations, and which also legalized limited personal recreational marijuana use, possession, and cultivation; and

WHEREAS, on June 27, 2017, Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

WHEREAS, MAUCRSA provides that the State of California will begin issuing licenses in 2018 for both medical and recreational marijuana businesses in multiple different categories, which are found in Section 26050 of the Business & Professions Code, and which

categories include marijuana cultivation, manufacturer, testing, retailer, distributor, and microbusiness; and

WHEREAS, MAUCRSA, pursuant to Section 26200(a)(1) of the Business & Professions Code, provides that local jurisdictions may completely prohibit the establishment or operation of any or all of the 20 different medical and recreational business operations to be licensed by the state under Section 26050 of the Business & Professions Code; and

WHEREAS, MAUCRSA, pursuant Section 26055(d) of the Business & Professions Code, provides that a state commercial marijuana license may not be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation; and

WHEREAS, MAUCRSA, pursuant to Section 26200(a)(1) of the Business & Professions Code, provides that local jurisdictions may adopt and enforce local ordinances to regulate any or all of the 20 different medical and recreational business operations to be licensed by the state under Section 26050 of the Business & Professions Code, including, but not limited to, local zoning and land use requirements; and

WHEREAS, MAUCRSA, pursuant to Section 26201 of the Business & Professions Code, provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state for the 20 different medical and recreational business operations to be licensed by the state under Business & Professions Code § 26050, shall be the minimum standards, and a local jurisdiction may establish additional standards, requirements, and regulations; and

WHEREAS, the voters of the City of Perris at the November 8, 2016, regular election approved the adoption and adding of Chapter 5.54 (Medical Marijuana Dispensary Regulatory Program) into Title 5 of the Perris Municipal Code, which established a comprehensive set of regulations with an attendant regulatory permit applicable to the operation of medical marijuana dispensaries; and

WHEREAS, on November 14, 2017, the City Council of the City of Perris adopted Ordinance No. 1355 to add new Chapter 5.58 (Commercial Marijuana Operations Regulatory Program) to Title 5 of the Perris Municipal Code, so as to regulate commercial marijuana operations by allowing testing and indoor/mixed-light cultivation, while banning adult-use retail, adult-use deliveries, manufacturing, outdoor cultivation and (wholesale) distribution; and

WHEREAS, on January 30, 2018, the City Council of the City of Perris adopted Ordinance Number 1358 to add Sections 5.58.124 (Wholesale distribution operating standards and restrictions), 5.58.126 (Manufacturing operating standards and restrictions), and 5.58.128 (Community benefit agreement) to Chapter 5.58 of Title 5 of the Perris Municipal Code, so as to permit the commercial marijuana uses of (wholesale) distribution and manufacturing; and

WHEREAS, this Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act of 2003, the Medical Cannabis Regulation and

Safety Act of 2015, the Adult Use of Marijuana Act of 2016, and the Medicinal and Adult Use of Cannabis Regulation and Safety Act of 2017, to protect, promote and maintain the public health, safety, and welfare of City residents and visitors in relation to marijuana related uses and activities; and

WHEREAS, pursuant to the above-described express statutory authority and the City's police power, the City has the authority to prohibit, permit and regulate any and all commercial marijuana activities (whether not-for-profit or for-profit) that may otherwise be permitted by the State of California under the MCRSA, the AUMA, and the MAUCRSA; and

WHEREAS, nothing in this Ordinance shall be construed to allow any person to engage in conduct that endangers others or causes a public nuisance; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City now desires to amend Chapter 5.58 (Commercial Marijuana Operations Regulatory Program) of Title 5 of the Perris Municipal Code, so as to permit the commercial marijuana uses of adult-use retailer; and

THE CITY COUNCIL OF THE CITY OF PERRIS DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals Incorporated. The City Council finds the above recitals are true and correct and incorporated herein by this reference.

Section 2. CEQA. Based upon its own independent judgment and substantial evidence in the record of proceedings, the City Council finds and determines that, pursuant to both the exemption provided in Section 26055(h) of the Business & Professions Code as well as CEQA Guidelines, Sections 15060(c)(2) and 15061(b)(3), the Ordinance is not subject to CEQA, because adoption of this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment nor will it have a significant effect upon the environment.

