

ORDINANCE NO. 806

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY REPEALING AND REPLACING CHAPTER 5.60, REPEALING SECTION 17.20.035 OF CHAPTER 17.20, AND AMENDING TABLE 2-10 OF SECTION 17.24.030 OF CHAPTER 17.24 OF THE MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITIES

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GRASS VALLEY:

SECTION 1. CODE AMENDMENT. Chapter 5.60 of Title 5 of the Grass Valley Municipal Code is repealed in its entirety and a new Chapter 5.60 is adopted to read as follows:

5.60.010 - Definitions.

“Adult-use cannabis” means cannabis or cannabis products intended to be sold for use by adults 21 years of age or older who do not possess physician’s recommendation for the use of cannabis issued in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code, § 11362.5).

“Cannabis” means all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. “Cannabis” also has the definition provided by Business and Professions Code section 26001, subdivision (f), Health and Safety Code section 11018, and by other state law.

“Cannabis accessory” means any device intended to aid in the use of cannabis or cannabis products which does not itself consist in all or part of cannabis or cannabis products and includes, without limitation, “cannabis accessories” as defined in Health and Safety Code section 11018.2 and by other state law.

“Cannabis business” means any business and its premises for which adult-use, commercial cannabis activity is allowed pursuant to State law and a permit issued under this chapter.

“Cannabis product” means any product containing cannabis or its derivatives, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and products described in Section 11018.1 of the Health and Safety Code.

“Commercial cannabis activity” means any or all of cultivation, possession, manufacture, distribution, processing, storing, testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products for any form of consideration and excluding uncompensated personal use.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.

“Director” means the director of community development or his or her designee or any other person authorized by the city manager to administer this chapter.

“Dispensary” means a place at which cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including, without limitation, a dispensary that engages in delivery. A business which retails cannabis accessories, but not cannabis or cannabis products is not a dispensary.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees. “Distributor” means a person engaged in “distribution.”

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Nursery” means a business that or person who produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

“Person” means any individual, firm, partnership, corporation, company, association, joint stock association; city, county, state, or district; and includes any trustee, receiver, assignee, or other similar representative thereof.

“Premises” means the designated structure or structures and land specified in an application for a permit under this chapter that is owned, leased, or otherwise under the control of an applicant or permit holder on which commercial cannabis activity will be or is conducted. Premises shall be a contiguous area and shall only be occupied by one permit holder.

“Testing laboratory” means a laboratory, facility, entity that or person who offers to or does test cannabis or cannabis products and that is both of the following:

- A. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
- B. Licensed by the Bureau of Cannabis Control within the State Department of Consumer Affairs.

5.60.020 - Smoking or consumption of cannabis prohibited in public places.

No person may smoke or ingest cannabis or cannabis products in any public place or in any location where tobacco smoking is prohibited.

5.60.030 - Prohibited cannabis activities.

Except as specifically allowed by this chapter, all commercial cannabis activity is prohibited in the city, regardless of any licenses issued under State law.

5.60.040 - Cannabis cultivation.

- A. Any person 21 years of age or older may cultivate cannabis indoors for personal use, in accordance with State law, inside a private residence or an accessory structure on the grounds of a private residence.
- B. No person may cultivate cannabis outdoors in the city. No conditional use permit, building permit, variance, or any other permit or entitlement, whether ministerial or discretionary, shall be approved or issued for any such use or activity.

5.60.050 - Cannabis business regulations.

Each cannabis business shall comply with the following requirements, in addition to any other requirements placed on cannabis businesses by this chapter:

- A. Cannabis businesses shall have a site security plan approved by the director.
- B. Other than those of a dispensary, cannabis business premises shall not be open to the public and no persons shall be allowed on such premises except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and State-licensed cannabis distributors.
- C. Each cannabis business shall display a valid local permit issued under this chapter in a conspicuous place readily visible by all persons entering the premises during regular business hours.
- D. No person shall conduct any retail sales of any good or services on or from the premises of a cannabis business, except for a dispensary operating under section 5.60.070 of this chapter and holding a Type 10 – Retailer license from the State.
- E. No person under 21 years of age shall be on the premises of a cannabis business or operate a cannabis business in any capacity, including, but not limited to, as an owner, manager, staff, employee, contractor, or volunteer.
- F. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 50 feet of, the premises of a cannabis business and no person shall possess, consume, or store any alcoholic beverage on the premises of a cannabis business.
- G. Cannabis or cannabis products on the premises of a cannabis business shall not be visible from a public right-of-way, unsecured areas surrounding the premises, or the cannabis business's main entrance and lobby.
- H. No permit shall be issued under this chapter for commercial cannabis activity proposed within 500 feet of any residential use or within 600 feet of any school providing instruction in kindergarten or grades 1 through 12, if that use existed when an original application for a permit under this chapter is submitted. For the purposes of this subsection, distance is measured in a straight line from the closest property line of the residential or school use to the closest property line of the premises where the cannabis business is located.

