

**EFFECTIVE DATE
OF ORDINANCE**

ORDINANCE NO. _____ N.C.S.

Introduced by: _____

Seconded by: _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA AMENDING 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 BUSINESS PARK AND INDUSTRIAL ZONES SUBJECT TO A VALID, ANNUAL COMMERCIAL CANNABIS BUSINESS PERMIT GRANTED BY THE CITY IN ACCORDANCE WITH THE PETALUMA MUNICIPAL CODE AND REGULATIONS PROMULGATED BY THE CITY

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, Section 25.010 of the IZO provides that no amendment that regulates matters listed in Government Code Section 65850 shall be made to the IZO unless the Planning Commission and City Council find the amendment to be in conformity with the City's General Plan; and

WHEREAS, pursuant to Chapter 25 of the IZO, the City of Petaluma Planning Director may initiate an IZO amendment, and the City Council may adopt the amendment upon the recommendation of the Planning Commission; and

WHEREAS, pursuant to IZO Sections 25.010 and 25.050.B, if the Planning Commission finds proposed IZO amendments to be in conformance with the Petaluma General Plan, and consistent with the public necessity, convenience, and general welfare, it may recommend amendment of the IZO to the City Council; and

WHEREAS, on April 25, 2024, a Notice of Public Hearing to be held on May 14, 2024 was published regarding consideration by the Petaluma Planning Commission of proposed amendments to the IZO 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

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, the proposed IZO amendments contained in Exhibit A to 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, 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; 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; and

WHEREAS, on June 7, 2024, and again on June 14, 2024, a Notice of Public Hearing to be held on June 17, 2024, was published regarding consideration by the City Council of proposed amendments to provisions in the City’s Implementing Zoning Ordinance, 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

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 this 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.

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

Section 1. Findings. The City Council of the City of Petaluma hereby finds as follows:

- 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 ordinance 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 findings contained in the above recitals concerning CEQA. Therefore, this ordinance is not subject to further environmental review.

Section 2. Chapter 10.15 Relocated and Renumbered. Chapter 10.15 entitled “Cannabis” in the Petaluma Municipal Code is hereby relocated and renumbered as a new Chapter 6.10 in Title 6 entitled “Business Regulations and License” of the Petaluma Municipal Code. The sections of former Chapter 10.15 are hereby renumbered as follows:

| Former Chapter 10.15 “Cannabis” | | | Relocated Chapter 6.10 “Cannabis” | | |
|---------------------------------|-----------|--------------------------------|-----------------------------------|--|--------------------------------|
| Section | 10.15.010 | Purpose | 6.10.010 | | Purpose |
| Section | 10.15.020 | Definitions | 6.10.020 | | Definitions |
| Section | 10.15.030 | Prohibition of Dispensaries | 6.10.030 | | Prohibition of Dispensaries |
| Section | 10.15.040 | Commercial Cannabis Activity | 6.10.040 | | Commercial Cannabis Activity |
| Section | 10.15.050 | Cannabis Cultivation | 6.10.050 | | Cannabis Cultivation |
| Section | 10.15.060 | Cannabis Delivery | 6.10.060 | | Cannabis Delivery |
| Section | 10.15.070 | Cannabis Entitlements | 6.10.070 | | Cannabis Entitlements |
| Section | 10.15.080 | Medical Cannabis | 6.10.080 | | Medical Cannabis |
| Section | 10.15.090 | Regulations | 6.10.090 | | Regulations |
| Section | 10.15.100 | Prohibited Cannabis Activities | 6.10.100 | | Prohibited Cannabis Activities |
| | | A Public Nuisance | | | A Public Nuisance |

Section references within the relocated Chapter 6.10 to that same chapter are hereby amended and renumbered accordingly.

