

CITY OF CLEARLAKE

ORDINANCE NO. 203- 2018

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE AMENDING ORDINANCE 200-2017 BY REPEALING AND REPLACING ONLY SECTION 18-12.020b OF THE CLEARLAKE MUNICIPAL CODE REGARDING COMMERCIAL CANNABIS BUSINESSES ALLOWING COMMERCIAL CANNABIS CULTIVATION WEST OF HIGHWAY 53; AND REPEALING ORDINANCE NOS. 202-2017 AND 204-2018 (MORATORIUM)**

**WHEREAS**, on October 9, 2015 Governor Brown signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively are now known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State licensing scheme for commercial medical cannabis uses, while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MCRSA allowed the City to completely prohibit commercial medical cannabis activity.

**WHEREAS**, the Control, Regulate and Tax Adult Use of Marijuana Act (“Proposition 64” or “AUMA”), adopted by California voters at the November 2016 statewide general election, legalized the use of non-medical marijuana for those who are twenty-one (21) years of age or older, established a comprehensive system to regulate commercial nonmedical marijuana activity, and granted State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for marijuana businesses and to being issuing licenses to marijuana businesses by January 1, 2018;

**WHEREAS**, on June 27, 2017, Governor Brown signed into law Senate Bill 94, the Medicinal and Adult Use of Cannabis Regulation and Safety Act (“MAUCRSA”), repealing MCRSA and creating a unified regulatory structure for adult use and medical cannabis, including regulation of non-storefront cannabis retailers;

**WHEREAS**, Business and Professions Code Section 26055(e) states that a State licensing authority shall not approve an application for a State license for commercial cannabis activity if approval of the State license will violate the provisions of any local ordinance;

**WHEREAS**, MAUCRSA permits the City to (1) adopt and enforce local ordinances to regulate medical and adult use cannabis businesses, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or (2) completely prohibit the establishment or operation of one or more types of cannabis businesses within its jurisdiction;

**WHEREAS**, the City has undertaken a review of its existing cannabis policies and has identified an opportunity to increase revenue to the City without assuming the perceived

negative impacts of commercial cannabis activity by considering the permitting and regulation of a limited number of highly compliant operators;

**WHEREAS**, the City Council finds that the provisions of this Ordinance are consistent with the City of Clearlake’s General Plan;

**WHEREAS**, the proposed amendments to the City of Clearlake Municipal Code set forth herein provide for the “public necessity and convenience and general welfare” and would not be detrimental to the public’s health, safety, and welfare;

**WHEREAS**, the City of Clearlake staff, pursuant to the provisions of the California Environmental Quality Act (“CEQA”) (California Public Resources Code Sections 21000, *et seq.*) and State CEQA guidelines (Sections 15000, *et seq.*), has determined that the Ordinance is exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and, no further environmental analysis is required, and a notice of exemption will be filed;

**WHEREAS**, while the City contemplated how to address commercial cannabis cultivation, it passed Ordinance 202-2017 on December 21, 2018, which was an urgency ordinance that prohibited commercial cannabis cultivation west of Highway 53. The urgency ordinance was extended on February 1, 2018 by the City Council with the passage of Ordinance 204-2018. Upon the effective date of the passage of Ordinance 203 - 2018, the urgency ordinance and its extension will be repealed; and

**WHEREAS**, the City of Clearlake has determined that commercial cannabis cultivation shall be allowed on either side of Highway 53 in the CB zones when all cultivation activities are conducted entirely inside a building utilizing no natural light, with limitations along Olympic Drive and Lakeshore Drive. Commercial cannabis cultivation is allowed on the east side of Highway 53 in a hybrid greenhouse; and

**WHEREAS**, the City of Clearlake City Council has considered public comment at a duly noticed public hearing.

**THE CITY COUNCIL OF THE CITY OF CLEARLAKE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Repeal Ordinance 202-2017 (Moratorium on commercial cannabis cultivation west of Highway 53 – passed December 21, 2017) and Ordinance 204-2018 (Extension of Moratorium – passed February 1, 2018) upon the effective date of this Ordinance.

**Section 2.** Repeal Section 18-12.020b and replace it with the following:

**18-12.020     Applicability**

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- b. Where allowed. The commercial cannabis uses that are subject to the standards of this Article shall be located in compliance with the requirements of Article 18-3 of this Code, the CB combining zone district, and the additional specific locational requirements for each use as follows:
1. Commercial Cannabis Cultivation is allowed on either side of Highway 53 in the CB zones when all cultivation activities are conducted entirely inside a building utilizing no natural light. However, commercial cannabis cultivation is only allowed on properties adjacent to Olympic Drive between Highway 53 and Lakeshore Drive in a C4 zone. In addition, commercial cannabis cultivation is not allowed on properties adjacent to Lakeshore Drive between Highway 53 and Olympic Drive. Commercial Cannabis Cultivation is also allowed on the east side of Highway 53 in a hybrid greenhouse.
  2. Cannabis Manufacturer is allowed in all CB zones; however, no manufacturer shall use volatile chemical processes for extracting or processing cannabis products.
  3. Cannabis Distributor is allowed in all CB zones.
  4. Cannabis Testing Laboratory is allowed in all CB zones.
  5. Cannabis Nursery utilizing a hybrid greenhouse is allowed in the CB zones east of State Route 53 only. A Cannabis Nursery functioning completely indoors within a building utilizing no natural light and not a hybrid greenhouse is allowed in all CB zones, except the RP base zone west of State Route 53.
  6. Cannabis Processor is allowed in all CB zones.

**Section 3.** All other provisions of Ordinance 200-2017 shall remain in full force and effect.

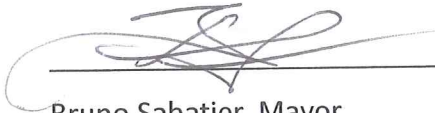
**Section 4. Severability.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**Section 5. Execution.** The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

Passed and Adopted this 22<sup>nd</sup> day of February, 2018 by the following vote:


AYES: Mayor Sabatier, Vice Mayor Harris, Councilmembers Bennett and Overton

NOES: None  
ABSENT OR NOT VOTING: None

  
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Bruno Sabatier, Mayor

Attest:

  
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Melissa Swanson, City Clerk

