

Resolution No. 2024-XXX N.C.S. of the City of Petaluma, California

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA REPEALING RESOLUTION NO. 2017-182 N.C.S. AND ADOPTING UPDATED ADMINISTRATIVE REGULATIONS TO IMPLEMENT CHAPTER 6.10 OF THE PETALUMA MUNICIPAL CODE ENTITLED CANNABIS

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 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

WHEREAS, effective January 1, 2018, California’s laws regulating cannabis were substantially revised by comprehensive legislation known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA) which established a uniform licensing regime for both medical and adult-use cannabis; and

WHEREAS, in response to enactment of the AUMA and MAUCRSA, the City Council introduced on November 13, 2017, and subsequently adopted on December 4, 2017, Ordinance No. 2634 N.C.S. repealing and replacing former Chapter 10.15 of the Petaluma Municipal Code entitled “Medical Marijuana” with a new chapter 10.15 entitled “Cannabis” extending the City’s cannabis regulations to non-medical cannabis uses in the City; and

WHEREAS, as specified in section 10.15.010, the purpose of Chapter 15 is to recognize and respect the will of the California voters in approving the AUMA through adoption of less restrictive local cannabis regulations, while at the same time promoting the public health, safety and welfare of the Petaluma community by protecting citizens from the secondary impacts associated with cannabis dispensaries and commercial activity and cannabis delivery, preventing increased demand for police response, and maintaining access of qualified patients and primary caregivers to medical cannabis and medical cannabis products; and

WHEREAS, the City’s commercial cannabis regulations impose requirements for retail and wholesale cannabis businesses, including issuance by the City of an annual commercial cannabis permit, and requirements intended to protect the health, safety and welfare of the public and to avoid significant impacts from cannabis commercial activity by: limiting the location and number of permitted commercial cannabis establishments; establishing cannabis business employee age requirements, background check requirements, requiring compliance with the City’s cannabis business application process, and requiring compliance with the City’s cannabis commercial regulations and with applicable state cannabis laws and regulations; and

WHEREAS, adoption of updated retail cannabis regulations, including permitting storefront cannabis retail sales, is identified as one of the City Council’s top priorities; and

WHEREAS, the City Council held a workshop on March 11, 2024 to, discuss the timing and scope of cannabis regulation amendments, and at the workshop, the Council supported staff’s recommendation on the number and location of storefront cannabis retail uses, and directed staff to move forward with the amendments utilizing a hybrid approach, with limited amendments occurring in the near term, and comprehensive amendments to follow; and

WHEREAS, on April 15, 2024, staff updated the City Council on the estimated milestones and timelines for each City Council goal, and the Council provided direction on an updated goals and priorities workplan, including updates to the City’s commercial cannabis regulations; and

WHEREAS, direction provided at the April 15, 2024, City Council meeting reiterated prior Council direction to prepare limited amendments to the City’s cannabis regulations, both in the City’s Municipal Code and the City’s Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S. (“IZO”), to allow storefront retail cannabis sales at up to 3 locations in areas zoned Business Park and Industrial, where retail and wholesale commercial cannabis activities are permitted under the City’s existing cannabis regulations; and

WHEREAS, on May 14, 2024, the Planning Commission held a duly noticed public hearing to receive and consider a staff report and comments from staff and the public on proposed amendments to the City’s zoning ordinance to permit on-site retail cannabis sales, and proposed findings in accordance with the California Environmental Quality Act (“CEQA”) concerning the proposed zoning amendments, and at the hearing all interested parties had the opportunity to be heard; and

WHEREAS, at the conclusion of the May 14, 2024, Planning Commission meeting, the Commission adopted a resolution recommending that the City Council adopt the text amendments contained in Exhibit A to the resolution to modify the IZO, Chapter 4, Section 4.030 – Allowable Land Uses and Permit Requirements and Chapter 28 – Glossary, and find the zoning amendments to be exempt from CEQA; and

WHEREAS, on June 17, 2024, the City Council held a duly noticed public hearing to receive and consider proposed amendments to provisions in the IZO, Ordinance 2300 N.C.S., to permit on-site retail sales of cannabis and cannabis products at a maximum of up to three locations in Business Park and Industrial zones, where similar retail and service commercial uses are already permitted, and an ordinance to adopt corresponding amendments to the City’s cannabis regulations in the Petaluma Municipal Code to relocate the City’s cannabis regulations to a new Chapter 6.10 entitled “Cannabis,” and to permit on-site retail cannabis sales in up to three locations in zones specified in the IZO, subject to a valid, annual

commercial cannabis business permit granted by the City, and to consider as well the accompanying staff report and comments from staff and the public; and

WHEREAS, Section 10.15.090 of the Petaluma Municipal Code, to be renumbered as Section 6.10.090 in accordance with Ordinance No. XXXX N.C.S. if adopted by the Council, provides that the City Council shall, by duly adopted City Council resolution, adopt regulations or authorize the city manager to promulgate regulations, intended to implement the City's cannabis regulations in accordance with all applicable provisions of the city charter and other applicable law, and accordingly, Attachment A to this resolution provides updated administrative commercial cannabis permit regulations for City Council adoption to implement cannabis-related regulations in the City's Municipal Code and Implementing Zoning Ordinance; and

CEQA FINDINGS

WHEREAS, the proposed IZO amendments contained in Exhibit A to the resolution adopted by the Planning Commission, if adopted by the City Council, would permit on-site commercial cannabis retail sales businesses in Business Park and Industrial zones only, where similar retail and service commercial uses are already permitted, and limit the number of storefront cannabis retail uses that can operate within the city to a maximum of three different locations subject to the development standards and all other applicable requirements set forth in the base zoning districts; and

