



## Administrative Report

DISCUSSION ITEM

**TO:** HONORABLE CITY COUNCIL

**FROM:** James Vega, City Manager  
Robin Godfrey, Interim Asst. City Manager

**DATE REPORT PREPARED:** September 27, 2022

**MEETING DATE:** October 11, 2022

**SUBJECT:** Consideration of Allowing up to three Cannabis Lounges in M-1/MPD Zoning Districts

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### **Recommendation**

That City Council consider the introduction of a revised cannabis ordinance that allows each of the City's three Cannabis license holders the option of adding or integrating a consumption lounge at their existing site or elsewhere within the M-1/MPD zone.

### **Background**

The City's current cannabis regulations, codified at Municipal Code Chapter 4-26, allow commercial cannabis businesses to operate in the City in M-1 and MPD zones. Specifically, the Municipal Code allows laboratory testing, delivery, manufacturing and distribution of cannabis products.

On May 4, 2022, the Planning Commission considered whether to recommend the following changes to the City's Cannabis regulations:

- Allowing retail dispensaries to move outside the M-1/MPD zones into the east end of Ojai Avenue's C-1 zone;
- Allowing limited-scale, indoor nursery-only cultivation licenses; and
- Allowing on-site consumption lounges in compliance with state law along the east end of Ojai Avenue's C-1 Zone as referenced above.

The Planning Commission voted against adding cultivation licenses and against retail expansion outside of the M-1/MPD zones. However, the Commission voted in support of consumption lounges, with the stipulation that they offer edibles only and are part of the three existing dispensaries in the M-1/MPD Zoning. With the City's existing prohibition on smoking, the Commission did not support allowing an exception for cannabis.

### **Recent City Council Action**

At its June 14, 2022, meeting the City Council voted down the Planning Commission's recommendation of cannabis lounges focused on edibles *only*, citing the delayed impact of ingested cannabis and lack of information about cannabis lounge operations and services. As an alternative, Council asked staff to explore in greater depth potential support of cannabis lounges by local dispensaries and types of cannabis use in a lounge setting, and return with a proposal for Council consideration.

### **Discussion**

Consumption lounges allow cannabis smoking, vaping, or consumption of edibles on-site. In California, these lounges are operational in West Hollywood, San Francisco and Oakland, Palm Springs, National City, and Coalinga. In Ventura County, up to five lounges were recently approved in Port Hueneme, with the first planning to open in November 2022.

To operate a cannabis lounge, the State of California requires a Type 10-Retailer or a Microbusiness License with a specific consumption lounge destination. With this license, the following rules apply:

- Smoking, vaporizing and ingesting cannabis or cannabis products is not allowed off the premises.
- No on-site sale or consumption of alcohol or tobacco products allowed.
- State operating hours for consumption lounges is 6:00 a.m. to 2:00 a.m. (Council could identify limited hours).
- Can only sell cannabis to an individual in an amount reasonable for on-site consumption.
- Must be 21 or older to enter lounge.
- Smoking, vaping, or consuming edible cannabis products cannot be visible from any public place or non-age restricted area.
- A security guard is required.

To understand how lounges might fit into local cannabis infrastructure, City staff met individually with Ojai's three cannabis distributors: Ojai Greens, Sespe Creek Collective, and Shangri-La Care Center. Each retailer shared their vision of a cannabis lounge and discussed potential benefits and challenges. In addition to meeting with local dispensaries, Staff researched existing lounges in Los Angeles and Riverside and Ventura counties to learn about types of cannabis lounge services, locations and common concerns.

Ventura County's first cannabis lounge, Wheelhouse in Port Hueneme, received initial Council approval last month and plans to open from 9 am to 10 pm in late fall. Port Hueneme will ultimately allow up to five cannabis lounges. The Port Hueneme ordinance requires a "detailed statement on procedures and practices to monitor patrons for overconsumption." Wheelhouse requires customers to pay for annual memberships starting at \$100 per month.

Statewide, cannabis lounges vary. While all must follow State and local laws, lounges range from simple sitting rooms to sites that include comedy acts, spa services, games and classes. Some require memberships, while most are open to the general public (over 21 per State law).

Each of the City's three dispensaries expressed interest in operating a consumption lounge and saw value in a physical place to consume cannabis safely and legally. Although each envisioned a slightly different lounge environment, which included cannabis use education for medical clients, a casual social setting for consumption, and social activities such as games, rotating art classes or movie nights, some were also interested in expanding outside of the M-1/MPD zone. Each cited potential, yet addressable, challenges with the cost and logistics of setting up a consumption lounge at or near their retail site. While several had considered memberships, they felt that the existing safety measures, requiring customers to sign-in with valid identification allowed them to identify individual patrons, without the cost and management of memberships.

### **Proposed Ordinance**

With these factors in mind, staff presents a proposal for the City Council to consider that allows existing retailers to add a lounge within the existing M-1 and MPD zones. The ordinance leaves membership consideration up to the individual business. Should the Council wish to move forward with cannabis lounges, staff propose the following guidelines, which are reflected in the Draft Ordinance (Attachment A).

- A maximum of three (3) licenses for cannabis lounges in connection with existing cannabis dispensaries lawfully operating in the City .
- Lounges must be located on M-1 and MPD zones.
- Cannabis lounges shall be indoor only.
- Cannabis lounges would be exempted from the City's no-smoking policy.
- Cannabis lounges shall have a dedicated separate entrance or internal connection to any cannabis dispensary.
- The smoking, inhalation, consumption or ingestion of cannabis or cannabis goods shall not be visible from any public place or any area where minors may be present.
- Customers may smoke, vape, ingest, or otherwise consume cannabis in the cannabis lounge.
- The on-site sale of food and food items infused with cannabis is permitted.
- No sales of tobacco products or smoking or ingesting of tobacco shall be allowed in a cannabis lounge.
- No alcoholic beverage sales or ingestion of alcohol products shall be allowed in a cannabis lounge.

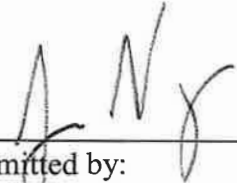
The Council may also wish to provide guidance on the following topics, which will be included in operating guidelines:

- Limiting hours between 9 a.m. and 7 p.m. to align with the current dispensary hours of operations
- Requiring suitable air filters/etc. to ensure smell does not impact any public areas.
- Requiring a safety plan to monitor for overconsumption.
- Requiring registration or a membership.

**Fiscal Impact**

All cannabis revenues are designated to the City's reserve fund. No impact on General Fund is anticipated.

  
Prepared by:  
Robin Godfrey, Interim Asst. City Manager

  
Submitted by:  
James Vega, City Manager

Attachments: A- Cannabis Ordinance

**CITY OF OJAI**

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF OJAI, CALIFORNIA AMENDING CHAPTER 26 OF  
TITLE 4 OF THE OJAI MUNICIPAL CODE REGULATING  
CANNABIS LOUNGES**

WHEREAS, California voters approved Proposition 215 (Health and Safety Code Section 11362.5), entitled the Compassionate Use Act (CUA), in 1996, which exempts patients and their primary caregivers from criminal prosecution or sanctions under H&S Code Sections 11357 and 11358 for qualified use and cultivation of medical cannabis; and

WHEREAS, the California Legislature passed Senate Bill 420 (H&S Code Sections 11362.7 et seq.) in 2003 to create the Medical Marijuana Program (MMPA), which established a voluntary program for the issuance of medical cannabis identification cards for qualified patients, set limits on the amount of cannabis any individual could possess, and provided an exemption from state criminal liability for persons “who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes”; and

WHEREAS, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) was passed by California voters on November 8, 2016, as Proposition 64; and

WHEREAS, many of the AUMA’s provisions took effect on November 9, 2016; and

WHEREAS, among other effects, the AUMA authorizes the adult use of cannabis by persons aged 21 years or older, and regulates personal and commercial activities related to adult cannabis use; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 creating a single regulatory mechanism for both medical and adult-use cannabis — the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA). Under MAUCRSA, local governments retain broad authority over most cannabis activity and businesses; and

WHEREAS, the AUMA authorizes the City to regulate the establishment or operation of cannabis businesses within its limits, including such businesses eligible for state licenses; and

WHEREAS, allowing and regulating the establishment of cannabis lounges within the City is necessary to protect the health, safety and welfare of the community.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI CALIFORNIA DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Findings.** The City Council hereby determines that the foregoing findings are true and correct, and incorporates them herein by reference.

**SECTION 2. Code Amendment.** Ojai Municipal Code section 4-26.01 is amended to read in its entirety as follows. Additions are denoted by underlined text and deletions are denoted by struck-through text.

**Section 4-26.01. Definitions.**

- (a) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (b) “Delivery” means the commercial transfer of cannabis or cannabinoid preparations to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer or independently licensed under California law that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabinoid preparations.
- (c) “Cannabis” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” does not include:
  - (1) Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
  - (2) The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other products.
- (d) “Cannabis, adult-use” means cannabis or cannabis products intended to be sold for use by adults 21 years of age and over who do not possess physician’s recommendation for the use of cannabis issued in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code; § 11362.5).
- (e) “Cannabis accessories” is defined as that term is defined in California Health and Safety Code section 11018.2
- (f) “Cannabis Lounge” means a City-licensed facility where Cannabis and Cannabis products or goods may be smoked, vaped, or ingested within the confines of the facility.
- (g) “Cannabinoid preparations” 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.

- (h) “Medical use” of cannabis or cannabinoid preparations means the use permitted by the Compassionate Use Act (California Health & Safety Code, § 11362.5) and the Medical Marijuana Program Act (California Health & Safety Code, § 11362.7 et seq.).
- (i) “Person” includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, 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) "Primary Caregiver" is defined as that term is defined in California Health and Safety Code section 11362.7, subdivision (d).
- (k) "Qualified Patient" means a seriously ill person who obtains a written recommendation from a physician licensed to practice medicine in the State of California to use cannabis for personal medical purposes. In addition, persons currently under the care of a physician for a "serious medical condition" as that term is defined in California Health and Safety Code section 11362.7, subdivision (h) are presumed to be "qualified patients."
- (l) “Adult use” of cannabis or cannabinoid preparations means the use permitted by Section 11362.1 of the California Health & Safety Code.
- (m) “Manufacture” means the production, preparation, or compounding of cannabis products, including extraction processes, infusion processes, the packaging or repackaging of manufactured cannabis or cannabis products, and labeling or relabeling the packages of manufactured cannabis or cannabis product.
- (n) A “manufacturing” or “manufacturing operation” means all aspects of the manufacture, extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products. “Manufacturing”

shall also include any processing, preparing, holding, or storing of components and ingredients.

- (o) A “volatile solvent” shall mean any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
- (p) A “non-volatile solvent” shall mean any solvent used in the extraction process that is not a volatile solvent, including carbon dioxide.
- (q) A “microbusiness” shall mean any commercial adult-use cannabis business that engages in commercial manufacturing, distribution, and retail sales of cannabis for adult-use and medical purposes.
- (r) Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified.

**SECTION 3. Code Amendment.** Ojai Municipal Code Section 4-26.02 is amended to read in its entirety as follows. Additions are denoted by underlined text and deletions are denoted by struck-through text.

**Section 4-26.02. Smoking or consumption of cannabis prohibited in public places.**

Within the City’s limits, no person may smoke or ingest cannabis or cannabinoid preparations in any public place or in any location where smoking tobacco is prohibited, except as provided in Section 4-26.10. Licensed and lawfully operating cannabis lounges are exempt from the smoking regulations of the Ojai Municipal Code, Chapter 5-10.

**SECTION 4. Code Amendment.** Ojai Municipal Code Section 4-26.03 is amended to read in its entirety as follows. Additions are denoted by underlined text and deletions are denoted by struck-through text.

**Section 4-26.03. Prohibited Cannabis Activities.**

(a) Except as specifically allowed by Section 4-26.04, Section 4-26.06, and Section 4-26.08, ~~and 4-26.09, and 4-26.10~~ of this code and applicable state law, all cannabis activity, cultivation, and businesses shall be prohibited within the City of Ojai, regardless of any licenses issued under state law. This prohibition shall not prevent indoor cultivation of cannabis for personal use by a person over 21 years of age, conducted in accord with applicable state law and inside a private residence or inside an accessory structure to a private residence located upon the grounds of the private residence.

