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ORDINANCE NO. 16-1362

AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, AMENDING SECTIONS 17.42.110 AND 17.26.030, OF THE HERMOSA BEACH MUNICIPAL CODE TO EXPRESSLY PROHIBIT ALL COMMERCIAL MEDICAL MARIJUANA USES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER

THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 17.42.110 of the Hermosa Beach Municipal Code is hereby amended in its entirety to read as follows:

A. Definitions.

1. “Collective” means any association, affiliation, or establishment jointly owned and operated by its members that facilitate the collaborative efforts of qualified patients and primary caregivers, as described in the Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, issued by the Attorney General’s Office in August 2008, as amended from time to time, which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients or primary caregivers.

2. “Commercial Cannabis Activity” means cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical marijuana or medical marijuana products, except as set forth in Business and Professions Code section 19319, related to qualified patients and primary caregivers.

3. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis.

4. “Delivery” shall include the use by a medical marijuana dispensary of any technology platform owned and controlled by the medical marijuana dispensary, or independently licensed by the State under the Medical Marijuana Regulation and Safety Act, which enables persons, qualified Patients, and/or primary caregivers to arrange for or facilitate the commercial transfer of medical marijuana or medical marijuana products.

1 5. “Marijuana,” or “Cannabis,” shall have the same meaning as the definition
2 of that word in Health and Safety Code Section 11018.

3 6. “Medical Marijuana” means marijuana authorized for personal medical use
4 in compliance with Health and Safety Code Sections 11362.5 and 11362.7, et seq.

5 7. “Medical Marijuana Dispensary” shall mean a collective or cooperative that
6 distributes, dispenses, stores, sells, exchanges, processes, delivers, cultivates, makes available,
7 transmits and/or gives or otherwise provides medical marijuana to two or more persons with
8 identification cards or qualified patients, or any facility where qualified patients, persons with
9 identification cards and primary caregivers meet or congregate collectively and cooperatively to
10 cultivate or distribute marijuana for medical purposes under the authority of California Health and
11 Safety Code sections 11362.5, and 11362.7, et seq. Medical Marijuana Dispensary shall also refer
12 to a facility where Medical Cannabis, Medical Cannabis products, or devices for the use of
13 Medical Cannabis or Medical Cannabis products are offered, either individually or in any
14 combination, for retail sale, including an establishment that Delivers Medical Cannabis and
15 Medical Cannabis products as part of a retail sale. Medical Marijuana Dispensary shall not
16 include the following uses, so long as such uses comply with this Code, the California Health and
17 Safety Code Section 11362.5, et seq., and other applicable law:

18 a. A clinic licensed pursuant to Chapter 1 of Division 2 of the
19 Health and Safety Code.

20 b. A health care facility licensed pursuant to Chapter 2 of
21 Division 2 of the Health and Safety Code.

22 c. A residential care facility for persons with chronic life-
23 threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.

24 d. A residential care facility for the elderly licensed pursuant to
25 Chapter 3.2 of Division 2 of the Health and Safety Code.

26 e. A hospice or a home health agency, licensed pursuant to
27 Chapter 8 of Division 2 of the Health and Safety Code.

28 8. “Medical Marijuana Regulation and Safety Act” shall refer to Chapter 3.5
of the California Business and Professions Code, commencing with section 19300, *et seq.*

1 9. “Mobile Marijuana Dispensary” means any dispensary, clinic, cooperative,
2 association, club, business or group which transports or delivers, or arranges the transportation or
3 delivery of medical marijuana to a person.

4 10. “Person” means any individual, firm, cooperation, association, club, society,
5 or other organization. The term person shall include any owner, manager, proprietor, employee,
6 volunteer or salesperson.

7 11. “Person with an Identification Card” shall have the same meaning as the
8 definition of that word in Health and Safety Code Section 11362.7.

9 12. “Primary Caregiver” shall have the same meaning as the definition of that
10 word in Health and Safety Code Section 11362.7.

11 13. “Qualified Patient” shall have the same meaning as the definition of that
12 word in Health and Safety Code Section 11362.7.

13 B. Medical marijuana dispensaries prohibited. Medical marijuana dispensaries are
14 prohibited in all zones throughout the City; no person shall establish, operate, conduct, or allow a
15 medical marijuana dispensary or commercial cannabis activity anywhere in the City.

16 C. Mobile Marijuana Dispensaries are prohibited within the City. No person shall:

17 1. Locate, operate, own, suffer, allow to be operated or abide, abet, or assist in
18 the operation of any mobile marijuana dispensary within the City;

19 2. Deliver marijuana to any location within the City from a mobile marijuana
20 dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any
21 operation for this purpose; or

22 3. Deliver any medical cannabis product, including, but not limited to,
23 tinctures, baked goods, or other consumable products, to any location within the City from a
24 mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or
25 engage in any operation for this purpose.

26 D. This section is meant to prohibit all activities for which a State license is required.

27 E. Marijuana cultivation by any person or entity, including clinics, collectives,
28 cooperatives and dispensaries, is prohibited in all zones within the City. No Person, including a
Qualified Patient or Primary Caregiver, shall Cultivate any amount of Cannabis in the City, even

1 for medicinal purposes, except where the City is preempted by federal or state law from enacting a
2 prohibition on such activity.

3 F. Violations and remedies.

4 1. Criminal penalties. Any violation of any provision of this chapter shall be
5 deemed a misdemeanor and shall be punishable in accordance with Chapter 1.04.

6 **SECTION 2.** The alphabetical list of uses in Section 17.26.030 of Chapter 17.26 of Title
7 17 of the Hermosa Beach Municipal Code is hereby amended to add the following new uses to the
8 alphabetical list to read as follows:
9

10	11	12	13	14	
	USE	C-1	C-2	C-3	See Section
12	Cannabis delivery	-	-	-	17.42.110
13	Commercial cannabis activities	-	-	-	17.42.110
14	Cultivation of cannabis or medical marijuana	-	-	-	17.42.110

15
16 **SECTION 3.** The Ordinance has been reviewed in accordance with the California
17 Environmental Quality Act. Under 15061(b)(3), the proposed project would not have a significant
18 effect on the environment because it is clarifying existing law that medical marijuana activities are
19 prohibited under the HBMC.
20

21 **SECTION 4.** The ordinance shall take effect thirty days after the date of its passage.

22 **SECTION 5.** Prior to the expiration of fifteen (15) days after the date of its adoption, the
23 City Clerk shall cause the Ordinance to be published in the Easy Reader, a weekly newspaper of
24 general circulation, published and circulated in the City of Hermosa Beach. as required by law.
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26 **SECTION 6.** The City Clerk shall certify to the passage and adoption of this Ordinance,
27 shall enter the same in the book of original ordinances of said City; shall make minutes of the
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passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted.

PASSED, APPROVED and ADOPTED this 8th day of March, 2016 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

PRESIDENT of the City Council and **MAYOR** of the City of Hermosa Beach, California

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney