

CITY OF HERMOSA BEACH
PC RESOLUTION NO. 23-09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA RECOMMENDING THE CITY COUNCIL APPROVE ZONE TEXT AMENDMENT 23-03, TO AMEND PORTIONS OF THE HERMOSA BEACH MUNICIPAL CODE TITLE 17 RELATING TO MOBILE CANNABIS DISPENSARIES AND MAKE A DETERMINATION THAT THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, on September 13, 2022 the City Council amended the Hermosa Beach Municipal Code (HBMC) adding chapter 5.80 relating to business licensing for cannabis delivery in the city, and amending section 1.10.040 to provide administrative penalty procedures.

WHEREAS, the Planning Commission held a duly noticed public hearing on July 18, 2023, to consider revisions to the City's Municipal Code, relating to mobile cannabis dispensaries as described by Exhibit A; and

WHEREAS, Title 17 of the Hermosa Beach Municipal Code provides guidelines for land use regulations, including operational elements required for a business to operate within city limits; and

WHEREAS, staff identified language pertaining to Hermosa Beach Municipal Code Sections 17.04.050, 17.08.020, 17.18.020, 17.26.030, and 17.42.110, that requires correction in order to be consistent with Chapter 5.80; and

WHEREAS, the Zone Text Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061, Review for Exemption of the CEQA Guidelines. Specifically, Section 15061(b)(3) states that any activity is covered by the commonsense exemption that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Zone Text Amendment would not approve any development project or create any new land use provisions that would allow new

development, and therefore would not cause a significant effect on the environment; and

WHEREAS, the Planning Commission found the proposed amendments consistent with the City's General Plan. The ordinance will also comply with State requirements. The amendments will not impede the City's ability to meet its General Plan goals, and the amendments are necessary to carry out the purposes of the Zoning Ordinance, including the orderly planned use of land resources.


NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF HERMOSA BEACH, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission of the City of Hermosa Beach hereby recommends City Council **approval** of **amendments to Hermosa Beach Municipal Code Title 17**, as included as **Exhibit A**.

VOTE: AYES: 5 - Commissioner Hirsh, Commissioner Rice, Commissioner Pedersen, Vice Chair Hoffman, Chair Izant
 NOES: 0
 ABSTAIN: 0
 ABSENT: 0

CERTIFICATION

I hereby certify the foregoing Planning Commission Resolution 23-09 is a true and complete record of the action taken by the Planning Commission of the City of Hermosa Beach, California at its regular meeting of June 20, 2023.


Stephen Izant (Jul 19, 2023 22:11 PDT)
Stephen Izant
Chair



Carrie Tai
Secretary

July 19, 2023

Date

Exhibit A

Amended Hermosa Beach Municipal Code Sections:
17.04.050, 17.08.020, 17.18.020, 17.26.030, and 17.42.110

17.04.050 – “Commercial Cannabis Activities”

Commercial cannabis activity means cultivation, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, packaging, delivery or sale of cannabis or cannabis products for medical and nonmedical use or any other purpose and includes the activities of any business licensed by the state or other government entity under Division 10 of the California Business and Professions Code, or any provision of state law that regulates the licensing of cannabis businesses. This definition also includes ~~mobile cannabis dispensary, and a medical marijuana dispensary.~~ **This definition excludes mobile cannabis dispensaries.**

17.04.050 – “Mobile Cannabis Dispensaries”

Mobile cannabis dispensaries means any dispensary, clinic, cooperative, association, club, business or group which transports or delivers, or arranges the transportation or delivery of, cannabis to a person **in the City. This definition includes businesses engaged in Cannabis Delivery.**

17.08.020 – R-1 Permitted Uses

V. Mobile Cannabis Dispensaries

17.18.020 – MHP Permitted Uses

C. Mobile Cannabis Dispensaries

17.26.030 – C-1, C-2, and C-2 Permitted Uses

Cannabis delivery <u>Mobile Cannabis Dispensaries</u>	<u>P</u>	<u>P</u>	<u>P</u>	17.42.110
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17.28.020 – M-1 Permitted Uses

<u>Mobile Cannabis Dispensaries</u>	<u>P</u>	<u>17.42.110</u>
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17.42.110 Commercial Cannabis Activities and Cannabis Cultivation ~~Prohibition.~~

- A. The purpose of this section is to expressly prohibit the establishment of **certain** commercial cannabis uses in the city. The city council finds that prohibitions on **certain** commercial cannabis activity are necessary for the preservation and protection of the public health, safety and welfare of the city. The prohibition of such uses is within the authority conferred upon the city council by state law and is an exercise of its police powers to enact and enforce regulations for the public health, safety and welfare of the city. Nothing in this chapter shall be interpreted to conflict with state law, including without limitation the Compassionate Use Act, the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) and the MAUCRSA, as may be amended. Nothing in this section is intended to prohibit a primary caregiver from providing medical cannabis to a qualified patient as those terms are defined by state law.
- B. **Except as provided in this chapter,** Commercial cannabis activities ~~of all types~~ are expressly prohibited in all zones in the city. ~~No person shall establish, operate, conduct, or allow a dispensary or commercial cannabis activity anywhere within the city. To the extent that this prohibition conflicts with any other provision of this Code, this prohibition shall control.~~
- C. A property owner shall not rent, lease or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the city. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial cannabis activity on any real property owned or controlled by that property owner that is located in the city.
- D. No person or entity may cultivate cannabis at any location in the city, except:
1. A person may cultivate no more than six (6) living cannabis plants inside a private residence in accordance with Health and Safety Code Section [11362.2](#); and
 2. Where the city is preempted by federal or state law from enacting a prohibition on such cultivation.

~~D. This section is meant to prohibit all activities for which a state license is required pursuant to the MAUCRSA. Accordingly, the city shall not issue any permit, license or other entitlement for any activity for which a state license is required under the MAUCRSA. The city shall also not issue any local license for any activity for which a state license is required under the MAUCRSA to a nonprofit entity pursuant to California Business and Professions Code Section [26070.5](#). This section shall not prevent transportation of cannabis or cannabis products on public roads through the city to and from locations outside the city by a state licensee transporting cannabis or cannabis products in compliance with Business and Professions Code Sections [26080](#) and [26090](#).~~

E. Mobile cannabis dispensaries are prohibited in all zones within the city's jurisdictional limits. No person shall:

- ~~1. Locate, operate, own, suffer, allow to be operated or abide, abet or assist in the operation of any mobile cannabis dispensary within the city;~~
- ~~2. Deliver cannabis to any location within the city from a mobile cannabis dispensary, regardless of where the mobile cannabis dispensary is located, or engage in any mobile cannabis dispensary operation; or~~
- ~~3. Deliver any cannabis product, including, but not limited to, tinctures, baked goods, or other consumable products, to any location within the city from a mobile cannabis dispensary, regardless of where the mobile cannabis dispensary is located, or engage in any operation for this purpose.~~

- 1. Businesses with physical locations solely outside city limits are permitted to engage in cannabis delivery within city limits provided the business is in compliance with Chapter 5.80 and all other applicable State and local law.**

F. Violations and Remedies.

1. Criminal Penalties. Any violation of any provision of this chapter shall be deemed a misdemeanor and shall be punishable in accordance with Chapter 1.04.
2. 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 abated by the city pursuant to

Code of Civil Procedure Section 731 and Chapter 8.28 and any other remedy available by law to the city. (Ord. 17-1380 §2, 2017; Ord. 16-1362 §1, 2016; Ord. 08-1292 §2, 2008)