

ORDINANCE NO. 1022

AN ORDINANCE OF THE CITY OF RANCHO CUCAMONGA, CALIFORNIA, AMENDING TITLE 17 OF THE RANCHO CUCAMONGA MUNICIPAL CODE ESTABLISHING NON-STOREFRONT MEDICAL CANNABIS RETAIL AS A USE PERMITTED WITH A MINOR USE PERMIT FOR PROPERTIES LOCATED IN PORTIONS OF THE NEO-INDUSTRIAL (NI) AND INDUSTRIAL EMPLOYMENT (IE) ZONES, AMENDING CHAPTER 8.52 OF TITLE 8 OF THE RANCHO CUCAMONGA MUNICIPAL CODE EXCEPTING CERTAIN NON-STOREFRONT MEDICAL CANNABIS RETAIL FROM THE PROHIBITION ON COMMERCIAL CANNABIS ACTIVITY, ADDING CHAPTER 5.20 TO TITLE 5 OF THE RANCHO CUCAMONGA MUNICIPAL CODE ESTABLISHING REGULATORY AND OPERATIONAL RESTRICTIONS FOR SUCH A NON-STOREFRONT MEDICAL CANNABIS RETAILER, AND MAKING A DETERMINATION OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

I. Recitals.

A. Chapters 8.52 and 17.94 and Table 17.30.030-1 of the City of Rancho Cucamonga ("City") Municipal Code ("RCMC") currently prohibit all commercial cannabis activity in the City, with limited exceptions to allow cannabis activity that the City is required to permit under state law.

B. On October 9, 2015, Governor Brown signed Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 into law, which collectively were known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State regulatory and licensing scheme for commercial medical cannabis businesses.

C. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA made it lawful under State and local law for persons 21 years of age or older to possess and cultivate limited quantities of cannabis for personal use. The AUMA also established a State regulatory and licensing scheme for commercial adult-use cannabis businesses.

D. On June 27, 2017, the Governor signed into law Senate Bill 94, which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medicinal and adult-use cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether cannabis businesses could operate in a particular jurisdiction. Specifically, California Business and Professions Code Section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under the MAUCRSA including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related

to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more businesses licensed by the State, within that local jurisdiction.

E. On September 18, 2022, the Governor signed into law Senate Bill 1186 ("SB 1186"), which enacted Medicinal Cannabis Patients' Right of Access Act. SB 1186 provides that a city cannot adopt or enforce regulations that prohibit the "retail sale by delivery" of medicinal cannabis. This includes any regulation that has the effect of prohibiting patients within the city or their caregivers from purchasing, by delivery, sufficient medicinal cannabis to meet their demands in a timely and readily accessible manner. Examples of prohibited regulations include prohibiting retail sale by delivery of medicinal cannabis within the jurisdiction being conducted by a licensed non-storefront retailer.

F. The City Council desires to establish reasonable zoning and land use regulations regarding the operation of non-storefront medical cannabis retailers that are intended to address the potential negative impacts of cannabis businesses on the community.

II. Findings.

The City Council finds that adoption of this Ordinance is not subject to the California Environmental Quality Act ("CEQA"), pursuant to State CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and the activity is covered by the general rule 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 that the activity may have a significant effect on the environment, the activity is not subject to CEQA. The businesses authorized under these proposed Development Code and Municipal Code text amendments are similar to already existing permitted general uses such as retail, with the only difference being the product sold or consumed (i.e., cannabis). This Ordinance does not change the zoning for any properties, meaning that they do not create negative environmental impacts or result in physical changes to the environment. Non-storefront medical cannabis retailers developed pursuant to this Ordinance would be independently reviewed and evaluated pursuant to CEQA. City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

III. Ordinance.

The City Council of the City of Rancho Cucamonga does ordain as follows:

SECTION 1. The above recitals and findings are all true and correct and incorporated into this Ordinance by this reference.

SECTION 2. Chapter 5.20 (Non-Storefront Medical Cannabis Retail) is hereby added to Title 5 (Business Taxes, Licenses and Regulations) to read as set forth below:

"Chapter 5.20 NON-STOREFRONT MEDICAL CANNABIS RETAIL

5.20.010 Purpose.

This chapter is intended to provide for the orderly regulation of non-storefront medical cannabis retail establishments in the interest of public health, safety, and welfare.

5.20.020 Definitions.

For the purpose of this chapter, the following words and phrases are defined and shall be construed as set out in this section, unless it is apparent from the context that a different meaning was intended:

Non-storefront medical cannabis retail means a retailer that sells medicinal cannabis or medicinal cannabis products, as those terms are defined in Business and Professions Code § 26001(ak)(1), as may be amended, to customers exclusively through delivery. A non-storefront medical cannabis retail has a permitted premises to store medicinal cannabis or medicinal cannabis for delivery, but the premises is not open to the public. A non-storefront medical cannabis retailer shall have a State License Type M-Type 9, Non-Storefront Retailer, limited to delivery services of medical cannabis or cannabis products only.

5.20.030 Permit required.

It is unlawful for any person, firm, partnership, or corporation to engage in, conduct or carry on, or to permit to be engaged in, conducted, or carried on, in or upon any premises within the city, the operation of a non-storefront medical cannabis retail establishment without first having obtained a non-storefront medical cannabis retail regulatory permit, issued by the city pursuant to the provisions herein set forth. Said permit shall immediately be surrendered to the planning director upon suspension, revocation, or expiration of said permit. To engage in non-storefront medical cannabis retail activity allowed by this chapter, a person must also obtain all of the following:

- A. A minor use permit issued pursuant to section 17.16.120. Any permit that is issued under this chapter shall be void if a minor use permit is not issued by the director pursuant to section 17.16.120 of this code, within a year of issuance of the permit. A minor use permit granted pursuant to this chapter and section 17.16.120 shall not be transferable to another person or entity, and any attempted transfer shall be void.
- B. A business registration certificate issued pursuant to chapter 5.04; and
- C. A State license.

5.20.040 Permit application.

- A. To protect public health and safety, and to further ensure that non-storefront medical cannabis retail activity permitted by this chapter is in the public interest, the city hereby establishes procedures for determining the qualifications of persons allowed to obtain a permit.
- B. An owner of a non-storefront medical cannabis retail business may apply for a permit, on behalf of a non-storefront medical cannabis retail business, by filing an application with the city manager or their designee. A non-storefront medical cannabis retail business may only submit one (1) application. If a non-storefront medical cannabis retail business has multiple owners, only one (1) owner may submit an application on behalf of the non-storefront medical cannabis retail business, but all owners must be identified in the application.

C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in the permit application.

D. Applications shall not be accepted or processed unless the applicant pays the nonrefundable application fee in the amount to be established by resolution of the city council.

E. The application shall be on a form approved by the city manager and shall include, without limitation, the following:

1. A description of the statutory entity or business form that will serve as the legal structure for the non-storefront medical cannabis retail business; a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement; and the name and address of its agent for purposes of service of process;

2. A list of every fictitious business name the non-storefront medical cannabis retail business is operating under;

3. The legal name of the applicant;

4. If applicable, the business trade name ("DBA") of the non-storefront medical cannabis retail business;

5. A list of the state licenses issued by any California licensing authority to the applicant, or any other owner of the non-storefront medical cannabis retail business, including the date the license was issued, the date the license will terminate and the licensing authority that issued the license;

6. Whether the applicant, or any owners of the non-storefront medical cannabis retail business, have been denied a state license or have had a state license suspended or revoked by any licensing authority. The applicant shall identify the type of state license applied for, the name of the licensing authority that denied the application, and the date of denial;

7. The non-storefront medical cannabis retail business' employer identification number;

8. The physical address of any other premises owned or operated by the applicant involved in commercial cannabis activity operations, or any other owner of the non-storefront medical cannabis retail business, and a brief summary of the business operations at each premises;