5.60.060 – Regulations of director.

The director may establish any regulations necessary or convenient to administer this chapter and give notice of them either in the manner required for ordinances of the city council or by maintaining them on the City's website. Cannabis businesses shall comply with all such regulations, all other applicable local laws, and all applicable State laws and regulations.

The director shall issue applications and processing guidelines for each type of permit authorized by this chapter. No permit shall be issued before the release of guidelines for that type of permit, and no permit shall be granted absent full compliance with the application and processing requirements established by the director.

5.60.070 - Delivery and dispensaries.

- A. A person may operate a cannabis dispensary or a delivery-only service only if he or she obtains a valid dispensary or delivery-only permit from the city and holds a valid Type 9 – Non-Storefront Retailer or Type 10 – Storefront Retailer license from the State, as applicable.
- B. To the extent such a prohibition is permitted under State law, no person shall engage in delivery of cannabis or cannabis products within the City absent a City-issued permit, regardless of any other license or authorization a person may have to engage in any commercial cannabis activity outside the City.
- C. Permitted dispensaries and delivery-only services shall sell cannabis and cannabis accessories only to persons 21 years of age or older, and who have a valid government-issued identification card proving their age.
- D. No more than the following number of local permits for cannabis dispensaries and cannabis delivery-only services shall be effective at any time:
 - 1. One permit per 7,500 residents of the city, and no more than two permits total, for dispensaries open to the public for retail sales; and
 - 2. One permit per 6,500 residents of the city, and no more than three permits total, for delivery-only services.

5.60.080 - Cannabis testing laboratories.

- A. A person may operate a cannabis testing laboratory only if he or she obtains a valid local cannabis testing laboratory permit from the city and holds a valid Type 8 – Testing Laboratory permit from the State.
- B. Local cannabis testing laboratory permit holders shall comply with these restrictions:
 - 1. Cannabis testing laboratories shall test cannabis only in a fully enclosed building with ventilation as deemed necessary by the city building official.
 - 2. Cannabis testing laboratories shall have no signage indicating the nature of their operations, except as required by applicable law.
 - 3. As required by State law, including without limitation Business and Professions Code Section 26053, subdivision (b), owners and operators of a cannabis testing laboratory are prohibited from owning or operating any

other cannabis business or entity, except another cannabis testing laboratory, and are prohibited from holding any other State or local cannabis license or permit, except for another cannabis testing laboratory license or permit.

- C. No more than two local cannabis testing laboratory permits shall be effective at any time.

5.60.090 - Cannabis manufacturing or processor.

- A. A person may operate a cannabis manufacturing business or cannabis processor business if he or she obtains a valid local cannabis manufacturing or cannabis processor permit from the city and holds a valid Type 6 – Manufacturer or Cultivation – Processor license from the State. A cannabis manufacturing business may only operate as a manufacturing and distribution or as a manufacturing-only facility; its permit holders may not hold a local cannabis dispensary or delivery-only permit issued by the city. A cannabis processor business may only operate as a processor and distribution or as a processor-only facility; its permit holders may not hold a local cannabis dispensary or delivery-only permit issued by the city.
- B. Cannabis manufacturing and cannabis processor permit holders shall comply with these restrictions:
 - 1. Cannabis manufacturing and cannabis processor businesses shall only manufacture or process cannabis in a fully enclosed building with ventilation as deemed necessary by the city building official.
 - 2. Cannabis manufacturing and cannabis processor businesses shall have no signage indicating the nature of their operations, except as required by applicable law.
 - 3. Each cannabis manufacturing and cannabis processor business shall be limited to a maximum of 4,000 square feet of area, unless granted a use permit consistent with Table 2-10 of Section 17.24.030 of the Grass Valley Municipal Code.
- C. No more than 10 total local cannabis manufacturing and cannabis processor permits shall be effective at any time.

5.60.100 - Cannabis nurseries.

- A. A person may operate a cannabis nursery only if he or she obtains a valid local cannabis nursery permit from the city and holds a valid Type 4 – Cultivation; Nursery license from the State.

B. Local cannabis nursery permit holders shall be subject to these restrictions:

1. All outdoor cannabis nursery activities shall occur within a secure fence at least six feet in height that fully encloses the nursery and cultivation areas. Any gate through the fence must be locked except during active ingress or egress.
2. Cannabis nurseries shall be sited and operated so as to prevent cannabis odors from being detected beyond the property line of the cannabis business. All structures used for indoor cannabis nursery cultivation shall be equipped and maintained with sufficient ventilation controls to eliminate nuisance odor emissions from being detected beyond the property line of the cannabis business.

C. No more than two local cannabis nursery permits shall be effective at any time.

5.60.110 - Cannabis distribution.

A. A person may operate a cannabis distribution business only if he or she obtains a valid local cannabis distribution permit from the city and holds a valid Type 11 – Distributor license from the State.

B. No more than five local cannabis distribution permits shall be effective at any time.

5.60.120 - Permit fees.

The city council shall establish by resolution from time to time a schedule of fees for cannabis permit applications, amendments, inspections, renewals and other regulatory services under this chapter. No fee shall be prorated, or refunded upon denial, suspension, or revocation of a permit. Failure to pay applicable fees is grounds for denial or revocation of a permit.

5.60.130 - Limitations on city liability.

The city shall not be liable for issuing, or failing to issue, suspending, revoking or failing to renew, any permit under this chapter or otherwise approving or disapproving the operation of any cannabis business under this chapter.

5.60.140 - Assignment prohibited.

A. No person shall operate a cannabis business at any place in the city other than that identified by a permit issued under this chapter.

B. No person shall transfer ownership or control of a permit issued under this chapter, and/or a cannabis business, unless he or she obtains the consent of the director and the proposed transferee submits all required application materials,

pays all applicable fees, and satisfies the requirements of this chapter for issuance of a permit.

- C. Any attempt to transfer or any transfer of a permit issued under this chapter in violation of this section is void and the permit shall be deemed forfeited and no longer of any force or effect.

5.60.150 - Violations.

- A. Any person who violates any provision of this chapter is guilty of a misdemeanor punishable under chapter 1.12 of this code. Such violations may also be remedied in any manner permitted by law or in equity including without limitation, pursuant to chapters 1.13, 1.14, and 1.15 of this code. In addition, any condition caused or permitted to exist in violation of any provision of this chapter is a public nuisance subject to abatement as provided in this code and under State law.
- B. Notwithstanding subdivision A, no conduct protected from criminal liability under State law shall be made criminal by this code. Such conduct is hereby declared to be a public nuisance, and shall be subject to non-criminal remedies, including, but not limited to, those specified in chapters .13, 1.14, and 1.15 of this code.

SECTION 2. CODE AMENDMENT. Section 17.20.035 of Chapter 17.20 of Title 17 of the Grass Valley Municipal Code is hereby repealed in its entirety.

SECTION 3. CODE AMENDMENT. Table 2-10 of Section 17.24.030 of Chapter 17.24 of Title 17 of the Grass Valley Municipal Code is hereby amended to include Cannabis Business as a Permitted Use (P) and Cannabis Business – Manufacturing or Processor Over 4,000 Square Feet as Use Permit required (UP) in the C-3 and M-1 Zones, with Chapter 5.60 cited as the Specific Use Regulations for each.

SECTION 4. CEQA FINDINGS. This Ordinance is not a project within the meaning of Section 15378 of the CEQA (California Environmental Quality Act) Guidelines by virtue of Business & Professions Code section 26055, subdivision (h). Discretionary decisions pursuant to chapter 5.60 or title 17 of the Grass Valley Municipal Code as amended by this Ordinance shall include any applicable environmental review pursuant to CEQA.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is 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 or its application

to other persons and circumstances. The City Council of the City of Grass Valley declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof despite the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect 30 days after its adoption under Article VII, § 2 of the Grass Valley City Charter.

SECTION 7. Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in *The Union*, a newspaper of general circulation printed, published, and circulated within the City.

INTRODUCED and first read at a regular meeting of the City Council on the 10th day of November 2020.

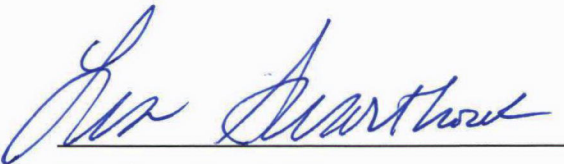
FINAL PASSAGE AND ADOPTION by the City Council was at a meeting held on the 24th day of November 2020, by the following vote:

AYES: Council Member Arbuckle, Hodge, Levine, Vice Mayor Aguilar & Mayor Swarthout

NOES: None

ABSENT: None

ABSTAINING: None



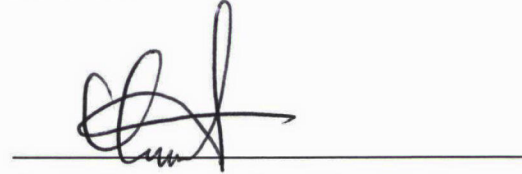
Lisa Swarthout, Mayor

APPROVED AS TO FORM:



Michael G. Colantuono, City Attorney

ATTEST:



Andy Heath, Acting City Clerk