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ORDINANCE NO. 17-1380

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA,
AMENDING TITLE 17 OF THE HERMOSA BEACH MUNICIPAL CODE
TO EXPRESSLY PROHIBIT ALL COMMERCIAL CANNABIS
ACTIVITIES IN THE CITY AND PROHIBIT OUTDOOR CANNABIS
CULTIVATION FOR PERSONAL USE**

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

SECTION 1. Section 17.04.050 of Chapter 117.04 of Title 17 is amended to add the following new definitions to the alphabetical list of definitions to read as follows:

Cannabis, or marijuana, shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin. “Cannabis” or “marijuana” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” or “marijuana” also includes cannabis that is used for medical, non-medical, or other purposes. “Cannabis” or “marijuana” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or case, or the sterilized seed of the plant which is incapable of germination. “Cannabis” or “marijuana” also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

Cannabis/Marijuana Accessories means any equipment, products or materials of any kind which is intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

1 Cannabis Delivery shall include the use by a dispensary of any technology platform owned
2 and controlled by the dispensary, or independently licensed by the state which enables persons,
3 qualified patients, and/or primary caregivers to arrange for or facilitate the commercial transfer of
4 cannabis or annabis Products.

5 Cannabis/Marijuana Product means cannabis that has undergone a process whereby the plant
6 material has been transformed into a concentrate, including, but not limited to, concentrated
7 cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other
8 ingredients.

9 Commercial Cannabis Activity means cultivation, manufacture, processing, storing,
10 laboratory testing, labeling, transporting, distribution, packaging, delivery or sale of cannabis or
11 cannabis products for medical and non-medical use or any other purpose and includes the activities
12 of any business licensed by the state or other government entity under Division 10 of the California
13 Business and Professions Code, or any provision of state law that regulates the licensing of cannabis
14 businesses. This definition also includes mobile cannabis dispensary and a medical marijuana
15 dispensary.

16 Concentrated cannabis means manufactured cannabis that has undergone a process to
17 concentrate one or more active cannabinoids, thereby increasing the product's potency.
18 "Concentrate" includes resin from granular trichomes from a cannabis plant.

19 Cultivation means any activity involving the planting, growing, harvesting, drying, curing,
20 grading, or trimming of cannabis.

21 Dispensary means a facility where cannabis, cannabis products, or devices for the use of
22 cannabis or cannabis products are offered, either individually or in any combination, for retail sale,
23 including an establishment that delivers cannabis and cannabis products as part of a retail sale.

24 Manufacture Cannabis means to compound, blend, extract, infuse, or otherwise prepare a
25 cannabis product.

26 MAUCRSA means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as
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1 codified in Division 10 of the Business and Professions Code, as the same may be amended from
2 time to time.

3 Mobile Cannabis Dispensaries means any dispensary, clinic, cooperative, association, club,
4 business or group which transports or delivers, or arranges the transportation or delivery, of cannabis
5 to a person.

6 Person, for purposes of Section 17.42.110, means any individual, firm, corporation,
7 association, club, society, or other organization. The term “person” shall include any owner,
8 manager, proprietor, employee, volunteer, or salesperson.

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10 **SECTION 2.** Section 17.42.110 of Chapter 17.42 of Title 17 the Hermosa Beach Municipal
11 Code is amended in its entirety to read as follows:

12
13 17.42.110 Commercial Cannabis Activities and Cannabis Cultivation Prohibited.

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15 A. The purpose of this section is to expressly prohibit the establishment of commercial
16 cannabis uses in the City. The City Council finds that prohibitions on commercial cannabis activity
17 are necessary for the preservation and protection of the public health, safety and welfare of the City.
18 The prohibition of such uses is within the authority conferred upon the City Council by state law
19 and is an exercise of its police powers to enact and enforce regulations for the public health, safety
20 and welfare of the City. Nothing in this chapter shall be interpreted to conflict with state law,
21 including without limitation the Compassionate Use Act, the Control, Regulate, and Tax Adult Use
22 of Marijuana Act (AUMA) and the MAUCRSA, as may be amended. Nothing in this section is
23 intended to prohibit a primary caregiver from providing medical cannabis to a qualified patient as
24 those terms are defined by state law.

25 B. Commercial cannabis activities of all types are expressly prohibited in all zones in the
26 City. No person shall establish, operate, conduct, or allow a dispensary or commercial cannabis
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1 activity anywhere within the City. To the extent that this prohibition conflicts with any other
2 provision of this code, this prohibition shall control.

3 C. Mobile cannabis dispensaries are prohibited in all zones within the City's jurisdictional
4 limits. No person shall:

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

7 2. Deliver cannabis to any location within the City from a mobile cannabis dispensary,
8 regardless of where the mobile cannabis dispensary is located, or engage in any mobile cannabis
9 dispensary operation; or

10 3. Deliver any cannabis product, including, but not limited to tinctures, baked goods, or
11 other consumable products, to any location within the City from a mobile cannabis dispensary,
12 regardless of where the mobile cannabis dispensary is located, or engage in any operation for this
13 purpose.

14 D. This section is meant to prohibit all activities for which a state license is required pursuant
15 to the MAUCRSA. Accordingly, the City shall not issue any permit, license or other entitlement for
16 any activity for which a state license is required under the MAUCRSA. The City shall also not issue
17 any local license for any activity for which a state license is required under the MAUCRSA to a non-
18 profit entity pursuant to California Business and Professions Code section 26070.5. This section
19 shall not prevent transportation of cannabis or cannabis products on public roads through the City to
20 and from locations outside the City by a state licensee transporting cannabis or cannabis products in
21 compliance with Business and Professions Code § 26080 and 26090.