9. A complete list of every owner of, or person with a financial interest in, the non-storefront medical cannabis retail business. Each individual named on this list shall submit the following information:

- a. Their full name;

- b. Their title within the applicant entity, if applicable;
- c. Their date of birth and place of birth;
- d. Their social security number or individual taxpayer identification number;
- e. Their mailing address;
- f. Their home, business, or mobile telephone number and email address;
- g. Their current employer;
- h. Their percentage of ownership interest held in the applicant entity, or other financial interest held in the applicant entity;
- i. Whether the individual has an ownership or a financial interest in any other non-storefront medical cannabis retail business licensed by a state licensing authority;
- j. A copy of the individual's government-issued identification that includes the name, date of birth, physical description and picture of the owner or person with a financial interest in the non-storefront medical cannabis retail business;
- k. If applicable, a copy of any certificate of rehabilitation issued under Penal Code § 4852.01 or dismissal issued pursuant to Penal Code § 1203.4 or 1203.41;
- l. If applicable, a detailed description of any suspension or revocation of a cannabis related license or sanctions for unlicensed or unlawful cannabis activity by a state or local governmental agency against the applicant, or any of its owners or persons with a financial interest in the cannabis business; and
- m. Pursuant to California Penal Code §§ 11105(b)(11) and 13300(b)(11), which authorize city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes, and authorize access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every owner or person with a financial interest in the cannabis business must submit fingerprints and other information deemed necessary by the police chief, or his or her designee(s), for a background check by the police department. A fee for the cost of the background investigation, which shall be the actual cost to the city to conduct the background investigation as it deems necessary and appropriate, including city staff time and costs, shall be paid at the time the person submits for the background check.

10. The proposed hours of operation;
11. Authorization and consent for city staff and the police chief to seek verification of the information contained within the application;
12. A safety and security plan;
13. Attestation to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true, and accurate. I understand that a misrepresentation of fact, whether intentional or not, is cause for rejection of this application, denial of the permit, or revocation of a permit issued;
14. Evidence that the non-storefront medical cannabis retail business will be compliant with the location restrictions set forth in Business and Professions Code § 26054(b) and the zoning restrictions set forth in section 17.102.080 of this code;
15. If the applicant is the landowner upon which the premises is located, a copy of the title or deed to the property;
16. If the applicant is leasing the premises where the non-storefront medical cannabis retail business will be conducted, a written, notarized statement from the owner of the property where the non-storefront medical cannabis retail business will operate evidencing unqualified consent to the applicant operating a non-storefront medical cannabis retail business on the property. The statement must specify the street address (unless the property is a vacant lot to be developed) and assessor's parcel number for the premises. The statement shall also contain the name, business address, email address and telephone number of the property owner(s) (whether business entity or individual);
17. A premises diagram; and
18. Proof of a state license.

G. Nothing in this section is intended to limit the city manager's ability to request additional information the city manager deems necessary or relevant to determining a non-storefront medical cannabis retail business' suitability for a permit. An applicant shall provide any additional information requested by the city manager no later than seven (7) days after the request, unless otherwise specified by the city manager.

H. The city manager is hereby authorized to waive any application requirement, as long as the waiver is uniformly applied to all applicants.

5.20.050 Permit expiration and renewal.

A permit that is issued pursuant to this chapter is valid for a term of one (1) year from the date of issuance. Renewal terms shall not exceed one (1) year. A permit shall expire one (1) year following its issuance. All non-storefront medical cannabis activity shall cease upon expiration of the permit unless and until the permit is renewed or a new permit is issued. Issuance of a non-storefront medical cannabis retail regulatory permit does not create a land use entitlement.

5.20.060 Operational and maintenance standards.

A. Non-storefront, delivery-only medical cannabis retail operations must obtain and maintain a valid minor use permit pursuant to the provisions in section 17.16.120 and comply with all conditions of approval at all times.

