



CITY OF LAGUNA HILLS ORDINANCE SUMMARY CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LAGUNA HILLS)

I, MELISSA AU-YEUNG, City Clerk of the City of Laguna Hills, California,

DO HEREBY CERTIFY that the attached is a true and correct copy of:

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADOPTING ZONING CODE TEXT AMENDMENT NO. 8-16-3624 ADDING CHAPTER 9-103, MARIJUANA BUSINESSES, TO THE LAGUNA HILLS MUNICIPAL CODE TO PROHIBIT ALL MARIJUANA BUSINESSES IN ALL ZONING DISTRICTS, INCLUDING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15061 (B)(3).

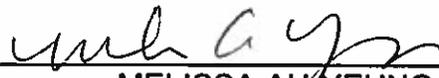
This Ordinance was introduced by the City Council of the City of Laguna Hills, California, at a regular meeting thereof on the 13th day of September 2016, by the following vote:

AYES: Council Members Carruth, Gilbert, Mayor Pro Tempore Sedgwick, and Mayor Kogerman

NOES: None

ABSENT: Council Member Blount

ABSTAIN: None


MELISSA AU-YEUNG, CITY CLERK

Dated this 14th day of September 2016.

ORDINANCE NO. 2016 -

AN ORDINANCE OF THE CITY OF LAGUNA HILLS, CALIFORNIA, ADOPTING ZONING CODE TEXT AMENDMENT NO. 8-16-3624 ADDING CHAPTER 9-103, MARIJUANA BUSINESSES, TO THE LAGUNA HILLS MUNICIPAL CODE TO PROHIBIT ALL MARIJUANA BUSINESSES IN ALL ZONING DISTRICTS, INCLUDING AN EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PER CEQA GUIDELINES SECTION 15061(B)(3)

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, Title 9 of the Laguna Hills Municipal Code (LHMC) establishes allowable uses of property within all zoning districts in the City; and

WHEREAS, On December 10, 2013, the City Council of the City of Laguna Hills adopted Ordinance No. 2013-2, which amended Title 9 of the LHMC (Zoning and Subdivisions) to prohibit medical marijuana dispensaries in all zoning districts within the City; and

WHEREAS, Effective January 1, 2016, the Medical Marijuana Regulation and Safety Act (MMRSA) established a comprehensive regulatory and licensing framework for the operation of marijuana businesses within the State of California. The MMRSA confirmed the authority of cities to control uses of land within their respective jurisdictions and specifically, to regulate or prohibit marijuana businesses; and

WHEREAS, This Ordinance updates, clarifies, and provides more specificity to the City's existing ban on marijuana businesses in all zoning districts within the City; and

WHEREAS, This Ordinance is a City-initiated zoning text amendment subject to Chapter 9-90 of the LHMC; and

WHEREAS, The City Council of the City of Laguna Hills has held a duly noticed public hearing and considered public comments and written and oral information and testimony presented by City staff, community residents, and other interested parties at a public hearing held on September 13, 2016.

THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and are incorporated herein by reference.

SECTION 2. The City Council of the City of Laguna Hills hereby finds and determines that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, Title 14, Chapter 3, Sections 15060 (c) (2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 3. The findings which support approval of the proposed zone text amendment set forth in this Ordinance have been met and made as follows:

- (1) That the amendment is consistent with the intent of the goals and policies of the general plan as a whole, and is not inconsistent with any element thereof.

Marijuana businesses are not contemplated land uses in the General Plan and prohibiting the establishment and/or operation of marijuana businesses in all zoning districts of the City is necessary and appropriate to maintain and protect the public health, safety and general welfare of the City as a whole. This Ordinance clarifies that marijuana businesses of any kind are prohibited in all zoning districts in the City. Marijuana businesses are not allowed by the current General Plan and Development Code. Adoption of this Ordinance maintains the current consistency with the General Plan and between the General Plan and the Development Code.

- (2) That the amendment is necessary to prescribe reasonable controls and standards for affected land uses to insure compatibility and integrity of those uses with other established uses.

Marijuana businesses are not currently allowed in any zoning district within the City. This Ordinance clarifies and provides greater specificity to the City's current ban on such uses and activities, and continues to ensure that land uses in all zoning districts within the City are and remain compatible with established uses in City's respective zoning district.

- (3) That the amendment is necessary to provide reasonable property development rights while protecting environmentally sensitive land uses and species.

This Ordinance does not affect or have a negative impact upon property development rights, nor does it affect or have a negative impact upon environmentally sensitive land uses and/or species, in that the Ordinance merely clarifies and provides further specificity to the City's existing land use provisions

which do not allow for any marijuana businesses within any zoning district in the City.

- (4) That amendment is necessary to correct discrepancies in standards or policies within the plan area or land use category.