(b) **Outdoor Cultivation Prohibited.** No person may cultivate cannabis outdoors in any zoning district of the City. No conditional use permit, building permit, variance, or any other permit or entitlement, whether ministerial or discretionary, shall be approved or issued for any such use or activity.



(c) Commercial Indoor Cannabis Cultivation Prohibited. No person may cultivate cannabis for any commercial purposes indoors or within a building, structure, shed, or other enclosure anywhere in any zoning district of the City. No conditional use permit, building permit, variance, or any other permit or entitlement, whether ministerial or discretionary, shall be approved or issued for any such use or activity.

**SECTION 5. Code Addition.** Ojai Municipal Code Section 4-26.10 is added to read in its entirety as follows. Additions are denoted by underlined text.

**Section 4-26.10. Cannabis Consumption Lounges.**

- (a) Location Criteria. A cannabis lounge shall be located in compliance with the following requirements:
- (1) Cannabis lounges may only be located in the M-1 and MPD Zones and may not be located in any other zone in the City.
  - (2) Cannabis lounges shall be indoor only.
  - (3) Cannabis lounges shall have a dedicated separate entrance or internal connection to any cannabis dispensary.
  - (4) The smoking, inhalation, consumption or ingestion of cannabis or cannabis goods shall not be visible from any public place or any area where minors may be present.
- (b) Consumption. Cannabis and cannabis products/goods may be sold on the premises of a cannabis lounge solely as part of the existing dispensary, subject to the requirements set forth in this Chapter or other applicable provisions of this Code and state law. Customers may smoke, vape, ingest, or otherwise consume cannabis in the indoor cannabis lounge. All cannabis and cannabis products sold must comply with applicable state law regarding cannabis products.
- (c) License. A maximum of three (3) licenses for cannabis lounges shall be issued and only to existing cannabis dispensaries lawfully licensed by and operating in the City. The City Manager or designee shall issue applications and operating regulations for the City's cannabis lounges licenses. No such license shall be issued prior to the release of these regulations, and no license shall be granted that has not complied fully with the application and operating regulations and all applicable City and state laws.
- (d) Food and Water. Customers shall not be permitted to bring their own food, cannabis, cannabis products, alcohol, alcoholic products, tobacco, or tobacco products into any dispensary or cannabis lounge. Cannabis lounges shall permit customers to bring their own water into cannabis lounges and must provide water

for free to customers. The on-site sale of food and food items infused with cannabis is permitted.

- (e) Tobacco. No sales of tobacco products or smoking or ingesting of tobacco shall be allowed in a cannabis lounge.
- (f) Alcohol. No alcoholic beverage sales or ingestion of alcohol products shall be allowed in a cannabis lounge.
- (g) Hours of Operation. Cannabis lounges shall only operate between the hours of 8:00AM to 7:00PM Monday-Sunday.

**SECTION 6. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

**SECTION 7. Environmental Determination.** The City Council determines that the following findings reflect the independent judgment of the City Council. The City Council finds that this amendment to the Municipal Code is exempt from California Environmental Quality Act (CEQA). The City Council has considered all of the evidence in the record, including the staff reports, the testimony received on the matter by the City Council, and hereby determines that the text amendments will not have a significant effect on the environment. The proposed three cannabis consumption lounges will be required to meet all local, state, and federal security, health, safety, and other regulations, thereby ensuring that there will not be any significant environmental impacts to surrounding sites. The creation of indoor consumption lounges by the three existing cannabis dispensaries will not affect the exterior environment of the City as cannabis consumption and any related odors or noise are prohibiting from being audible or noticeable outside. The adoption of this ordinance is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061 (b)(3), and Sections 15301, 15303, 15323, and 15332 of the California Code of Regulations.

**SECTION 8. Certification.** The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

**SECTION 9. Effective Date.** This Ordinance shall take effect 30 days after its passage and adoption pursuant to California Government Code Section 36937.

CITY OF OJAI, CALIFORNIA

By \_\_\_\_\_  
Betsy Stix, Mayor

ATTEST:

\_\_\_\_\_  
Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Matthew T. Summers, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF VENTURA )  
CITY OF OJAI )

I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on \_\_\_\_\_ and adopted at a regular meeting held on \_\_\_\_\_ by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Gail Davis  
Deputy City Clerk for the City of Ojai

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