B. Medical Cannabis, Delivery Only. Non-storefront, delivery-only medical cannabis retail operations licensed pursuant to this chapter may engage only in the sale and delivery of medical cannabis and medical cannabis products to customers and qualified patients and their caregivers.

C. Fees. All non-storefront, delivery-only medical cannabis retail operations must pay all applicable fees as established by resolution of the city council in order to commence and continue operations.

5.20.070 Inspection.

The city, including the police department shall, from time to time and during any hour in which a non-storefront medical cannabis retailer is open for business, make an administrative inspection of each non-storefront medical cannabis retailer for the purpose of determining compliance with this chapter.

5.20.080 Additional regulations.

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 non-storefront medical cannabis retail permits, the ongoing operation of non-storefront medical cannabis retail businesses and the city's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this chapter. Regulations promulgated by the city manager shall become effective upon date of publication.

5.20.090 Retailer lottery.

A. As set forth in section 17.102.080, there is a limit on the number of non-storefront medical cannabis retailers that can operate in the city. At no point shall the number of non-storefront medical cannabis retailers in the city exceed the number of retailers allowed under section 17.102.080.

B. City staff shall establish and conduct a lottery for determining which non-storefront medical cannabis retailer will (1) be issued a permit and (2) be eligible to apply for a minor use permit pursuant to the provisions of sections 17.16.120 and 17.102.080 of this code.

C. The city manager is authorized to establish the procedures that will be followed in conducting the lottery, and the steps to be included in a schedule that will be prepared for the receipt and review of permit applications for retailers. The city manager is further authorized to make any necessary changes to the lottery procedures and steps to be included in the schedule as they deem appropriate for its implementation.

5.20.100 Decision on lottery and permit.

A. The city manager, in consultation with the police chief, shall evaluate all completed non-storefront medical cannabis retailer applications that are submitted by the application deadline and determine whether the applicant can participate in the lottery. The applicant shall be ineligible to participate in the lottery if the city manager determines that one (1) or more of the following conditions exist:

1. The applicant has not paid all fees required for consideration of the application;
2. The application is incomplete, filed late, or is otherwise not responsive to the requirements of this chapter;
3. The application contains a false or misleading statement or omission of a material fact;
4. The applicant, or any owner or person with a financial interest in the non-storefront medical cannabis retail business, is not at least twenty-one (21) years old;
5. The applicant, or any owner or person with a financial interest in the non-storefront medical cannabis retail business, has been denied a license or other authorization to engage in commercial cannabis activity by a state licensing or permitting authority, for any reason other than the fact that the applicant was not selected for a limited number of licenses or permits, but would have otherwise qualified to obtain the license or permit;
6. The applicant, or any owner or person with a financial interest in the non-storefront medical cannabis retail business, is employed by the police department or the city's community development department;
7. The applicant, or any owners or persons with a financial interest in the non-storefront medical cannabis retailer, has been convicted of:
 - a. A serious or violent felony conviction, as specified in Penal Code § 667.5(c) or § 1192.7(c);
 - b. A felony conviction involving fraud, deceit, or embezzlement;
 - c. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;
8. A felony conviction for drug trafficking with enhancements pursuant to Health and Safety Code §§ 11370.4 or 11379.8;
9. The applicant, or any owners or persons with a financial interest in the non-storefront medical cannabis retailer, has had a judgment entered against them for unpermitted commercial cannabis activity in violation of any city zoning ordinance enacted under zoning law;

10. The operation of the non-storefront medical cannabis retailer, as described in its application, would fail to comply with any provision of this code, or any state law or regulation; and/or

11. Operation of the non-storefront medical cannabis retailer in the manner proposed poses a threat to the public health, safety or welfare, or violates any provision of this chapter.

B. If none of the above-referenced conditions exist, the city manager, or their designee, shall notify the applicant that the applicant is eligible to participate in the lottery. If any of the above-referenced conditions exist, the city manager shall notify the applicant that the applicant has been denied the opportunity to participate in the lottery. Any notice of denial shall set forth the reasons of denial and advise the applicant of the right to contest the denial pursuant to the procedures set forth in section 5.20.110.

C. If a non-storefront medical cannabis retailer is selected in the lottery to obtain a permit, the retailer shall have 90 days from the date of the notice to the retailer that they are eligible to obtain a permit to provide documentation to the city manager showing the following:

1. If the applicant is leasing the premises where the non-storefront medical cannabis retail business will be conducted, a copy of the rental or lease agreement shall be provided;

2. A copy of the applicant's application with the State Department of Cannabis Control to operate a non-storefront medical cannabis retailer in the city;

3. Evidence that the non-storefront medical cannabis retailer will be compliant with the location restrictions set forth in Business and Professions Code § 26054(b) and the zoning restrictions set forth in section 17.102.080 of this code. Any evidence that was submitted at the time of the application shall be updated to ensure that the retailer is still compliant with this provision; and

4. Background check results for all employees, managers, and agents of the non-storefront medical cannabis retail business. Any employee, manager, or agent of the non-storefront medical cannabis retail business that has been convicted of a disqualifying crime, shall not be permitted to work for the non-storefront medical cannabis retail business, without first obtaining a waiver from the city manager, after consultation with the police chief.

D. If the non-storefront medical cannabis retailer fails to provide the information set forth in subsection (C) above within the 90 day period or does not meet the location or zoning restrictions set forth in section 17.102.080, the non-storefront medical cannabis retailer shall not be issued a permit.

G. The facility approved by the initial permit shall be open for business within six months from the date when both the minor use permit, if applicable, and the non-storefront medical cannabis retailer regulatory permit have been approved unless a different opening date is described in the conditions of approval for the permit or the city manager, for good cause, grants in writing an extension of the opening date prior to opening date.

5.20.110 Appeals.

A. Lottery appeals. If a non-storefront medical cannabis retailer applicant is denied the opportunity to participate in the lottery due to the applicant's failure to submit a complete application by the required deadline, failure to satisfy the criteria for issuance of a permit, or for any other reason, the applicant may appeal this decision in writing. The written appeal shall be filed with the city clerk within ten days of the issuance and mailing of the written decision by the city manager on the application accompanied by the appeal fee as adopted by resolution of the city council. The appeal shall be conducted in accordance with subsection C. After the deadline to appeal has passed, the decision to deny the non-storefront medical cannabis retailer the opportunity to participate in the lottery shall be deemed final and may no longer be appealed. In the event an appeal of the city manager's decision to allow a non-storefront medical cannabis retailer applicant to participate in a lottery is timely filed, the lottery shall not be conducted until the appeal is heard and decided.

B. Appeals related to issuance of non-storefront medical cannabis retailer regulatory permit. An applicant that seeks to operate a non-storefront medical cannabis retail business in the city, may appeal the city manager's decision not to issue the cannabis business a permit in writing pursuant to the provisions of subsection C. The written appeal shall be filed with the city clerk within 15 days of the issuance and mailing of the written decision by the city manager on the permit accompanied by the appeal fee as adopted by resolution of the city council. After the deadline to appeal has passed, the decision to deny the issuance of a permit shall be deemed final and may no longer be appealed. A non-storefront medical cannabis retailer may only appeal the city manager's decision to deny the applicant a permit if the non-storefront medical cannabis retailer participated in the lottery.

C. A written request for an appeal under this section shall be filed with the city clerk pursuant to the deadlines noted above and all such requests shall contain the following information:

1. The name and address of the applicant;
2. The date of the decision in question;
3. The reasons for the appeal; and
4. The grounds relied upon for relief.

Notice of the time and place of the hearing shall be mailed to the applicant, by certified mail, no later than ten days prior to the date set for the hearing. The notice may also designate certain records that the applicant is required to produce at the time of the hearing.