22 E. A property owner shall not rent, lease or otherwise permit any person or business that
23 engages in commercial cannabis activity to occupy real property in the City. A property owner shall
24 not allow any person or business to establish, operate, maintain, conduct, or engage in commercial
25 cannabis activity on any real property owned or controlled by that property owner that is located in
26 the City.

27 F. No person or entity may cultivate cannabis at any location in the City, except:
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1 (1) A person may cultivate no more than six living cannabis plants inside a private
2 residence in accordance with Health & Safety Code § 11362.2; and

3 (2) Where the City is preempted by federal or state law from enacting a prohibition on
4 such cultivation.

5 G. Violations and remedies.

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

8 2. Any use or condition caused, or permitted to exist, in violation of any provision
9 of this section shall be, and hereby is declared to be, a public nuisance and may be abated by the
10 City pursuant to Code of Civil Procedure section 731 and Chapter 8.28 of this Code and any other
11 remedy available by law to the City.

12 **SECTION 3.** The proposed amendments to the Hermosa Beach Municipal Code were
13 reviewed by the Planning Commission at a duly noticed public hearing on October 17, 2017 to
14 consider a text amendment to ban commercial cannabis activities in the City (retail sales,
15 manufacturing, cultivation and delivery). The Planning Commission recommended approval of this
16 Ordinance. This text amendment includes the necessary provisions to implement a ban in accordance
17 with state law.

18 **SECTION 4.** The Ordinance has been reviewed in accordance with the California
19 Environmental Quality Act. Under 15061(b)(3), the proposed project would not have a significant
20 effect on the environment because it is clarifying existing law that commercial cannabis activities
21 are prohibited under the Hermosa Beach Municipal Code. No possibility exists that the proposed
22 zone text amendment would have a significant effect on the environment. This Ordinance prohibits
23 uses that are currently not allowed in the City but due changes in state law, is expected to proliferate
24 throughout the state in areas where local agencies permit the uses. This Ordinance clarifies an
25 existing ban to cover new cannabis related activities and uses that are now permitted through recent
26 changes in state law. This Ordinance continues the status quo and will not result in changes to the
27 environment.

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SECTION 5. The proposed amendments to the Hermosa Beach Municipal Code to ban commercial cannabis activities in the City (retail sales, manufacturing, cultivation and delivery) are consistent with the City’s General Plan Land Use Element policies to “Ensure the placement of new uses does not create or exacerbate nuisances between different types of land uses”; to “Require new development within the City’s creative industrial district be designed for compatibility with surrounding uses to minimize impact or nuisances (such as noise or odor) and cultivate connectivity with each district”; to “Encourage all commercial property owners bordering residential areas to mitigate impacts and use appropriate landscaping and buffering of residential neighborhoods”; to “Encourage coastal-dependent and coastal-related commercial uses in the Recreational Commercial and Community Commercial land use designations by prioritizing such uses in the Recreational Commercial designation and providing for and prioritizing coastal-related industrial uses in the Creative Industrial land use designation”; and to “Prohibit new land uses that harm the physical health and wellbeing of the community.”

Further, the proposed amendments are consistent with the City’s General Plan Public Safety Element policies to “Require businesses that use, store, or transport hazardous materials to ensure that adequate measures are taken to protect public health and safety”; and to “Encourage Police Department review of uses which may be characterized historically by high levels of nuisance (noise, nighttime patronage, and/or rates of criminal activity) providing for conditions of control of use to prevent adverse impacts on adjacent residences, schools, religious facilities, and similar “sensitive” uses.” This Ordinance continues and expands the City’s existing ban on medical marijuana dispensaries to cover additional commercial cannabis operations and cultivation that is expected to proliferate following adoption of Proposition 64. This ordinance will maintain the status quo and not introduce new uses to Hermosa Beach that do not currently exist. Given the proximity of residential uses to commercial uses in the city, this Ordinance is consistent with the vision in PLAN Hermosa. Nothing in this Ordinance impedes the City from meeting its goal under the PLAN.

1 **SECTION 6.** The City Council designated the City Attorney to prepare a summary of this
2 ordinance to be published pursuant to Government Code Section 36933(c)(1) in lieu of the full text
3 of said ordinance. The City Clerk caused said summary to be published on November 23, 2017
4 [five (5) days before the adoption of the ordinance] in the Easy Reader, a weekly adjudicated
5 newspaper of general circulation, published and circulated in Hermosa Beach. Prior to the
6 expiration of fifteen (15) days after the date of adoption of the ordinance, the City Clerk shall cause
7 the summary to be re-published in the Easy Reader.

8 **SECTION 7.** The City Clerk shall certify to the passage and adoption of this Ordinance,
9 shall enter the same in the book of original ordinances of said city; shall make minutes of the passage
10 and adoption thereof in the records of the proceedings of the City Council at which time is passed
11 and adopted.

12
13 **PASSED, APPROVED and ADOPTED** this 28th day of November 28, 2017 by the
14 following vote:

15 AYES: Armato, Duclos, Fangary, Petty, Mayor Massey
16 NOES: None
17 ABSENT: None
18 ABSTAIN: None

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

21 ATTEST:

21 APPROVED AS TO FORM:

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24 _____
25 City Clerk

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24 _____
25 City Attorney