WHEREAS, the Environmental Impact Report ("EIR") for the City's General Plan 2025 ("General Plan"), State Clearinghouse No. 2004082065, was certified in May, 2008, and evaluated possible environmental impacts associated with the implementation of the General Plan pursuant to CEQA and the CEQA Guidelines through 2025 to land use, transportation, parks and recreation, public services, public utilities and energy, hydrology, geology, seismicity and soils, biological resources, noise, air quality, visual resources, cultural resources, and hazardous material, and proposed feasible mitigation measures to reduce or eliminate potentially significant impacts or effects; and

WHEREAS, pursuant to CEQA Guidelines Sections 15061(b)(3) (General Rule), CEQA applies only to projects which have the potential to result in a significant effect on the environment, and where 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 activity is not subject to CEQA review, and there is no possibility that the proposed amendments to the City's cannabis regulations pursuant to this ordinance will result in a significant effect on the environment, because this ordinance merely establishes regulations governing storefront retail cannabis uses, and no cannabis businesses will be approved to operate as part of this action, and as a result, there is no possibility that the adoption of this ordinance may have a significant effect on the environment as future storefront retail cannabis businesses will be limited to a maximum of three for the entire city, and will be located on developed properties where similar retail and service commercial uses are already operating or permitted to operate, and accordingly, this ordinance is eligible for exemption pursuant to CEQA Guidelines Section 15061(b)(3); and

WHEREAS, pursuant to 15183 (Projects Consistent with a Community Plan or Zoning) of the CEQA Guidelines, projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site, and the proposed amendments to the City's cannabis regulations pursuant to this ordinance will allow operation of storefront retail cannabis uses which are similar to retail and service commercial uses that are already permitted to operate within areas

designated as Business Park and Industrial in the City's General Plan, cannabis delivery is also permitted to operate within the Business Park and Industrial areas within the city, and because this ordinance will permit operation of a limited number of storefront cannabis retail establishments that are of a similar nature to retail and service commercial uses that are already permitted to operate, adoption and implementation of the this ordinance will not result in new or more severe impacts previously analyzed and disclosed in the General Plan EIR, like in the ruling in *Lucas v. City of Pomona* (2023) 92 Cal.App.5th 508; and

WHEREAS, pursuant to Sections 15301, 15302, and 15303 of the CEQA Guidelines, this ordinance is categorically exempt from CEQA because the amendments to the City's cannabis regulations pursuant to this ordinance will allow commercial cannabis businesses with a City of Petaluma issued Commercial Cannabis Permit to: 1) re-tenant existing commercial and industrial facilities designed to support such uses; 2) replace, modify or otherwise reconstruct existing commercial and industrial facilities with a new structure of substantially the same size, purpose and capacity; and/or 3) construct new small structures including fences, gates, greenhouses, and small scale commercial and industrial facilities, and none of the exceptions to the use of categorical exemptions apply because (a) the locations in the City where commercial cannabis activity is permitted are not areas where it may impact an environmental resource of hazardous or critical concern; (b) and the amendments pursuant to this ordinance will not result in cumulative impacts; (c) and do not involve an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances; (d) and will not result in damage to scenic resources within a highway officially designated as a state scenic highway; (e) the locations in the City where commercial cannabis activity is permitted are not hazardous waste sites pursuant to Section 65962.5 of the Government Code, and (f) the amendments pursuant to this ordinance will not result in a substantial adverse change in the significance of a historical resource; and therefore, because none of the exceptions to the exemptions in CEQA Guidelines sections 15301, 15302 and 15303 apply, this ordinance qualifies for application of the Class 1, 2, and 3 categorical exemptions.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Petaluma as follows:

1. **Findings.**

- A. The above recitals are hereby declared to be true and correct and are incorporated into this ordinance as findings of the City Council.
- B. California Environmental Quality Act Findings: This resolution is statutorily and categorically exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Sections 15061(b)(3), 15183, 15301, 15302, and 15303, and based on the CEQA findings contained in the above recitals. Therefore, this resolution is not subject to further environmental review.

- 2. **Resolution 2017-182 N.C.S. Repealed.** Resolution No. 2017-182 N.C.S. adopted December 18, 2017 and the Commercial Cannabis Permit Regulations and Commercial Cannabis Security Requirements adopted pursuant to that resolution, are hereby repealed in their entirety, effective upon the effective date of this resolution, to be replaced in their entirety by the regulations adopted pursuant to this resolution.
- 3. **Updated Cannabis Administrative Regulations Adopted.** Pursuant to Section 10.15.090 of the Petaluma Municipal Code, renumbered to Section 6.10.090 in accordance with Ordinance No. XXXX N.C.S. the City Council hereby adopts the Commercial Cannabis Permit Regulations, including the Commercial Cannabis Security Requirements, attached to and made a part of this Resolution as Exhibit A.

4. **City Manager Promulgation of Regulations.** In accordance with Section 10.15.090, renumbered to Section 6.10.090 in accordance with Ordinance No. XXXX N.C.S., the City Manager is hereby authorized to promulgate regulations that amend the regulations adopted pursuant to this resolution as deemed appropriate to further and consistent with the purposes of the City's adopted cannabis regulations.
5. **Severability.** If any section, subsection, sentence, clause, phrase or word of this resolution 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 resolution. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this resolution 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.
6. **Effective Date.** This resolution shall become effective at the same time that Ordinance no. XXXX N.C.S. amending cannabis regulations in the Petaluma Municipal Code and Ordinance no. XXXX N.C.S. amending cannabis regulations in the Petaluma Implementing Zoning Ordinance become effective.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 17th day of June 2024, by the following vote:

Approved as to
form:

Eric Danly City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Caitlin Corley, City Clerk

Kevin McDonnel Mayor

EXHIBIT A

CANNABIS ADMINISTRATIVE REGULATIONS