At the hearing as prescribed by this section, the applicant and the city may submit any and all evidence as they believe to be relevant. The city council may require the presentation of additional evidence from either the applicant or the city, or from both, and may continue the hearing from time to time for the purpose of allowing the presentation of additional evidence. Upon conclusion of the hearing, the city council may, by resolution

with findings, approve, reverse, or modify the decision of the city manager and such decision of the city council shall be final.

5.20.120 Limitation on city's liability.

A. To the fullest extent permitted by law, the city does not assume any liability whatsoever, with respect to approving any permit pursuant to this chapter or the operation of any non-storefront medical cannabis retailer approved under to this chapter.

B. As a condition of approval of a permit as provided in this chapter, the applicant or its legal representative shall do the following:

1. Execute an agreement indemnifying the city from any claims, damages, injuries, or liabilities of any kind associated with the operation of the non-storefront medical cannabis retail business, issuance of a permit to a non-storefront medical cannabis retail business, or the prosecution of the non-storefront medical cannabis retail business or its owners, managers, directors, officers, employees, or its qualified patients or primary caregivers for violation of federal or state laws;

2. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee; and

3. Reimburse the city for all costs and expenses, including, without limitation, legal fees and costs and court costs, which the city may be required to pay as a result of any legal challenge related to the city's approval of a minor use permit or non-storefront medical cannabis retail regulatory permit or related to the city's approval of non-storefront medical cannabis retail activity. The city, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any of the obligations imposed hereunder.

5.20.130 Violations.

A. It is the duty of the city manager, planning director, police chief, or their designees, to enforce the rules and regulations in accordance with this chapter.

B. Pursuant to the city's prosecutorial discretion, the city may enforce violations of the provisions of this chapter as criminal, civil, and/or administrative actions.

C. Any person who violates the provisions of this chapter may be subject to administrative fines in an amount not to exceed \$1,000.00, or such other amount as may be permitted under California Government Code § 36901. In addition to the recovery of administrative fines, the city may recover its costs and expenses incurred in enforcing a violation of this chapter. An order to pay administrative fines and costs may be appealed pursuant to section 1.12.210 of this code.

E. Notwithstanding any other provision of this chapter, a non-storefront medical cannabis retail permit may not be issued, renewed, or amended unless and until due and unpaid citations are paid in full.

5.20.140 Nuisance.

A. Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance.

B. The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the city, create a cause for injunctive relief.

C. Any person subject to this chapter who personally, or through an agent, employee, independent contractor, or other representative, violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such violation is committed, continued, or permitted by such person. All remedies provided herein shall be cumulative and not exclusive.”

SECTION 3. The definition of “commercial cannabis activity” in Section 8.52.010 (Definitions) of Chapter 8.52 (Cannabis Prohibitions and Regulations) of Title 8 (Health and Safety) is hereby amended to read as follows:

“Commercial cannabis activity means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, 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. Commercial cannabis activity does not include the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person. Commercial cannabis activity also does not include the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver, exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765. Commercial cannabis activity also does not include the possession, storing, delivery or sale of cannabis by a non-storefront medical cannabis retailer as defined in section 5.20.020 of chapter 5.20 of this code.”

SECTION 4. Section 8.52.030 (Exceptions) of Chapter 8.52 (Cannabis Prohibitions and Regulations) of Title 8 (Health and Safety) is hereby amended to add a new subsection “D” to read as set forth below with the remainder of the section to remain unchanged:

“D. Nothing in this chapter shall prohibit the establishment of one physical premises from which retail sale by delivery of medicinal cannabis within the city is conducted by a non-storefront medical cannabis retail use. A non-storefront medical cannabis retail use shall be permitted with a minor use permit subject to the requirements set forth in section 17.102.080 and a non-storefront medical cannabis retail regulatory permit subject to the requirements set forth in chapter 5.20. A non-storefront medical cannabis retailer may deliver medical cannabis within the jurisdictional limits of the city.”