This Ordinance clarifies and provides further specificity to the City's existing land use provisions which do not allow any marijuana businesses within any zoning district in the City. By adding a Chapter to Title 9 of the Laguna Hills Municipal Code dedicated to regulations related to marijuana businesses and related uses and activities, the Ordinance provides for easy identification by members of the public searching for the City's regulations on such businesses and related uses and activities.

- (5) That amendment is necessary to protect the general health, safety, or general welfare of the community as a whole.

The Ordinance clarifies, confirms and provides greater specificity to the City's existing land use provisions which do not allow any marijuana businesses within any zoning district in the City. The continued prohibition of such uses in all zoning districts will ensure that none of the negative secondary effects of marijuana businesses will adversely impact the general welfare of the City as a whole.

SECTION 4. Title 9 of the Laguna Hills Municipal Code (Zoning and Subdivisions) is hereby amended by adding a new Chapter 9-103 (Marijuana Businesses) to read as follows:

“9-103.010 Purpose.

In order to protect and promote the public health, safety, and welfare of the residents and businesses within the City, the declared purpose of this chapter is to prohibit all marijuana businesses and related uses and activities as stated in this chapter.

9-103.020 Definitions.

In addition to any other definitions contained in the Municipal Code and in this Title, the following words and phrases shall, for the purpose of this chapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with any current provisions of the Municipal Code or this Title, these definitions shall prevail.

“Identification Card” shall mean a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana and the person’s designated primary caregiver, if any.

"Marijuana" shall have the same meaning as the term "cannabis" as that term is defined by California Business & Professions Code section 19300.5(f) [effective January 1, 2016]. If the definition under State law is amended, the City's definition shall be as amended. "Marijuana" shall also mean any "cannaboid" as defined by Business & Professions Code section 19300.5(e), "cannabis concentrate" as defined by Business & Professions Code section 19300.5(g), "edible cannabis product" as defined by Business & Professions Code section 19300.5(s), "manufactured cannabis" as defined by Business & Professions Code section 19300.5(ac), "medical cannabis" as defined by Business & Professions Code section 19300.5(af), and "topical cannabis" as defined by Business & Professions Code section 19300.5(al), as those sections exist as of January 1, 2016 or as amended thereafter.

"Marijuana Business" shall mean any activity, whether or not carried out for commercial gain, which involves cultivation, possession, manufacture, processing, storage, laboratory testing, labeling, transportation, distribution, or sale of marijuana or any marijuana-infused products. This definition shall include any of the foregoing activities conducted by or on behalf of a qualified patient or the primary caregiver of a qualified patient. All references in this chapter to "marijuana business," "marijuana-related business," or "marijuana dispensary" shall be synonymous with "medical marijuana dispensary," "mobile marijuana dispensary," and "marijuana cultivation site," which are defined in this section.

"Marijuana Dispensary" shall mean any dispensary, facility, cooperative, club, individual, business, group, collective, establishment or other association with a storefront or mobile retail outlet where marijuana, in any form, is transferred to any person, firm, corporation, association, club, society, or other organization, regardless of whether that activity is undertaken on a for-profit or non-profit basis, or any combination thereof, and regardless of whether the activity is for compensation or is gratuitous.

"Mobile Marijuana Dispensary" shall mean any Marijuana Dispensary, facility, cooperative, club, individual, business, group, collective, establishment or other association with or without a storefront or mobile retail outlet, which engages in the transportation or delivery of marijuana or any marijuana-infused products. For purposes of this chapter, "delivery" shall mean the transfer of marijuana or other marijuana-infused products from a marijuana dispensary or a marijuana testing laboratory to any person, firm, corporation, association, club, society, or other organization, including, but not limited to, any owner, manager, proprietor, employee, volunteer, or salesperson, and shall also include the use by a marijuana dispensary of any technology platform owned and controlled by the dispensary that enables any person or entity to arrange for, or facilitate the transfer of marijuana or any marijuana-infused products.

"Marijuana Cultivation Site" shall mean any location, whether indoor or outdoor, where marijuana is planted, grown, harvested, dried, cured, graded, or trimmed, or upon which all or any combination of those activities occurs.

“Primary Caregiver” shall mean an individual, designated by a Qualified Patient or by a person with an Identification Card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

“Physician” shall mean an individual who possesses a recognition in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient’s medical record the physician’s assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.

“Qualified Patient” shall mean a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.

9-103.030 Marijuana Businesses Prohibited.

A. It is unlawful for any person or entity to own, manage, conduct or operate any Marijuana Business, or to participate as an employee, contractor, agent, volunteer, or in any other capacity, in any Marijuana Business in the City of Laguna Hills. Further, it is unlawful for the owner of any property located within the City to in any way authorize or permit use of their property for purposes of operation of any Marijuana Business.

B. Marijuana Dispensaries and Marijuana Businesses are prohibited land uses in every zoning district within the City.

C. Mobile Marijuana Dispensaries are prohibited from delivering and/or transporting marijuana to any location in every zoning district in the City, regardless of the location of the primary place of business of the Mobile Marijuana Dispensary or of the location where delivery of marijuana originated.

D. Marijuana Cultivation Sites are prohibited from operating in every zoning district in the City. It is unlawful for any person or entity to own, manage, conduct or operate any Marijuana Cultivation Site, or to participate as an employee, contractor, agent, volunteer, or in any other capacity, in any Marijuana Cultivation Site in the City.

E. No Certificate of Use and Occupancy, zoning clearance, or other permit or entitlement for use shall be legally valid if issued to any Marijuana Business proposed to operate or to be established in the City.

9-103.040 Public Nuisance Declared.

Operation of any Marijuana Business within the City in violation of the provisions of this chapter is hereby declared a public nuisance and may be abated by all available means.

9-103.050 Use or Activity Prohibited by State or Federal Law.

Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any State or Federal law.

9-103.060 Violations.

Any owner, operator, manager, employee, independent contractor, associate, or volunteer of a Marijuana Business who violates, or any such person or entity that permits, or aids in the violation of, any of these provisions regulating Marijuana Businesses, which shall include, but not be limited to, property owners and/or property managers of the real property where such Marijuana Business is conducted, shall be subject to all remedies available under Chapter 1-32 of this Code, as well as be subject to any and all available civil or administrative remedies as may be available under local, state, or federal law. All remedies provided herein shall be cumulative and not exclusive. Any violation of these provisions shall constitute a separate violation for each and every day during which such violation is committed or continued.

9-103.070 Regulations not Exclusive.

The provisions of this chapter regulating Marijuana Businesses are not intended to be exclusive, and compliance therewith shall not excuse noncompliance with any other regulations pertaining to the operation of businesses as adopted by the City Council of the City of Laguna Hills.”

SECTION 5. Title 9 of the Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-10 (Zoning Districts Established), and Table 9-10.050 (Land Use Matrix) is hereby amended by removing the use “Medical marijuana Dispensary” and adding “Marijuana Business” as a prohibited use in all zoning districts:

**Table 9-10.050
LAND USE MATRIX**

A	Accessory Use
C	Conditional Use
SUP	Special Use Permit
P	Permitted Use
S	Site Development Permit Required
T	Temporary Use
◆	Special Requirements
•	Prohibited Use
U	See Urban Village Specific Plan
L	See Laguna Hills Planned Community Development Plan and Text

Land Use	Zones	Estate Residential (ER)	Low Density Residential (LDR)	Medium Low Density Residential (MLDR)	Medium Density Residential (MDR)	High Density Residential (HDR)	Office Professional (OP)	Village Commercial (VC)	Freeway Commercial (FC)	Community Commercial (CC)	Mixed Use (MXU)	Neighborhood Mixed Use (NMU)	Community/Private Institution (C/PI)	Open Space-1 (OS-1) Parks	Open Space-2 (OS-2)/ Drainage Facilities	Open Space-3 (OS-3)/Landscape Corridors	Planned Community (PC)	Planned Community Residential (PCR)	Reference	
Marijuana business		
Medical-marijuana-dispensary		

SECTION 6. Title 9 of the Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-04 (Definitions), Section 9-04.130 ("M" Definitions), is hereby amended by adding a definition for "Marijuana Business" to read as follows:

"Marijuana business" means any activity, whether or not carried out for commercial gain, which involves cultivation, possession, manufacture, processing, storage, laboratory testing, labeling, transportation, distribution, or sale of marijuana or any marijuana-infused products. This definition shall include any of the foregoing activities conducted by or on behalf of a qualified patient or the primary caregiver of a qualified patient. All references in this Section to "marijuana business," "marijuana-related business," or "marijuana dispensary" shall be synonymous with "medical marijuana dispensary," "mobile marijuana dispensary," and "marijuana cultivation site," which are defined in Chapter 9-103."

SECTION 7. Title 9 of the Laguna Hills Municipal Code (Zoning and Subdivisions), Chapter 9-04 (Definitions), Section 9-04.130 ("M" Definitions), is hereby amended by removing the definition of "medical marijuana dispensary".

SECTION 8. This Ordinance shall take effect on _____, 2016, the 31st day following the adoption of this Ordinance by the City Council.

SECTION 9. Upon the effective date of this Ordinance, the provisions hereof shall supersede any inconsistent or conflicting provisions of the Laguna Hills Municipal Code.

SECTION 10. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, subdivision, sentence, clause, phrase, or portion thereof be declared invalid or unconstitutional.

SECTION 11. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED, AND ADOPTED this _____ day of _____ 2016.

BARBARA D. KOGERMAN, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing Ordinance No. _____ was duly introduced and placed upon its first reading at a Regular Meeting of the City Council on the _____ day of _____ 2016, and that thereafter, said Ordinance

was duly adopted and passed at a Regular Meeting of the City Council held on the _____ day of _____ 2016, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Laguna Hills, California