Section 3. Amendment to Section 5.58.040. Section 5.58.040 of Chapter 5.58 of Title 5 of the Perris Municipal Code is hereby amended as follows (~~strikethrough~~ represents deleted language while **bold italics** represents added language):

“Sec. 5.58.040. - Prohibited commercial marijuana operations.

(a) Operations prohibited. Commercial marijuana operations (including non-profit operations) within the city which involve the activities of outdoor cultivation, retail (adult-use), or microbusiness are prohibited, including but not limited to commercial marijuana activities licensed by the state license classifications listed below as provided in Business and Professions Code § 26050:

1. Type 1 = Cultivation; specialty outdoor; small.
2. Type 1C = Cultivation; specialty cottage; small (outdoor).

3. Type 2 = Cultivation; outdoor; small.
4. Type 3 = Cultivation; outdoor; medium.
5. Type 5= Cultivation; outdoor; large.
6. ~~Type 10 = Retailer (adult use / non-medical).~~
7. ~~Type 12 = Microbusiness.~~

(b) Similar activities. The prohibition provided by above subsection (a) includes any similar activities authorized under new or revised state licenses, or any other state authorization, to allow any type, category or classification of marijuana commercial activities which involve the activities of outdoor cultivation, retail (adult-use), or microbusiness, or similar operations (including non-profit, collective or cooperative operations).”

Section 4. Amendment to Section 5.58.050. Section 5.58.050 of Chapter 5.58 of Title 5 of the Perris Municipal Code is hereby amended as follows (~~strikethrough~~ represents deleted language while ***bold italics*** represents added language):

“Sec. 5.58.050. - Permitted commercial marijuana operations.

(a) Operations permitted. Commercial marijuana operations (including non-profit operations) within the city which involve the activities of indoor or mixed-light cultivation (including indoor or mixed-light nurseries), manufacturing, distributor, ***retail (adult-use/non-medical)*** and testing are allowed subject to both issuance and maintenance of a valid and current city commercial marijuana operation permit, as well as continuing adherence to this entire chapter. Commercial marijuana operations (including non-profit operations) within the city which involve the activities of retail (medical) are allowed subject to the issuance and maintenance of a valid and current medical marijuana dispensary permit pursuant to Chapter 5.54 (Medical Marijuana Dispensary Regulatory Program). All permitted commercial marijuana operations are required to maintain continuing adherence to all applicable city and state regulations and laws, and issuance and maintenance of a valid and current equivalent state license type listed below, as provided for in Business and Professions Code § 26050:

1. Type 1A = Cultivation; specialty indoor; small.
2. Type 1B = Cultivation; specialty mixed-light; small.
3. Type 1C = Cultivation; specialty cottage; small (indoor or mixed-light).
4. Type 2A = Cultivation; indoor; small.
5. Type 2B = Cultivation; mixed-light; small.

6. Type 3A = Cultivation; indoor; medium.
7. Type 3B = Cultivation; mixed-light; medium.
8. Type 4 = Cultivation; nursery (indoor or mixed-light).
9. Type 5A= Cultivation; Indoor; Large
10. Type 5B = Cultivation; mixed-light; large.
11. Type 6 = Manufacturer 1.
12. Type 7 = Manufacturer 2.
13. Type 8 = Testing.
14. Type 10 = Retailer (medical).
15. **Type 10 = Retailer (adult-use / non-medical).**
16. Type 11 = Distributor.

(b) Similar activities. The requirements provided by above subsection (a) apply to any similar activities authorized under new or revised state licenses, or any other state authorization, to allow any type, category or classification of marijuana commercial activities which involve the activities of indoor or mixed-light cultivation (including indoor or mixed-light nurseries), testing, retail (medical), manufacturing, distributor, or similar operations (including non-profit, collective or cooperative operations).

(c) Retail (medical) operations. Retail (medical) commercial marijuana operations (referred to in Chapter 5.54 as "Medical Marijuana Dispensaries") are governed by the requirements of Chapter 5.54 (Medical Marijuana Dispensary Regulatory Program).”

Section 5. Deletion of Section 5.54.230(b). Section 5.54.230(b) is hereby deleted from Section 5.54.230 of Chapter 5.54 of Title 5 of the Perris Municipal Code.

Section 6. New Definition Added to Section 5.58.030. The following term and definition is hereby added to Section 5.58.030 of Chapter 5.58 of Title 5 of the Perris Municipal Code as follows:

“*Day care center* has the same meaning as the term is defined in Section 26001(o) of the Business & Professions Code and Section 1596.76 of the Health & Safety Code, and as those sections may be amended, except that “day care center” shall also be defined to include “family day care home,” as that term is defined by Section 1596.78 of the Health & Safety Code, and as that section may be amended.”

Section 7. New Section 5.58.127. Section 5.58.127 is hereby added to Chapter 5.58 of Title 5 of the Perris Municipal Code as follows:

“Sec. 5.58.127 – Retailer (Adult-use / Non-medical) operating standards and restrictions.

A commercial marijuana operation engaged in business as an adult-use retailer shall operate in conformance with both the General Operating Standards and Restrictions provided for in section 5.58.100, as well as the following minimum requirements and standards provided in this Section 5.58.127, and such standards shall be deemed to be part of the conditions of the permit for an adult-use retailer to ensure that its operation is in compliance with California law and the Perris Municipal Code, and to mitigate any potential adverse impacts of the commercial marijuana operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the city council, or by the director (upon authorization by resolution from the city council).

(a) *City permits and state license.* No person shall establish or operate adult-use retail without a current and valid city commercial marijuana operation permit issued for an adult-use retailer, a current and valid city medical marijuana dispensary permit issued pursuant to Chapter 5.54 of Title 5 of the Perris Municipal Code, and a valid equivalent state license for adult-use retailer as provided for under Division 10 of the Business and Professions Code, as may be amended.

(b) *Current and Valid Medical Marijuana Dispensary Permit Required.* No city commercial marijuana operation permit shall be issued for any adult-use retailer unless the adult-use retailer has also been issued a city medical marijuana dispensary permit pursuant to Chapter 5.54 of Title 5 of the Perris Municipal Code.

(c) *State standards.* All state requirements and regulations that govern adult-use retailers, including but not limited to the regulations promulgated by the Bureau of Cannabis Control, and as may be amended, shall apply as minimum requirements and regulations for adult-use retailers within the City of Perris, in addition to the requirements and regulations of this chapter and this Code.

(d) *Adult-Use Retailer Application.*

1. In addition to the application required by Section 5.58.070, the owner of a proposed adult-use retailer shall file an application with the director upon a form provided by the city and shall pay a filing fee as established by resolution adopted by the city council as amended from time to time.

2. In addition to the requirements of this Section 5.58.070, an application for a regulatory permit for an adult-use retailer shall include the following information:
 - a. A site plan and floor plan of the premises denoting all the use of areas on the premises of the adult-use retailer, including storage, exterior lighting, restrooms, and signage. The site plan shall be prepared by a professional and licensed civil engineer or architect.
 - b. A security plan which details security measures to the satisfaction of the director that all applicable security-related requirements under state or local law, including, but not limited to, the requirements of Section 5.58.127(e), are and will be met.
 - c. The applicant's current and valid medical marijuana dispensary permit.

(e) *Security.* Adult-use retailers shall maintain the following security measures:

1. Entrances to the dispensing area and any storage area shall be locked at all times, shall be only accessible by employees, and shall be under the control of only employees.
2. The interior premises of the adult-use retailer shall be equipped with and, at all times during which it is open to the public, shall remain illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which members of the public or portions thereof are permitted access with an illumination of not less than two foot-candles as measured at the floor level.
3. All marijuana present or kept at the adult-use retailer premises shall be securely stored against both unauthorized access and theft.

(f) *Location and distance restrictions.*

1. No adult-use retailer shall locate or operate in any area or zone of the City of Perris, other than in the following zones:
 - a. CN Zone (Commercial Neighborhood).
 - b. CC Zone (Commercial Community).
 - c. Industrial Zones.
2. No adult-use retailer shall be located or operate as follows:

- a. No adult-use retailer shall locate within 1,000 feet of a school, park, place of worship, youth-oriented facility, youth center, day care center, or community center.
 - b. No adult-use retailer shall locate within 600 feet of a residential zone. The distance shall be measured as the horizontal distance measured in a straight line from the property line of one site to the property line of another site.
3. The adult-use retailer shall be located at and operated within the same location and premises for which the applicant's current and valid medical marijuana dispensary has been issued.

(g) *Sale Restrictions.*

1. Adult-use retailers shall not sell or dispense marijuana or marijuana products to individuals under the age of 21.
2. Adult-use retailers shall not sell or dispense more than 28.5 grams of marijuana in any singular transaction.