SECTION 5. Table 17.30.030-1 (Allowed Land Uses and Permit Requirements by Base Zone) of Section 17.30.030 (Allowed Land Uses and Permit Requirements) of Chapter 17.30 (Allowed Land Use by Base Zone) of Article III (Zones, Allowed Uses, and Development

Standards) of Title 17 (Development Code) is hereby amended to add “non-storefront medical cannabis retail” as a “Permitted with a Minor Use Permit” use subject to section 17.102.080 in the Neo-Industrial (NI) and Industrial Employment (IE) zones. The “non-storefront medical cannabis retail” use shall be “Not Permitted” in all other zones.

SECTION 6. Subsection (E)(12) of Section 17.32.020 (Allowed Use Descriptions) of Chapter 17.32 (Allowed Use Descriptions) of Article III (Zones, Allowed Uses, and Development Standards) of Title 17 (Development Code) is hereby amended to read as follows:

“12. *Commercial cannabis activity.* Any location providing for the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, 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. Commercial cannabis activity does not include the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person. Commercial cannabis activity also does not include the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver, exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code § 11362.765. Commercial cannabis activity also does not include the possession, storing, delivery or sale of cannabis by a non-storefront medical cannabis retailer as defined in section 5.20.020 of chapter 5.20 of this code.”

SECTION 7. Subsections (E)(22) through (E)(28) of Section 17.32.020 (Allowed Use Descriptions) of Chapter 17.32 (Allowed Use Descriptions) of Article III (Zones, Allowed Uses, and Development Standards) of Title 17 (Development Code) are hereby renumbered to (E)(23) through (E)(29), respectively.

SECTION 8. A new Subsection (E)(22) is hereby added to Section 17.32.020 (Allowed Use Descriptions) of Chapter 17.32 (Allowed Use Descriptions) of Article III (Zones, Allowed Uses, and Development Standards) of Title 17 (Development Code) to read as follows:

“22. *Non-storefront medical cannabis retail.* A retailer as defined in section 5.20.020 of chapter 5.20 of this code.”

SECTION 9. Section 17.94.040 (Exceptions) of Chapter 17.94 (Commercial Cannabis Uses and Cultivation) of Article V (Specific Use Requirements) of Title 17 (Development Code) is hereby amended to add a new subsection “D” to read as set forth below with the remainder of the section to remain unchanged:

“D. Nothing in this chapter shall prohibit the establishment of one physical premises from which retail sale by delivery of medicinal cannabis within the city is conducted by a non-storefront medical cannabis retail use. A non-storefront medical cannabis retail use shall be permitted with a minor use permit subject to the requirements set forth in section 17.102.080 and a non-storefront medical cannabis retail regulatory permit subject to the

requirements set forth in chapter 5.20. A non-storefront medical cannabis retailer may deliver medical cannabis within the jurisdictional limits of the city.”

SECTION 10. Section 17.102.080 (Non-storefront Medical Cannabis Retail) is hereby added to Chapter 17.102 (Special Regulated Uses) of Article V (Specific Use Regulations) of Title 17 (Development Code) to read as set forth below:

“17.102.080 Non-storefront medical cannabis retail.

A. *Applicability.* The development standards of this section shall apply to non-storefront medical cannabis retail facilities. “Non-storefront medical cannabis retail” means a retailer that sells medicinal cannabis or medicinal cannabis products, as those terms are defined in Business and Professions Code § 26001(ak)(1), as may be amended, to customers exclusively through delivery. A non-storefront medical cannabis retail has a permitted premises to store medicinal cannabis or medicinal cannabis for delivery, but the premises is not open to the public. A non-storefront medical cannabis retailer shall have a State License Type M-Type 9, Non-Storefront Retailer, limited to delivery services of medical cannabis or cannabis products only.

B. *Limit on retailers.* No more than one non-storefront medical cannabis retail use shall be allowed in the city.

C. *Permitted with minor use permit.* The non-storefront medical cannabis retail use shall be permitted upon issuance of a minor use permit, subject to section 17.16.120, in the Neo-Industrial (NI) and Industrial Employment (IE) zones, pursuant to Table 17.30.030-1 of section 17.30.030 of this code, except that a non-storefront medical cannabis retail use is not permitted west of Haven Avenue.

