

**EFFECTIVE DATE
OF ORDINANCE**

April 19, 2018

ORDINANCE NO. 2643 N.C.S.

Introduced by

Seconded by

Gabe Kearney

Teresa Barrett

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA AMENDING THE TEXT
OF THE IMPLEMENTING ZONING ORDINANCE, ORDINANCE 2300 N.C.S., CHAPTER 4
SECTION 4.030 – ALLOWABLE LAND USES AND PERMIT REQUIREMENTS AND
CHAPTER 28 – GLOSSARY TO ACCOMMODATE COMMERCIAL CANNABIS BUSINESSES
IN BUSINESS PARK AND INDUSTRIAL ZONES SUBJECT TO AND IN ACCORDANCE WITH
CHAPTER 10.15 OF THE PETALUMA MUNICIPAL CODE, THE CITY OF PETALUMA
COMMERCIAL CANNABIS PERMIT REGULATIONS, AND OTHER APPLICABLE LAW**

WHEREAS, in November 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act, referred to in ballot materials as the Adult Use of Marijuana Act ("AUMA"), which established a regulatory scheme for nonmedical marijuana similar to that established for medical marijuana under the Medical Marijuana Regulation and Safety Act (MMRSA); and

WHEREAS, following its adoption by California voters, the AUMA was codified in various provisions of state law, including in Article 2 entitled "Cannabis" in the Uniform Controlled Substances Act within the California Health and Safety Code, and in Division 10 entitled the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" of the California Business and Professions Code; and

WHEREAS, as codified in the California Health and Safety Code and the California Business and Professions Code, the AUMA decriminalized for purposes of state law specified nonmedical cannabis uses pursuant to California Health and Safety Code section 11362.1, including, possession, processing, transporting, purchasing, obtaining and given away to persons 21 years old or older, without compensation, not more than 28.5 grams of non-concentrated cannabis or not more than 8 grams of concentrated cannabis, including cannabis contained in cannabis products; possessing, planting, cultivating, harvesting, drying or processing not more than six living cannabis plants and possessing the cannabis produced by the plants; smoking or ingesting cannabis or cannabis products, and possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away to persons 21 years of age or older without compensation cannabis accessories; and

1 **WHEREAS**, in response to enactment of the AUMA, the City Council introduced on
2 November 13, 2017 and subsequently adopted on December 4, 2017, Ordinance no. 2634
3 N.C.S. repealing and replacing former Chapter 10.15 of the Petaluma Municipal Code entitled
4 "Medical Marijuana" with a new chapter 10.15 entitled "Cannabis" extending the City's
5 cannabis regulations to non-medical cannabis uses in the City; and
6

7 **WHEREAS**, Section 10.15.010 of Ordinance 2634 N.C.S. provides that the purpose of
8 Chapter 15 is to recognize and respect the will of the California voters in approving the AUMA
9 through adoption of less restrictive local cannabis regulations, while at the same time promoting
10 the public health, safety and welfare of the Petaluma community; and
11

12 **WHEREAS**, Section 10.15.040 of Ordinance 2634 N.C.S. authorizes certain limited
13 commercial cannabis activity, subject to issuance of a City permit therefore, for manufacture
14 and wholesale sale of topical or edible cannabis products, testing laboratories, and delivery-
15 only retail sale at up to two locations in the City; and
16

17 **WHEREAS**, Section 10.15.090 provides that the City Council shall adopt regulations or
18 authorize the City Manager to promulgate regulations intended to implement the requirements
19 of Ordinance 2634 N.C.S.; and
20

21 **WHEREAS**, Section 10.15.040, paragraph (B) of Ordinance 2634 N.C.S. provides that the
22 commercial cannabis activities authorized under that section may only be carried out while and
23 to the extent the activity is conducted pursuant to and in accordance with a current, valid,
24 unexpired, unrevoked, fully-paid, license, permit or other authorization or notice issued by an
25 authorized city official, and pursuant to and in accordance with all other applicable state and
26 local laws and regulation, including, but not limited to the regulations adopted or promulgated
27 pursuant to section 10.15.090, and that such commercial cannabis activities may only be
28 conducted in areas of the City where such uses are permitted in accordance with the City's
29 zoning regulations; and
30

31 **WHEREAS**, Section 25.010 of the City of Petaluma Implementing Zoning Ordinance (IZO)
32 provides in pertinent part that no amendment that regulates matters listed in Government Code
33 Section 65850, which matters include the use of buildings and structures, shall be made to the
34 IZO unless the Planning Commission and City Council find the amendment to be in conformity
35 with the General Plan and consistent with the public necessity, convenience and general
36 welfare in accordance with Section 25.050(B) of the IZO; and
37

38 **WHEREAS**, the City Council found that due to the negligible environmental impacts
39 anticipated from enactment of new Chapter 10.15 of the Petaluma Municipal Code, Ordinance
40 2634 N.C.S. was exempt from CEQA pursuant to Sections 15061(b)(3), 15301 and 15303 of the
41 CEQA Guidelines; and
42

43 **WHEREAS**, on December 18, 2017, the City Council adopted regulations addressing such
44 matters as commercial cannabis permit eligibility, commercial cannabis business owner and
45 employee requirements, cannabis business location limitations, commercial cannabis permit
46 applications, renewals, transfers, denials and revocations, commercial cannabis businesses
47 operating requirements, and enforcement; and

1
2 **WHEREAS**, the text amendments contained in this ordinance would modify the City's
3 Implementing Zoning Ordinance, Chapter 4, Section 4.030 – Allowable Land Uses and Permit
4 Requirements and Chapter 28 – Glossary to implement the requirements in Section 10.15.040(A)
5 of the Petaluma Municipal Code, and the City of Petaluma Commercial Cannabis Permit
6 Regulations; and
7

8 **WHEREAS**, the text amendments contained in this ordinance involve uses that are subject
9 to compliance with all applicable state laws including the AUMA and the provisions of the
10 California Department of Toxic Substance Control; and
11

12 **WHEREAS**, the text amendments contained in this ordinance direct commercial cannabis
13 businesses to appropriate business park and industrial zones where similar uses are already
14 permitted, by allowing cannabis manufacturing and cannabis testing uses where non-cannabis
15 manufacturing and testing facilities are currently allowed; and
16

17 **WHEREAS**, the text amendments contained in this ordinance would allow qualified
18 commercial cannabis businesses to operate under City issued permits to: 1) re-tenant existing
19 commercial and industrial facilities designed to support such uses; 2) replace, modify or
20 otherwise reconstruct existing commercial and industrial facilities with a new structure of
21 substantially the same size, purpose and capacity; and/or 3) construct new small structures
22 including fences, gates, greenhouses, and small scale commercial and industrial facilities; and
23

24 **WHEREAS**, on January 25, 2018, public notice of the February 13, 2018 Planning
25 Commission meeting to consider the amendments to the Implementing Zoning Ordinance,
26 Chapter 4, Section 4.030 – Allowable Land Uses and Permit Requirements and Chapter 28 –
27 Glossary was published in the *Argus-Courier* and sent to all members of the public on the
28 interested parties list for this item; and
29

30 **WHEREAS**, on February 13, 2018, the Planning Commission held a duly noticed public
31 hearing in accordance with Chapter 25 of the Implementing Zoning Ordinance to consider the
32 amendments;
33

34 **WHEREAS**, after the conclusion of said public hearing, the Planning Commission adopted
35 Resolution No. 2018-05, recommending that the City Council adopt the amendments; and
36

37 **WHEREAS**, on February 15, 2018, a public notice of the February 26, 2018 public hearing
38 before the City Council to consider the amendments was published in the *Argus-Courier*; and,
39

40 **WHEREAS**, on February 26, 2018, the City Council of the City of Petaluma held a duly
41 noticed public hearing to consider the amendments; and
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1 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PETALUMA AS**
2 **FOLLOWS:**

3
4 Section 1. FINDINGS. The City Council of the City of Petaluma hereby finds:

5
6 1. In accordance with Sections 25.010 and 25.050(B) of the City's Implementing Zoning
7 Ordinance, Ordinance No. 2300 N.C.S., ("IZO"), that the provisions amending the IZO, Table of
8 Contents, Chapter 4, Section 4.030 – Allowable Land Uses and Permit Requirements and
9 Chapter 28 – Glossary, as hereinafter set forth, (collectively, "the amendments"), are in general
10 conformity with the Petaluma General Plan 2025 in that these changes do not change the type
11 of uses allowed in the Business Park and Industrial Areas.

12
13 2. In accordance with Section 25.050(B) of the IZO, the proposed amendments are
14 consistent with the public necessity, convenience and welfare in that they:

- 15
16 a. Ensure Petaluma's land use and zoning regulations provide safe and appropriate
17 locations where testing, manufacturing and sale by delivery of Adult and Medical
18 Cannabis can occur consistent with Chapter 10.15 of the Petaluma Municipal Code,
19 and the City of Petaluma Commercial Cannabis Permit Regulations adopted
20 December 18, 2017;
- 21 b. Comply with the Adult Use of Marijuana Act approved by California voters in
22 November 2017 and codified in California law as the MMRSA;
- 23 c. Comply with California Business and Professions Code sections 26000 – 26231.2 which
24 regulate the cultivation, distribution, transport, storage of adult use and medicinal
25 cannabis products for patients with valid physician's recommendations and adults 21
26 years of age and over; and
- 27 d. Provide for buffers to assure that establishments testing, manufacturing or selling
28 cannabis products are a safe distance from schools, child care centers, parks, and
29 residential land uses.

30
31 3. The proposed zoning text amendments are exempt from CEQA pursuant to CEQA
32 Guidelines Sections 15061(b)(3), 15183, 15301, 15302, and 15303, in that commercial cannabis
33 uses are only permitted in locations that already allow for similar non-cannabis uses, are subject
34 to issuance of a commercial cannabis permit by the City of Petaluma Police Department, and
35 are obligated to operate in accordance with State Law, Chapter 10.15 of the Petaluma
36 Municipal Code and the City of Petaluma Commercial Cannabis Permit Regulations adopted
37 December 18, 2017.

38
39 Section 2. Section 4.030 – Allowable Land Uses and Permit Requirements, Table 4.4
40 Allowed Land Uses and Permit Requirement for Commercial Business Park and Industrial Zones,
41 City of Petaluma IZO, Ordinance No. 2300 N.C.S. is hereby amended to read as follows:

Commercial, Business Park, and Industrial Zones

TABLE 4.4

Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones

| | |
|-------|--|
| P(16) | Permitted Use |
| CUP | Conditional Use Permit Required |
| S | Permit Requirement in Specific Use Regulations |
| A | Accessory Use |
| — | Use Not Allowed |

| LAND USE TYPE (1) | Permit Required by Zone | | | | Specific Use Regulations |
|--|-------------------------|------|-----------|-----------|--------------------------|
| | C1 | C2 | BP | I | |
| INDUSTRY, MANUFACTURING & PROCESSING | | | | | |
| Artisan/craft product manufacturing | — | — | P | P | |
| Catering service, as a primary use | P(6) | P(6) | P | P | |
| Furniture and fixtures manufacturing, cabinet shop | — | — | — | P | |
| Laboratory – Medical, analytical | — | — | P | P | |
| Laboratory - Cannabis | — | — | P(18, 19) | P(18, 19) | Muni Code Chapter 10.15 |
| Laundry, dry cleaning plants | — | — | — | P | |
| Manufacturing/processing – Light | — | — | P | P | |
| Manufacturing/processing – Medium intensity | — | — | — | P | |
| Manufacturing/processing – Cannabis | — | — | P(18, 19) | P(18, 19) | Muni Code Chapter 10.15 |
| Media Production | — | — | P | P | |
| Petroleum product storage and distribution | — | — | P | CUP | |
| Printing and publishing | — | — | P | P | |
| Recycling facility | — | — | P(11) | P(11) | |
| Recycling facility – Scrap and dismantling yard | — | — | — | — | |
| Research and development | — | — | P | P | |
| Retail Sale and Delivery - Cannabis | — | — | P(18, 19) | P(18, 19) | Muni Code Chapter 10.15 |
| Storage yard – outdoor | — | — | — | CUP | |
| Storage –warehouse, indoor storage | — | — | — | P | |
| Wholesaling and distribution | — | — | P | P | |

Key to zone symbols:

C1 - Commercial 1

BP – Business Park

C2 – Commercial 2

I – Industrial

Notes:

- (1) See Glossary for land use definitions
- (2) Home Occupation Permit and Business License Required
- (3) business License Required
- (4) business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Permitted use on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) CUP required for overnight board and care
- (12) Urgent Care facilities may be located on the ground floor as a street fronting use
- (13) Allowed only in a shopping center
- (14) Permitted only on APN 137-061-019 & APN 048-080-036 (Corona Rd. at North McDowell Blvd.)
- (15) Use permitted on Lakeville Highway between Baywood Drive and Casa Grande Road

(16) See section 21.30 (Residential Uses Abutting No-Residential Uses)

(17) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)

(18) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line

(19) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit

Section 3. Chapter 28, Glossary of the Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S., definitions of "Laboratory – Cannabis," and "Manufacturing – Cannabis," are hereby added to read as follows:

- **Laboratory – Cannabis** – testing laboratories that offer or perform testing of cannabis or cannabis products in accordance with Petaluma Municipal Code sections 10.15.020 and 10.15.040, and the current City of Petaluma Commercial Cannabis Permit Regulations.
- **Manufacturing – Cannabis** - businesses that manufacture and sell topical or edible cannabis products using cannabis infusions, infusion processes, or cannabis concentrates only business to business (non-retail) in accordance with Petaluma Municipal Code section 10.15.040 and the current City of Petaluma Commercial Cannabis Permit Regulations. Excludes manufacture of cannabis products involving volatile solvents, and repackaging cannabis or cannabis products or re-labeling cannabis or cannabis product containers.
- **Retail Sale and Delivery – Cannabis** – businesses that sell cannabis and cannabis products using a delivery-only method at a maximum of two different locations in the City, with no sale of cannabis or cannabis products to customers, primary care givers or qualified patients occurring at the business location, no customers, primary care givers or qualified patients permitted at the business location at any time and no signage at the business location or on the delivery vehicles indicating the presence of cannabis or cannabis products or that the seller sells cannabis or cannabis products in accordance with Petaluma Municipal Code sections 10.15.040 and 10.15.060, and the current City of Petaluma Commercial Cannabis Permit Regulations.

Section 4. Except as amended herein, the City of Petaluma IZO, Ordinance No. 2300 N.C.S. remains unchanged and in full force and effect.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Section 6. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 7. Posting/Publishing of Notice. The City Clerk is hereby directed to publish or post this ordinance or a synopsis for the period and in the manner provided by the City Charter and other applicable law.

1 **INTRODUCED**, and ordered posted/published, this 26th day of February 2018.

2
3 **ADOPTED** this 19th day of March 2018, by the following vote:


4
5 Ayes: Albertson, Barrett, Vice Mayor Healy, Kearney, King
6 Noes: Miller
7 Abstain: Mayor Glass
8 Absent: None
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16 Mike Healy, Vice Mayor
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22 ATTEST:

APPROVED AS TO FORM:

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26 Claire Cooper, City Clerk
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Lisa Tennenbaum, Assistant City Attorney