(h) *Records.* Adult-use retailers shall maintain records reflecting:

1. The source (including name, location and contract information) of all marijuana dispensed, sold or stored by the adult-use retailer.
2. The dates upon which all customers are sold marijuana and the amount sold.
3. The delivery of marijuana, from the adult-use retailer by an employee, to a customer located outside of the adult-use retailer location, including but not limited to the identity of the recipient, the amount delivered, the date of the delivery, the address of the delivery, the name of the employee making the delivery, and a written receipt from the customer confirming the delivery.
4. Proof of a valid and current permit issued by the city in accordance with this chapter. Every adult-use retailer shall display at all times during business hours the permit issued pursuant to the provisions of this chapter in a conspicuous place so that it may be readily seen by all persons entering the location of the adult-use retailer.

(i) *Employees.*

1. An adult-use retailer shall maintain results of live scans conducted annually by the adult-use retailer on all employees with the written results of such live scans being maintained at the location of the adult-use retailer.

2. All owners and managers must have a current and valid identification card.
- (j) *Only marijuana products.* Consistent with this Chapter and State law, Adult-use retailers shall only dispense, offer to sell, or provide marijuana, marijuana products, and marijuana-related products. Marijuana-related products include, but are not limited to, pipes used for the consumption of marijuana, rolling papers for the consumption of marijuana, etc.
 - (k) *No alcohol.* Adult-use retailers shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
 - (l) *No lounge or cafe.* Adult-use retailers shall not operate as a lounge, cafe or restaurant serving food or drinks for consumption on-site. There shall be no seating area, tables, couches, or chairs for the gathering or congregating of individuals.
 - (m) *Site Management.*
 1. The adult-use retail permit holder shall take all reasonable steps to discourage and correct conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if related to the operation of the adult-use retailer.
 - a. Reasonable steps shall include immediately calling the police upon observation of the activity, and requesting that those engaging in activities that constitute a nuisance or are otherwise illegal to cease those activities, unless personal safety would be threatened in making the request.
 - b. Nuisance includes but is not limited to disturbances of peace, open public consumption of marijuana, alcohol or controlled substances, excessive pedestrian or vehicular traffic, including the formation of any pedestrian lines outside the building, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.
 2. The adult-use permit holder shall make available to customers who are dispensed, sold, or provided with marijuana or marijuana products a list of the rules and regulations governing marijuana use and consumption within the city.
 - (n) *Delivery of marijuana.*

1. All employees who provide delivery of marijuana from an adult-use retailer to a customer located outside the adult-use retailer location must have a valid identification card at all times with the employee while the delivery is being made.
2. All deliveries must be recorded by the adult-use retailer and maintained in the regular records of the adult-use retailer. These records shall include but not be limited to the identity of the recipient, the amount delivered, the date of the delivery, the address of the delivery, and the name of the employee making the delivery.
3. Upon receipt of a delivery outside of the location of the adult-use retailer, a customer must sign for the delivery on a written identifiable receipt to be kept in the regular records of the adult-use retailer.
4. All deliveries must leave the adult-use retailer in sealed containers whose seals will not be broken until receipt of the delivery by the customer.”

Section 8. Severability. If any subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or otherwise unenforceable, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declare that they would have passed each subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more subsection, subdivision, paragraph, sentence, clause, or phrase be declared unconstitutional or otherwise unenforceable.

Section 9. Effective Date. This Ordinance shall take effect 30 days after its adoption.

Section 10. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted at the designated locations in the City of Perris.

ADOPTED, SIGNED and **APPROVED** this 9th day of October, 2018.

MAYOR, MICHAEL M. VARGAS

ATTEST:

City Clerk, Nancy Salazar

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE)
CITY OF PERRIS)

I, Nancy Salazar, CITY CLERK OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Ordinance Number 1372 was duly introduced by the City Council of the City of Perris at a regular meeting of said Council on the 25th day of September and duly adopted by the City Council of the City of Perris at a regular meeting of said Council on the 9th day of October, 2018, and that it was so adopted by the following vote:

AYES: CORONA, RABB, VARGAS
NOES: ROGERS, BURKE
ABSENT: NONE
ABSTAIN: NONE

City Clerk, Nancy Salazar