

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH ADDING CHAPTER 5.80 OF THE HERMOSA BEACH MUNICIPAL CODE RELATING TO CANNABIS DELIVERY IN THE CITY, AMENDING SECTION 1.10.040 OF THE HERMOSA BEACH MUNICIPAL CODE TO ADD THAT VIOLATIONS OF THIS CHAPTER ARE SUBJECT TO ADMINISTRATIVE PENALTY PROCEDURES AND FINDING THE SAME EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Hermosa Beach does hereby ordain as follows:

Section 1. Findings

- A. The City currently prohibits all commercial cannabis activity in the City, including the cannabis delivery.
- B. While this amendment will not permit commercial cannabis activity in the City at static physical locations (*i.e.*, storefronts, warehouses, *etc.*), the purpose of this amendment is to allow the delivery of cannabis into the City by licensed entities that conform to all relevant legal standards and impose operational requirements to ensure the health, safety, and welfare of the residents of the City.
- C. It is the City's intent to permit cannabis delivery subject to a use permit to ensure the safe delivery to City residents subject to standards that eliminate or minimize to the extent possible any impacts associated with the delivery of cannabis into the City.

Section 2. Chapter 5.80 (Cannabis delivery) of the Hermosa Beach Municipal Code is hereby added to read as follows:

- A. Notwithstanding any other provision of this Code, this Chapter shall govern and regulate cannabis delivery in the City. To the extent there are any other provisions of this code in conflict with this Chapter, this Chapter shall prevail.
- B. Cannabis delivery is permitted in the city by operators with physical locations located outside of the city, subject to the issuance of a cannabis delivery permit and the requirements of this chapter. No person shall deliver cannabis anywhere in the City unless a cannabis delivery permit has been obtained in compliance with this chapter and in compliance with all legal requirements.
 - 1. The City Manager shall review any application for a cannabis delivery permit and associated documents and shall require, if deemed necessary at the sole discretion of the City Manager, additional information to complete the application.

The City Manager shall only issue a cannabis delivery permit if all of the required findings are supported by substantial evidence in the application.

2. An application for a cannabis delivery permit shall be accompanied by the application fee adopted by resolution of the City Council and shall comply with all application requirements as determined by the City Manager and include, at a minimum the following:

(a) The name, mailing address and contact information of the applicant.

(b) The physical address and assessor's parcel number(s) of the property upon which the applicant conducts the commercial cannabis activity that will be the location where deliveries originate.

(c) Copies of any required State and local license to conduct commercial cannabis activity. This includes any state or local licenses for the physical retail location (or non-retail location) that must be located outside of the city.

(d) If the Applicant is a business entity or any form of entity, information regarding the entity, including, without limitation, the name and address of the entity, its legal status, and proof of registration with, or a certificate of good standing from, the California Secretary of State, as applicable.

(e) The full name, date of birth, present address and telephone number for all owners, supervisors, employees, and those with a financial interest in the applicant that is the subject of the application at the time of application submittal. In the event an applicant is an entity, each entity must disclose the owners or those with a financial interest in the entity until an individual person(s) is/are named.

(f) List of names and a copy of a California driver's license for any individual eligible to conduct cannabis delivery in the City at the time of application.

(g) List of all vehicles (make, model and license plate number) of any vehicle that eligible to conduct cannabis delivery in the City.

(h) Employee educational and training plan to ensure that all employees are informed and educated to all of the requirements of this Chapter and applicable state law requirements for cannabis delivery in the city.

4. The City Manager shall only issue a cannabis delivery permit if all of the following findings are made based on substantial evidence:

(a) Applicant is licensed by all relevant governmental entities and has demonstrated a capability to comply with all cannabis laws and regulations.

(b) Applicant has been truthful and made no material misrepresentations in its application.

(c) Applicant has paid all application fees and has no outstanding fines, penalties or other unpaid enforcement obligations of any kind.

(d) Applicant does not have any previous civil, administrative or legal judgments or history of moral turpitude or other activities of a fraudulent or felonious nature that would indicate applicant is not suited to operate a cannabis delivery business in the City in compliance with all applicable laws and regulations.

(e) Each delivery vehicle shall be equipped with a dual dash camera system showing the inside of the vehicle as well as a forward facing camera and shall be turned on at all time the vehicle is in the City making cannabis deliveries. Video footage shall be retained for a period of at least two (2) weeks and made available to the City upon request.

Notwithstanding the above, the City reserves the right to reject any or all applications for a cannabis delivery permit for any reason that renders the applicant unfit to operate conduct cannabis delivery in the City. The city further reserves the right to request and obtain additional information from any applicant submitting an application.

5. Any cannabis delivery permit holder must comply with the following:

(a) Each cannabis delivery permit holder must comply with all applicable State and local laws and regulations as amended.

(b) Each cannabis delivery permit holder shall maintain accurate books and records, detailing the revenues and expenses of the business it does in the city.

(c) Each cannabis delivery permit holder shall maintain a current register of names and required information for all employees participating in the delivery of cannabis in the city and all vehicles used for the delivery of cannabis in the city. In no event shall any employee participate in the delivery of cannabis in the city or a vehicle be used for the delivery of cannabis in the city until the information is updated to the permit holder's register. Each cannabis delivery permit holder shall provide the City its current register upon request by the City within forty-eight (48) hours.

(d) Each cannabis delivery permit holder must pay all applicable federal, state and local taxes as amended from time to time.

(e) Each cannabis delivery permit holder shall provide the City Manager, and keep current, with the name, telephone number(s) (mobile preferred, if available) of an owner and or manager to whom can be reached 24 hours a day.

(f) Cannabis delivery is only permitted in the city between the hours of 8:00 am to 10:00pm.

(g) Workers Compensation Insurance as required by law. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the City, its officers, agents, employees, and volunteers for losses arising from work performed by the cannabis delivery permit holder.

(h) Automobile Liability Coverage. Cannabis delivery permit holders shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the cannabis delivery permit holder arising out of or in connection with cannabis delivery in the City, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence

6. Each cannabis delivery permit holder shall maintain accurate books and records, detailing all of the revenues and expenses of all cannabis delivery in the city. On no less than an annual basis, or at any time upon reasonable request of the city, each cannabis delivery permit holder shall file a sworn statement detailing the number of sales by the cannabis delivery permit holder during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a monthly basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. If, upon written request from the City, each cannabis delivery permit holder shall make available to the City all books, records, accounts, inventory and access to onsite operations of persons engaged in cannabis delivery specific to the business, including examination of both state and federal income tax returns, sales tax returns, or other evidence documenting the finances pertaining to cannabis delivery in the City for the purpose of verifying compliance with this Chapter and any other applicable provision of this Code.

7. An application for renewal of a cannabis delivery permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit. The renewal application shall contain all the information required for new applications and the applicant shall pay a renewal application fee in an amount set by the City Council. An application for renewal of a cannabis delivery permit shall be rejected by the City Manager if any of the following exists:

(a) The application is filed less than sixty (60) days before its expiration.

(b) The cannabis delivery permit is suspended or revoked at the time of the application.

(c) The cannabis delivery permit has not been in regular and continuous operation in the four (4) months prior to the renewal application.

(d) The cannabis delivery permit holder has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.

(e) The permittee fails or is unable to renew its State of California license or other applicable local licenses.

(f) If the City or state has determined, based on substantial evidence, that the permittee is in violation of the requirements of this Chapter, of the City's Municipal Code, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the cannabis delivery permit.

If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

8. In addition to any regulations adopted by the City Council, the City Manager is authorized to establish any additional rules, regulations, and standards governing the issuance, denial, or renewal of cannabis delivery permits, the ongoing operations of a cannabis delivery permit holder and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter. Regulations shall be published on the City's website. Regulations promulgated by the City Manager shall become effective upon date of publication. A cannabis delivery permit holder shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations, or standards adopted by the City Manager or his designee.

9. The person or members of a business entity to whom a cannabis delivery permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the city, whether committed by the permittee or any employee or agent of the permittee, which violations occur in the city whether or not said violations occur within the permit holder's presence.

10. In addition to the violation section of this Chapter as well as any other enforcement mechanism authorized by the Hermosa Beach Municipal Code or State law, violations of this subsection (C) of this Chapter shall be subject to suspension or revocation of the cannabis delivery permit.

11. Any decision by the City Manager under this chapter (including, but not limited to, the initial decision on an application, renewal decision, and a decision to suspend or revoke a cannabis delivery permit) may be appealed to the City Council. Appeals must be filed in writing, with the city clerk's office no later than fifteen (15) days after the City Manager's decision and an appeal fee must be included. The city council shall conduct a public hearing within sixty (60) days of the date the appeal is submitted and issue its decision within sixty (60) days of the closing of the hearing, unless extended at the sole discretion of the city council.

G. Violations and Remedies.

1. Violations of the provisions of this chapter are subject to the administrative penalty provisions of Chapter 1.10.

Section 3. Section 1.10.040 (Code violations subject to administrative penalty procedures) of the Hermosa Beach Municipal Code is hereby amended to add subsection (A)((25) to read as follows:

25. Chapter 5.80, Cannabis delivery.

Section 4. The City Council finds that the adoption of this ordinance is not a “project” under California Environmental Quality Act (“CEQA”), because the ordinance will allow for the establishment of cannabis delivery to operate in a similar manner as traditional delivery services which will not cause a direct physical change in the environment nor a reasonably foreseeable indirect physical change in the environment (Public Resources Code section 21065.) Further, the City Council finds that even if this ordinance is found to be a project under CEQA, the adoption of this ordinance is exempt from environmental review under pursuant to Section 15061(b)(3) of the CEQA guidelines because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The ordinance permits cannabis delivery in the city which businesses will have impacts similar to delivery services which are already authorized within the City. Furthermore, the Ordinance contains operational requirements that prevent any potential impacts on the environment that may be unique to businesses involving cannabis. Further, there is no possibility that this Ordinance would create cumulative impacts that are significant and there are no other significant impacts that could occur as a result of this Ordinance, and there are no unusual circumstances that would cause any such significant impacts

Section 5. Pursuant to California Government Code section 36937, this ordinance shall take effect thirty (30) days after its final passage.

Section 6. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Hermosa Beach’s book of original ordinances; make a note of the passage and adoption in the records of this meeting; and cause it to be published or posted in accordance with California law.

PASSED, APPROVED and ADOPTED this __th day of _____, 2022

VOTE: AYES:
 NOES:
 ABSTAIN:
 ABSENT:

MAYOR of the City of Hermosa Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney