

Ordinance No. 1640(17)

**An Ordinance of the City Council of the City of Lompoc,
County of Santa Barbara, State of California,
Amending Chapter 9.36 of the
Lompoc Municipal Code,
Regarding Use of Cannabis Citywide**

WHEREAS, in 1996, the voters of the state of California approved Proposition 215, codified at Health and Safety Code section [§ 11362.5](#) *et seq.* and entitled “The Compassionate Use Act of 1996” (CUA); and

WHEREAS, the CUA was intended to provide seriously ill Californians the ability to possess, use and cultivate cannabis for medical use once a physician has deemed the use beneficial to a patient’s health; and

WHEREAS, in 2003, California Senate Bill (SB) 420 was enacted by the Legislature to clarify the scope of the CUA and to allow California cities and counties to adopt and enforce rules and regulations consistent with SB 420 and the CUA; and

WHEREAS, in 2007, the City Council of the City of Lompoc (City) adopted a prohibition on medical cannabis dispensaries citywide by adopting Ordinance No. 1540(07), codified in the Lompoc Municipal Code (LMC) at Title 9 (Public Peace and Safety), Chapter 9.36, “PROHIBITION OF MEDICAL MARIJUANA DISPENSARIES”; and

WHEREAS, Ordinance No. 1540(07) prohibited the establishment and operation of medicinal cannabis dispensaries, fixed and mobile, and deemed those uses to be a “public nuisance” pursuant to the City’s police powers, subject to abatement by the City, as well as criminal and civil penalties; and

WHEREAS, on October 9, 2015, the Governor signed the Medical Marijuana Regulation and Safety Act (MMRSA), comprised of California Assembly and Senate Bills (AB) 243, AB 266, and SB 643. MMRSA creates a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of MMRSA ~~is~~ was to ensure uniformity among jurisdictions that wished to allow medical cannabis operations; and

WHEREAS, in 2016, the City Council adopted Ordinance No. 1621(16) clarifying the provisions of LMC Chapter 9.36; and

WHEREAS, on June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in MMRSA from “medical [marijuanacannabis](#)” or “[marijuanacannabis](#)” to “medical cannabis” or “cannabis,” and making other technical changes to the MMRSA.

SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, at the general election of November 8, 2016, the voters approved the Adult Use of Marijuana Act (AUMA). The purpose of AUMA is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products. Adults, age 21 and older, will be allowed to possess cannabis and grow certain amounts at home for personal use; and

WHEREAS, under MMRSA and AUMA, the City retains its police powers and land use authority to regulate or ban cannabis activities, including commercial cannabis operations, cultivation, distribution for the health, safety, and welfare of the citizens of Lompoc; and

WHEREAS, the City Council has duly considered all information presented to it, including written staff reports and any testimony provided at the public hearing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings. The City Council finds and determines the recitals above are true and correct, and are hereby incorporated by reference. Additionally, the City Council finds as follows:

- A. **The provisions of LMC Chapter 9.36 enacted by this Ordinance will further the public health, safety and general welfare.** The provisions of LMC Chapter 9.36 enacted by this Ordinance will regulate cannabis use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, within the City limits and will help protect the public health, safety and general welfare of the City and its residents. They will also mitigate or reduce the crime-related secondary impacts associated with cannabis use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, which are contrary to policies that are intended to promote and maintain the public's health, safety and welfare. The regulation of those activities will help preserve the City's law enforcement services, in that monitoring and addressing the negative secondary effects and adverse impacts will likely burden the City's law enforcement resources.
- B. **The provisions of LMC Chapter 9.36 enacted by this Ordinance are consistent with the General Plan and in compliance with all applicable provisions of the LMC and other ordinances and regulations of the City.** The provisions of LMC Chapter 9.36 enacted by this Ordinance regulating cannabis

use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, within the City limits are consistent with the General Plan and other provisions of the LMC that regulate businesses.

- C. **The proposed Amendments are consistent with applicable State Laws.** The provisions of LMC Chapter 9.36 enacted by this Ordinance are fully consistent with the CUA, MMRSA and AUMA as they relate to cannabis use, cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile.

SECTION 2. Chapter 9.36 of the LMC is hereby amended in its entirety to read as follows:

Chapter 9.36 CANNABIS USES

9.36.010	Purpose
9.36.020	Definitions
9.36.030	General Prohibition
9.36.040	Regulation of Personal Cannabis Cultivation and Commercial Cannabis Activity
9.36.050	Regulation of Personal Cannabis Use
9.36.060	Regulation of Commercial Cannabis Activity
9.36.070	Cannabis Application Form
9.36.080	Commercial Cannabis Activity Use Licenses
9.36.090	Dispensaries
9.36.100	Deliveries
9.36.110	Commercial Cultivation
9.36.120	Manufacturing, Distributing, Processing, Storing, Staking, Testing, Packing, and Labelling <u>and Laboratory Testing</u>
9.36.130	Use License Revocation and Appeal
9.36.140	Violations and Penalties: ; Public Nuisance

Section 9.36.010 Purpose.

- A. It is the primary purpose and intent of this Chapter ~~to accommodate the needs of medically ill persons in need of marijuana for medical purposes while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter~~ (i) to regulate the cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis and cannabis products, whether fixed or mobile, in a manner that is responsible and protects the health, safety, and welfare

of the residents of the City and (ii) to enforce rules and regulations consistent with State laws. In part to meet those objectives, an initial commercial cannabis use license permit shall be required to own and to operate a Commercial Cannabis Business (as defined in Section 9.36.020) within the City, as authorized pursuant to State laws and this Chapter and Code. Nothing in this Chapter is intended to authorize the cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, for any non-medical purpose consisting of either commercial or personal use other than as authorized within this Chapter or wherein the Adult Use of Marijuana Act otherwise preempts local agency regulations.

- B. Pursuant to Section 7 of Article XI of the California Constitution, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for Commercial Cannabis Activity. Any standards, requirements, and regulations regarding health and safety, testing, laboratory operations and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City to Commercial Cannabis Activity, as defined in Section 9.36.020.
- C. The City Council finds and determines it expressly or impliedly does not intend to and does not create any vested right for any real property owner, tenant, commercial cannabis business owner, ~~personnel~~personal cannabis user or anyone else, by the enactment of this Chapter or any rule or regulation adopted pursuant hereto, or by any commercial cannabis use license or any permission granted pursuant to this Chapter. The City Council reserves the right, at any time, to modify, repeal, rescind and amend any provision of this Chapter and any Resolution, regulation or rule adopted hereunder.

Section 9.36.020 Definitions

When used in this Chapter, the following words shall have the meanings ascribed to them in this section.

“Annual certification” means a form provided by the City and signed, under penalty of perjury, by the individual to whom the City issued the use license for a cannabis commercial activity certifying that activity was, is and will be in full compliance with this code and State laws.

“Cannabis” or “Marijuana” means any or all parts of the Cannabis Sativa Linnaeus, Cannabis Indica, or Cannabis Ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin,

whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Proposition 64. For the purpose of this Chapter, “Cannabis” does not mean industrial hemp as that term is defined in Section 11018.5 of the California Health and Safety Code or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or another product.

“Cannabis Application” means a form provided by the City [for an individual to seek a commercial cannabis use license](#).

“Cannabis Concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

“Cannabis Cultivation” means the propagation, growing, planting, harvesting, drying, curing, grading, trimming or processing of marijuana or any part thereof.

“Cannabis Dispensary” means any for-profit or not-for-profit facility or location, whether permanent or temporary, where the owner(s) or operator(s) intends to or does possess and distribute cannabis, or allows others to possess and distribute cannabis, to more than one person. A “cannabis dispensary” includes a “collective” or “cooperative” as described in Health and Safety Code Section 11362.775, and includes an establishment that delivers cannabis to offsite locations. A “cannabis dispensary” shall not include the following uses; provided, that the location of such uses is permitted by the Code and the uses comply with State laws, including Health and Safety Code section 11362.5 *et seq.*:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code;
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;
3. A facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code;
4. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code;
5. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; or

6. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

“City Manager” means the City Manager of the City or his or her designee.

“Commercial Cannabis Activity” or **“Commercial Cannabis Use”** includes cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery or wholesale or retail sale of cannabis or a cannabis product, whether fixed or mobile.

“Commercial Cannabis Business” means any business or operation which engages in commercial cannabis activity.

“Commercial Cannabis Use License” means a permit issued to a commercial cannabis business by the City, pursuant to this Chapter and Resolution of the City Council.

“Delivery” means the commercial transfer of one or more cannabis products from a dispensary, up to an amount determined by the State of California, or any of its departments or divisions, to any person, business or location. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed by the State of California, that enables any person to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.

“Dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale.

“Distribution” means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to State Law.

“Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

“Live plants” means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

“Operation” means any effort to locate, operate, own, lease, supply, allow to be conducted, or aid, abet or assist in the conduct of a commercial cannabis activity.

“Person” means any individual, firm, corporation, partnership, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer or salesperson.

“Personal Cannabis Cultivation” means cultivation of cannabis permitted by Health and Safety Code sections 11362.1 or 11362.2.

“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “Smoke” includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and cannabis smoke.

“Smoking” means engaging in an act that generates smoke, such as, for example: possessing a lighted pipe, a lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

“Stacking” means the practice of growing marijuana plants on platforms or tables and stacking them in multiple layers on top of each other.

“State laws” mean all applicable (i) legislation chaptered as part of a State of California code, (ii) rules and regulations adopted by any State of California agency and (iii) final supreme or appellate court decisions.

“Transport” or **“Transportation”** means the transfer of ~~–~~cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting ~~c~~Commercial ~~a~~Cannabis ~~a~~Activity.

“Video monitoring” means 24-hour security surveillance cameras of at least HD quality to show all entrances and exits to and from a secure area and to show all interior spaces within the premises where a commercial cannabis activity, including each retail transaction, is conducted and are open and accessible to the public.

Section 9.36.030 General Prohibition

- A. Except as otherwise expressly and conditionally allowed pursuant to this Chapter, no person shall conduct, establish or operate personal cannabis use, personal cannabis cultivation or commercial cannabis activity in any area or districts within the City.
- B. Notwithstanding subdivision ~~–~~A., above, this section shall not be intended to preclude or limit personal possession or use of six living marijuana plants and

possession of the marijuana consistent with State laws, including, but not limited to, Health and Safety Code sections 11362.1 and 11362.2, subject also to the reasonable, applicable regulations set forth in this Chapter.

Section 9.36.040 Regulation of Personal Cannabis Cultivation and Commercial Cannabis Activity

Each person conducting either or both commercial cannabis activity or personal cannabis cultivation shall be subject and adhere to the following:

- A. Full compliance with the terms, spirit and intent of State laws,
- B. If, pursuant to this code, any building/mechanical/electrical/plumbing permit is required for such use, then each shall be obtained prior to commencement of any work for which such permit is required,
- C. If the person conducting personal cannabis cultivation or ~~and~~ commercial cannabis activity is not the fee interest owner of the real property on which that cultivation or activity occurs, then that person must obtain written permission from that fee interest owner before conducting that cultivation or activity on that real property, and
- D. Control odors; in such a way as to not materially disrupt the ability of any reasonable person to enjoy the reasonable use of that person's residence ~~which are disturbing to people residing or present on adjacent or nearby property~~ or areas open to the public.

Section 9.36.050 Regulation of Personal Cannabis Use

- A. Notwithstanding any other provision of this code, no person shall conduct any smoking activity of cannabis within the following areas:
 - 1. The common area of any duplex, triplex or other multi-family residential complex not open to the public and
 - 2. Any public park where tobacco smoking may otherwise be allowed, pursuant to this Code.
- B. No person shall smoke cannabis in such a way that materially disrupts the ability of any reasonable person to enjoy the reasonable use of that person's residence or ~~without controlling odors emanated from that smoking, which are disturbing to people residing or present on adjacent or nearby property~~ or areas open to the public.

Section 9.36.060 Regulation of Commercial Cannabis Activity

Each person conducting a commercial cannabis activity shall:

- A. Obtain a commercial cannabis use license from the City for that commercial cannabis activity,
- B. Pay all required taxes, as approved by the City-electorate, and business taxes and file the application and renewal for a business tax certificate, as required by this Code,
- C. Pay all initial and annual fees to cover the City's costs for processing, reviewing and auditing the commercial cannabis use license and activity, as established by a Resolution of the City Council,
- D. Not commence a commercial cannabis activity until a final inspection of the premises where such activity will be conducted has been approved, in writing, by the Fire Chief, Police Chief, Planning Manager and Building Official, or their designees,
- E. Not continue an approved commercial cannabis activity, unless a then current annual certification has been properly filed within no less than 30 days and not more than 45 days before the end of the 12-month period immediately preceding each annual anniversary of the approval of the final inspection, and
- F. Ensure (i) a video monitoring system is provided, (ii) the security surveillance cameras for that system are remotely accessible to the Lompoc Police Department and compatible with the Lompoc Police Department's software and hardware, [and](#) (iii) [remote real-time, live access to the video footage from the cameras is provided to the Lompoc Police Department and](#) ~~(iv)~~ video recordings are maintained by that person for a minimum of 45 days.

Section 9.36.070 Cannabis Application ~~Form~~

At a minimum, [each](#) ~~the~~ cannabis application ~~filed~~ shall contain the following:

- A. The printed full name, signature, date of birth, social security number, and present address and telephone number of the individual to whom the license would be issued, if at all, as well as for all persons who would have any financial interest in that commercial cannabis business,
- B. The address to which correspondence from the City is to be sent,
- C. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately preceding the date of the [cannabis](#) application,

- D. Any litigation in which the applicant or any person with a financial interest in the proposed commercial cannabis business has been involved within the five years immediately preceding the date of the cannabis application,
- E. A statement whether, within the five years immediately preceding the date of the cannabis application, another business operated by the applicant or any person with a financial interest in the proposed commercial cannabis business has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended,
- F. The address of any commercial cannabis business currently being operated by the applicant or in which any person with a financial interest in the proposed commercial cannabis business has with another commercial cannabis business within the last five years_{,-}
- G. The supply sources for all cannabis and cannabis products to be sold or used at the commercial cannabis business,
- H. The product supply chain, including all the sites where cultivation, processing and manufacturing of the cannabis and cannabis edible product occurs, as well as any required testing and transportation and packaging and labelling criteria_{,-}
- I. The names and telephone numbers of the persons to be regularly engaged in the operation of the proposed commercial cannabis business, including managers, supervisors, whether an employees, volunteers and or contractor_{,-}
- ~~J. The names and telephone numbers of those persons who will have management and supervisory responsibilities for the proposed commercial cannabis business.~~
- ~~K.~~J. Odor control devices and techniques to prevent odors from cannabis from being detectable off-site,
- ~~L.~~K. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical cannabis product_{,-}
- ~~M.~~L. Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures_{,-}
- ~~N.~~M. A detail of the procedures to be utilized at the facility including a description of how chemicals and fertilizers will be stored, handled, used and disposed of, manufacturing methods, the transportation process, inventory procedures, and quality control procedures_{,-}

O.N. A site plan and floor plan of the commercial cannabis business denoting the property lines and the layout of all areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception/waiting, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.

P.O. An operations and security plan.

Q.P. Standard operating procedures detailing how operations will comply with State laws and local laws and regulations, how safety and quality of products will be ensured, recordkeeping procedures for financing, testing, and adverse event recording, and product recall procedures,

R.Q. Proposed hours of operation.

S.R. Recycling and Waste disposal information.

T.S. Youth access restriction procedures.

U.T. Detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources and

V.U. A statement in writing by the applicant, he or she certifies under penalty of perjury all the information contained in the cannabis application is true and correct.

Section 9.36.080 Commercial Cannabis ~~Activity~~ Use Licenses

A. Each individual who intends to operate any commercial cannabis activity must first file a cannabis application and obtain a separate commercial cannabis ~~activity~~ use license for each commercial cannabis business to be operated.

B. Subject to compliance with this Chapter and State law, the City Manager is authorized to issue or deny issuance of commercial cannabis ~~activity~~ use licenses.

C. The City Manager's decision to issue a commercial cannabis use license is not appealable.

D. The City Manager's decision to ~~issue or~~ deny issuance of a commercial cannabis ~~activity~~ use license is ~~final and not~~ appealable by the applicant whose cannabis application was denied, subject to the following:

1. Within 10 days after that denial, the applicant must file, with the City Clerk, an appeal and pay the fees, therefor, as determined by Resolution of the City Council,

2. That appeal must be in writing, specify the person making the appeal, state the reasons for the appeal and include any evidence in support of the appeal,
3. Upon the City Clerk's receipt of that appeal and payment of those fees, the City Manager shall schedule the hearing for the appeal before the City Council at the next available regular City Council meeting,
4. The City Council's consideration of that appeal shall be a *de novo* hearing,
5. The only written information the City Council will consider for that meeting will be (i) the written appeal filed by the applicant and (ii) the staff report prepared by the City Manager,
6. Oral testimony by or on behalf of the appellant and City Manager shall also be allowed; and the strict rules of evidence shall not apply to that testimony or the, written appeal or staff report, and
- 4.7. At least ten days before the date of the meeting at which the appeal will be heard, the City Clerk shall give written notice to the appellant of the time and date of the appeal hearing and a copy of this Subdivision D.

B.E. A commercial cannabis ~~activity~~-use license shall only be issued to an individual who has:

1. Not had a commercial cannabis ~~activity~~-use license terminated, ~~or be~~ denied or revoked by the City within the immediately preceding 24 months,
2. Successfully completed the background check required by and is in compliance with all State laws,
3. Completely and satisfactorily filed a complete cannabis application for the pertinent commercial cannabis activity as required by the rules and regulations described in subparagraph 4., below, and
4. Complied with all the requirements of this Chapter and the rules and regulations established by Resolution of the City Council, including payment of fees and filing a complete cannabis application, which requirements and fees shall be recommended to the City Council by the City Manager after consultation with the Police Chief, Fire Chief and Economic Development Director/Assistant City Manager, Management Services Director or their designees.

G.F. No commercial cannabis ~~activity~~-use license shall be transferred, assigned or otherwise given to any other person by the individual issued that use license, whether

by voluntary or involuntary action, bequest or probate (collectively, hereinafter referred to as transfer in Subdivision GE., below).

D.G. Any attempt to transfer a commercial cannabis use license shall immediately and automatically void and terminate that use license without any notice, hearing or further action required by the City or any of its officers, officials or employees.

E.H. A commercial cannabis use license for a commercial cannabis activity shall be immediately and automatically void and terminated, without any notice, hearing or further action required by the City or any of its officers, officials or employees, when the State license required for that commercial cannabis activity is terminated or revoked for any reason.

Section 9.36.090 Dispensaries

A. Dispensaries are permitted within the City only where, pursuant to Title 17 of this Code, retail pharmacies (i) are allowed by right and (ii) do not require a special or conditional use permit.

~~B. No more than four dispensaries shall be permitted within the City; provided, that the City Council may, based on experience with the operation of this Chapter, increase or decrease that number.~~

~~If more complete cannabis applications are filed for the issuance of permits for dispensaries than are available pursuant to Subdivision B., above, then the City Manager shall determine which applicant(s), if any, shall be issued the available permit(s). The City Manager's determination shall be based on ranking of those applicants using criteria established by Resolution of the City Council after consideration of recommendations received from the City Manager, in consultation with the Police Chief, Fire Chief and Economic Development Director/Assistant City Manager, or the successor positions. The City Manger's determination shall be final and not appealable.~~

~~C. The criteria used by the City Manager to rank each applicant, pursuant to Subdivision C., above, should include consideration of some or all of the following:~~

- ~~1. Operations plan for the business,~~
- ~~2. Security plan for the business, as well as for the non-diversion of cannabis or cannabis products to illegal uses,~~
- ~~3. Experience of the operators, managers and employees,~~
- ~~4. Capitalization of the business,~~

- ~~5. Employment opportunities for City residents,~~
- ~~6. Economic benefits for the City,~~
- ~~7. Benefits for the community,~~
- ~~8. Compliance with requirements of this Chapter, this Code and applicable State laws, and~~

~~Any additional criteria the City Council establishes to assist the City Manager with making a determination the applicant is committed to the health, safety and welfare of the residents, businesses and visitors of the City.~~

D.B. If on-site smoking of cannabis is to be conducted on the premises of a dispensary, then such shall be done in accordance with State laws and only if proper filtering is provided to handle the smoke created by that smoking. The cannabis application filed for that dispensary shall include information to show compliance with this subdivision. Such smoking shall only be allowed if the commercial cannabis use license permit issued for the dispensary expressly states that activity is permitted.

Section 9.36.100 Deliveries

Deliveries shall be permitted from dispensaries located within or outside the City.

Section 9.36.110 Commercial Cultivation

- A. No person shall conduct cannabis cultivation as a commercial cannabis business unless it is within a fully enclosed structure.
- B. The enclosure may be by means of a mixed-light buildinggreenhouse; provided, that filters and venting systems are designed, installed, maintained and operated specifically to prevent cannabis odors from escaping through openings of the mixed-light buildingsgreenhouse.
- C. Cannabis cultivation as a commercial cannabis activity shall be permitted within the City only where, pursuant to Title 17 of this Code, agribusiness is allowed or industrial or business park districts are established; provided, that such activity shall not be allowed in any community garden permitted by Title 17.

Section 9.36.120 Manufacturing, Distributing, Processing, Storing, Staking, Testing, Packing, ~~and Labeling~~ and Laboratory Testing

- A. Manufacturing, distributing, processing, storing, staking, ~~laboratory testing,~~ packaging and labeling of cannabis shall be permitted within the City only where, pursuant to Title 17 of this Code, industrial or business park districts are established.
- B. Laboratory testing shall be permitted within the City only where, pursuant to Title 17 of this Code, business park, commercial office and planned commercial development districts are established.

Section 9.36.130 Use License Revocation and Appeal

- A. Revocation. A commercial cannabis use license may be revoked by the Police Chief upon making any of the following findings:
1. The commercial cannabis use license was issued in error or the cannabis application contained materially incorrect or false information.
 2. The commercial cannabis business has not commenced actually being open to serve the public within 45 days after the final inspection required pursuant to Subdivision 9.36.060 D. issuance of the cannabis use license.
 3. The commercial cannabis business has ceased being open to serve the public for 30 three consecutive workdays for any reason other than one completely outside the control of the individual to whom the commercial cannabis use license was issued, such as fire damage, water damage, order of the Police Chief or other calamity.
 4. The commercial cannabis business has not been conducted in full compliance with this Chapter, this Code or State laws.
 5. The commercial cannabis business has become a public nuisance or has been operated in a manner constituting a public nuisance, as defined by this Code or State Laws.
- B. Appeals. Any decision to revoke a commercial cannabis use license may be appealed to the City Manager, ~~or his/her designee,~~ by the person to whom the commercial cannabis use license was issued as follows:
1. That individual must file a written appeal with the City Clerk within 10 calendar days after the date the commercial cannabis use license was revoked. The written appeal shall specify the person making the appeal, identify the decision appealed from, state the reasons for the appeal, and include any evidence in support of the appeal.

2. Notice of the time and place of an appeal hearing shall be provided to the appellant within 30 days after receipt by the City Clerk of the written appeal.
3. The appeal hearing shall be held within 60 days after receipt by the City Clerk of the written appeal, unless the 60-day time limit is waived by the appellant, or unless the City Manager continues the appeal hearing date for good cause and upon written notification to the appellant.
4. The appellant shall personally appear at the hearing and may be accompanied by a representative.
5. No oral testimony, other than from the Police Chief and appellant, shall be allowed at the appeal hearing and the rules of evidence shall not strictly apply.
6. The City Manager shall (i) review the facts of the matter, written documents submitted for review, oral testimony, if any, the basis for the decision which is under appeal, and (ii) then determine whether the Police Chief's decision should be reversed or affirmed. The determination made shall be in writing and shall set forth the reasons for the determination.
7. The City Manager's ~~or his/her designee's~~ decision shall be appealable by the individual to whom the commercial cannabis use license was issued.
- ~~7.8. Such appeal shall be made and be processed in accordance with Subdivision 9.36.080 D. final and not appealable.~~

Section 9.36.140 Violations and Penalties: Public Nuisance

- A. Any violation of this Chapter, at the discretion of the City Prosecutor, is punishable as a misdemeanor or as an infraction, pursuant to Chapter 1.24 of this Code, except for as preempted by State law; and, any violation of this Chapter is punishable at the discretion of the City Prosecutor, and in compliance with State law, pursuant to Chapter 1.36 of this Code.
- B. A violation of this Chapter and public nuisance shall be deemed to exist if any person conducts any activity, discussed in this Chapter, that results in three or more responses, from any law enforcement or City code enforcement officer in any 12-month period, to the real property where the activity is conducted.
- C. A violation of this Chapter and public nuisance shall be deemed to exist if any person conducts any activity, discussed in this Chapter, that results in three or more actual disruptions in any 12-month period to the free passage of persons or vehicles in the neighborhood, as reported to any law enforcement or the City code enforcement officer.

- D. A violation and public nuisance shall be deemed to exist if any person conducts any activity discussed in this Chapter, that results in any other impact, which adversely impacts the health, safety or general welfare of people on adjacent or nearby property or areas open to the public.
- E. Public nuisance abatement.
 - 1. Any activity conducted in violation of any provision of this Chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with applicable laws.
 - 2. All costs to abate such public nuisance, including reasonable attorneys' fees and court costs, including fees from the City Attorney's Office, shall be paid by the person causing the nuisance, including the property owner where or from where the nuisance is occurring.
- F. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude the City from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.

SECTION 4. This ordinance shall take effect 30 days after its adoption. The City Clerk, or her duly appointed deputy, shall attest to the adoption of this Ordinance and shall cause this Ordinance to be posted in the manner required by law.

This Ordinance was introduced on October 17, 2017, and duly adopted by the City Council of the City of Lompoc at its duly noticed regular meeting on _____, 2017, by the following electronic vote:

PASSED AND ADOPTED this ___th day of ___ 2017, by the following electronic vote:

AYES: Council Member(s):
 NOES: Council Member(s):
 ABSENT: Council Member(s):

Bob Lingl, Mayor
 City of Lompoc

Attest:

Stacey Haddon, City Clerk
 City of Lompoc