

CITY OF HERMOSA BEACH
ORDINANCE NO. 23-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH, CALIFORNIA APPROVING ZONE TEXT AMENDMENT 23-03, TO AMEND PORTIONS OF THE HERMOSA BEACH MUNICIPAL CODE TITLE 17 RELATING TO COMMERCIAL CANNABIS ACTIVITIES AND MOBILE CANNABIS DISPENSARIES AND DETERMINE THE AMENDMENT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

SECTION 1. Whereas the City Council adopted Ordinance No. 22-1449 adding Chapter 5.80 of the Hermosa Beach Municipal Code relating to cannabis delivery in the City on September 13, 2022, and staff has since identified conflicting regulations between Title 17 and Chapter 5.80.

SECTION 2. The Planning Commission held a duly noticed public hearing on July 18, 2023, to consider Text Amendment 23-03 to amend Hermosa Beach Municipal Code Title 17, relating to mobile cannabis dispensaries (delivery) as described herein and approved by Planning Commission Resolution 23-09.

SECTION 3. The City Council held a duly noticed public hearing on September 12, 2023 to consider amendments to portions of Hermosa Beach Municipal Code Title 17 as described in Sections 6 through 12 herein.

SECTION 4. Under Section 15061(b)(3) of the California Environmental Quality Act (CEQA), the ordinance qualifies as a “common sense exemption” as CEQA only applies to projects which have the potential for causing a significant effect on the environment.

SECTION 5. The City Council finds the proposed amendments are 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.

SECTION 6. The following alphabetical list of definitions in Section 17.04.050 (Commercial land use definitions) of Chapter 17.04 (Definitions) of Title 17 (Zoning) is amended to read as follows:

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.

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.

SECTION 7. The following alphabetical list of permitted uses in Section 17.08.020 (Permitted uses) of Chapter 17.08 (R-1 Single-Family Residential Zone) of Title 17 (Zoning) is amended to include:

V. Mobile Cannabis Dispensaries

SECTION 8. The following alphabetical list of permitted uses in Section 17.18.020 (Permitted uses) of Chapter 17.18 (MHP Mobile Home Park Zone) of Title 17 (Zoning) is amended to include:

C. Mobile Cannabis Dispensaries

SECTION 9. The following alphabetical list of permitted uses in Section 17.26.030 (C-1, C-2 and C-3 land use regulations) of Chapter 17.26 (C-1, C-2 and C-3 Commercial Zones) of Title 17 (Zoning) is amended to include:

C-1, C-2 and C-3 ZONES, LAND USE REGULATIONS				
Uses	C1	C2	C3	See Section

Mobile cannabis dispensaries	P	P	P	17.42.110
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SECTION 10. The following alphabetical list of permitted uses in Section 17.26.030 (C-1, C-2 and C-3 land use regulations) of Chapter 17.26 (C-1, C-2 and C-3 Commercial Zones) of Title 17 (Zoning) is hereby deleted:

C-1, C-2 and C-3 ZONES, LAND USE REGULATIONS				
Uses	C1	C2	C3	See Section
Cannabis delivery	-	-	-	17.42.110

SECTION 11. The following alphabetical list of permitted uses in Section 17.28.020 (Permitted uses) of Chapter 17.28 (M-1 Light Manufacturing Zone) of Title 17 (Zoning) is amended to include:

M-1 ZONE, LAND USE REGULATIONS		
Uses		See Section
Mobile cannabis dispensaries	P	17.42.110

SECTION 12. Section 17.42.110 (Commercial cannabis activities and cannabis cultivation prohibited) of Chapter 17.42 (General Provision, Conditions and Exceptional Uses) of Title 17 (Zoning) is amended to read as follows:

17.42.110 Commercial cannabis activities and cannabis cultivation

- 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 are expressly prohibited in all zones in the City.
- 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.
- E. Mobile cannabis dispensaries:
 - 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.

SECTION 13. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within 60 days after adoption.

SECTION 14. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this resolution

are severable. The City Council declares that it would have adopted this resolution irrespective of the invalidity of any portion thereof.

SECTION 15. Effective Date. This Ordinance shall take effect thirty (30) days after its passage and adoption pursuant to California Government Code section 36937. The City Council finds and declares that the adoption and implementation of this ordinance is necessary for the immediate preservation and protection of the public peace, health and safety as detailed above by the City, pursuant to Government Code section 36937.

SECTION 16. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen (15) days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

PASSED, APPROVED and ADOPTED on this 12th day of September, 2023.

Raymond A. Jackson

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

ATTEST:

APPROVED AS TO FORM:

Myra Maravilla
City Clerk

Patrick Donegan
City Attorney