Section 3. Renumbered Chapter 6.10 entitled “Cannabis” Amended. Former Chapter 10.15 of the Petaluma Municipal Code entitled “Cannabis” relocated and renumbered as Chapter 6.10 of the Petaluma Municipal Code pursuant to this ordinance is hereby amended in accordance with the following:

A. Renumbered Section 6.10.010. The first paragraph in renumbered Section 6.10.010 is hereby amended to read as follows:

The purpose of this chapter is to recognize and respect the will of the California voters in approving, in November 2016, Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, referred to as the Adult Use of Marijuana Act ("AUMA"), which legalized, subject to certain restrictions, specified nonmedical cannabis uses for purposes of state law, through adoption of less restrictive local cannabis regulations, including regulations permitting: manufacturing and wholesale sale of topical and edible cannabis products; cannabis testing laboratories; retail delivery of cannabis and cannabis products; and on-site retail sale of cannabis and cannabis products, subject to and in accordance with a valid permit issued by an authorized city official and all applicable state and local laws and regulations, including regulations promulgated pursuant to this chapter. It is also the purpose of this chapter to promote the public health, safety and welfare of the Petaluma community by:

B. Renumbered Section 6.10 040.

Paragraph A of renumbered Section 6.10.040 is hereby amended to read as follows:

A. It is unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, commercial cannabis activity, other than the commercial cannabis activity specified in subsections B through E of this section. The exceptions in subsections B through E of this section shall only apply: (1)

while and to the extent the activity is conducted pursuant to and in accordance with a current, valid, unexpired, unrevoked, fully paid license, permit, or other authorization or notice issued by an authorized city official, and pursuant to and in accordance with all other applicable state and local laws and regulations, including, but not limited to, the regulations adopted or promulgated pursuant to Section [6.10.090](#); and (2) to commercial cannabis activity conducted in areas of the city where such uses are permitted in accordance with the city's zoning regulations;

Paragraph D of renumbered Section 6.10.040 is hereby amended to read as follows:

D. Retail sale of cannabis and cannabis products using a delivery-only method in accordance with Section [6.10.060](#), at a maximum of two different locations in the city, with no sale of cannabis or cannabis products to customers, primary caregivers or qualified patients occurring at the business location, no customers, primary caregivers 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. Retail sale of cannabis and cannabis products by delivery may also occur at a location where on-site retail sales of cannabis and cannabis products is permitted in accordance with paragraph E of this section. The prohibition in this paragraph against signage at cannabis retail delivery business locations shall not apply to such business locations where on-site retail sales of cannabis and cannabis products is permitted in accordance with paragraph E of this section. Any business locations where retail sale of cannabis and cannabis products by delivery and also by on-site sales are permitted in accordance with this paragraph and paragraph E of this section shall count toward the maximum number of permitted cannabis retail delivery sales locations and the maximum number of permitted cannabis retail on-site sales locations.

A new paragraph E is hereby added to renumbered Section 6.10.040 to read as follows:

E. Retail sale of cannabis and cannabis products at a maximum of three different locations in the city to customers, primary caregivers and qualified patients occurring on site at the business location.

C. Renumbered Section 6.10.080.

Renumbered Section 6.10.080 is hereby amended to read as follows:

6.10.080 Medical cannabis.

No provision of this chapter is to be construed as prohibiting qualified patients and primary caregivers in the city of Petaluma from cultivating medical cannabis, or as prohibiting sale or delivery of medical cannabis or medical cannabis products to qualified patients or primary caregivers in the city of Petaluma, in accordance with all applicable state laws and regulations, and in accordance with all local laws and regulations, including the requirements of this chapter and any regulations promulgated hereunder that are not in conflict with applicable state laws or regulations.

Section 4. 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

f 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 5. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 6 . Posting/Publishing of Notice. The City Clerk is hereby directed to publish or post this ordinance or a synopsis for the period and in a manner provided by the City Charter and other applicable law.

INTRODUCED and ordered published and posted this 17th day of June, 2024.

Ayes:
Noes:
Abstain:
Absent:

ADOPTED this ____ day of ____ by the following vote:

Ayes:
Noes:
Abstain:
Absent:

Kevin McDonnel, Mayor

ATTEST:

APPROVED AS TO FORM:

Caitlin Corley, CMC, City Clerk

Eric Danly, City Attorney