D. *Minimum proximity requirements.* Non-storefront medical cannabis retail facilities shall not be located closer than 600 feet from a school or daycare facility (public or private) or any other sensitive use listed in Business and Professions Code § 26054(b), 1,000 feet from any existing residential dwelling, church or similar place of worship, park or playground, recreational facility, hospital, public buildings (e.g., city hall, county offices, courthouse, libraries, etc.), or 1,000 feet from the right-of-way on Haven Avenue, Miliken Avenue, 4th Street, Foothill Boulevard, and the I-15 freeway.

E. *Measurement of distance.* The distance between a non-storefront medical cannabis retail facility and a use listed in subsection D shall be made in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the structure, or portion of the structure, in which the use is located, to the property line of the parcel on which the structure, or portion of the structure, in which the use occurs or is located.

F. *Operational restrictions.* Non-storefront medical cannabis retailers shall be subject to the requirements of chapter 5.20 of this code.”

SECTION 11. The definition of “commercial cannabis activity” in Section 17.148.020 (Definitions) of Chapter 17.148 (Cannabis Definitions) of Article IX (Glossary) of Title 17 (Development Code) is hereby amended to read as follows:

“Commercial cannabis activity means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, 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. Commercial cannabis activity does not include the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person. Commercial cannabis activity also does not include the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver, exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code § 11362.765. Commercial cannabis activity also does not include the possession, storing, delivery or sale of cannabis by a non-storefront medical cannabis retailer as defined in section 5.20.020 of chapter 5.20 of this code.”

SECTION 12. Section 17.148.020 (Definitions) of Chapter 17.148 (Cannabis Definitions) of Article IX (Glossary) of Title 17 (Development Code) is hereby amended to add the following definition of “non-storefront medical cannabis retail” in alphabetical order:

“Non-storefront medical cannabis retail shall have the meaning set forth in section 5.20.020 of chapter 5.20 of this code.”

SECTION 13. Nothing in this Ordinance shall be construed to limit or otherwise affect the ability of the City to adopt or enforce any regulations on commercial cannabis operations, other than non-storefront, delivery-only medical cannabis retailers in the City as required pursuant to Business and Professions Code Section 26322. Except as expressly amended in this Ordinance, the City’s prohibition on commercial cannabis activities and uses in Chapters 8.52 and 17.94 and Table 17.30.030-1 of the RCMC remain in full force and effect.

SECTION 14. The City Council declares that, should any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 15. Neither the adoption of this Ordinance nor the repeal of any other ordinance of the City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

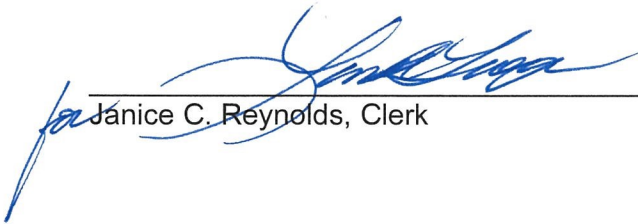
SECTION 16. The City Clerk shall certify to the adoption of this Ordinance and shall cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 20th day of December, 2023.



L. Dennis Michael, Mayor

ATTEST:



Janice C. Reynolds, Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF RANCHO CUCAMONGA)

I, JANICE C. REYNOLDS, City Clerk of the City of Rancho Cucamonga, California, do hereby certify that the foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Rancho Cucamonga held on the 6th day of December, 2023, and was passed at a Regular Meeting of the City Council of the City of Rancho Cucamonga held on the 20th day of December, 2023.

AYES: Hutchison, Kennedy, Michael, Scott, Stickler
NOES: None
ABSENT: None
ABSTAINED: None

Executed this 21st day of December 2023, at Rancho Cucamonga, California.



Janice C. Reynolds, Clerk

