

AGENDA



VALLEJO PLANNING COMMISSION REGULAR MEETING – 7:00 P.M. COUNCIL CHAMBERS

Roberto Cortez, Chair
Robert Schussel, Vice-Chair
Marvin Kinney
Diosdado "J.R." Matulac
Chris Platzer
Peggy Cohen-Thompson
Kathleen Diohep

City Hall
555 Santa Clara Street
Vallejo, CA 94590

NOVEMBER 6, 2017

This AGENDA contains a brief general description of each item to be considered. The posting of the recommended actions does not indicate what action may be taken. If comments come to the Planning Commission without prior notice and are not listed on the AGENDA, no specific answers or response should be expected at this meeting per State law.

Agenda Items: Those wishing to address the Commission on a scheduled agenda item should fill out a speaker card and give it to the Secretary. Speaker time limits for scheduled agenda items are five minutes for designated spokespersons for a group and three minutes for individuals.

Notice of Availability of Public Records: All public records relating to an open session item, which are not exempt from disclosure pursuant to the Public Records Act, that are distributed to a majority of the Planning Commission will be available for public inspection at City Hall, 555 Santa Clara St., 2nd Floor, or the Vallejo Public Library, 505 Santa Clara St. at the same time that the public records are distributed or made available to the Planning Commission. Such documents may also be available on the City of Vallejo website at www.cityofvallejo.net subject to staff's ability to post the documents prior to the meeting.

Disclosure Requirements: Government Code Section 84308 (d) sets forth disclosure requirements which apply to persons who actively support or oppose projects in which they have a "financial interest", as that term is defined by the Political Reform Act of 1974. If you fall within that category, and if you (or your agent) have made a contribution of \$250 or more to any commissioner within the last twelve months to be used in a federal, state or local election, you must disclose the fact of that contribution in a statement to the Commission.

Appeal Rights: The applicant or any party adversely affected by the decision of the Planning Commission may, within ten days after the rendition of the decision of the Planning Commission, appeal in writing to the City Council by filing a written appeal with the City Clerk. Such written appeal shall state the reason or reasons for the appeal and why the applicant believes he or she is adversely affected by the decision of the Planning Commission. Such appeal shall not be timely filed unless it is actually received by the City Clerk or designee no later than the close of business on the tenth calendar day after the rendition of the decision of the Planning Commission. If such date falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.

Notice of the appeal, including the date and time of the City Council's consideration of the appeal, shall be sent by the City Clerk to all property owners within two hundred or five hundred feet of the project boundary, whichever was the original notification boundary.

The Council may affirm, reverse or modify any decision of the Planning Commission which is appealed. The Council may summarily reject any appeal upon determination that the appellant is not adversely affected by a decision under appeal.

If any party challenges the Planning Commission's actions on any of the following items, they may be limited to raising only those issues they or someone else raised at the public hearing described in this agenda or in written correspondence delivered to the Secretary of the Planning Commission.

	Vallejo City Council Chambers is ADA compliant. Devices for the hearing impaired are available from the City Clerk. Requests for disability related modifications or accommodations, aids or services may be made by a person with a disability to the City Clerk's office no less than 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act of 1990 and the federal rules and regulations adopted in implementation thereof.
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If you have any questions regarding any of the following agenda items, please call the assigned planner or project manager at (707) 648-4326.

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1. **CALL TO ORDER**
 2. **PLEDGE OF ALLEGIANCE**
 3. **ROLL CALL**
 4. **APPROVAL OF THE MINUTES**
 - A. October 16, 2017
 5. **WRITTEN COMMUNICATIONS**
 6. **REPORT OF THE SECRETARY**
 - A. Upcoming Meetings:

November 20, 2017	Code Text Amendment for Marijuana, if additional time is needed (Tentative)
December 4, 2017	Variance for a 65-ft. tall 271 sq. ft. freestanding freeway sign for Redwood Plaza (Tentative)
 - B. Staff-Level Approved Projects
 7. **CITY ATTORNEY REPORT**
 8. **REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS**
 - A. Report of the Presiding Officer and Members of the Planning Commission
 - B. Council Liaison to Planning Commission
 - C. Planning Commission Liaison to City Council
 9. **COMMUNITY FORUM**

Anyone wishing to address the Commission on any matter for which another opportunity to speak is not provided on the agenda, and which is within the jurisdiction of the Commission to resolve, is requested to submit a completed speaker card to the Secretary. When called upon, each speaker should step to the podium, state his/her name and address for the record. The conduct of the community forum shall be limited to a maximum of fifteen (15) minutes, with each speaker limited to three minutes pursuant to Vallejo Municipal Code Section 2.20.300. The Commission may take information but may not take action on any item not on the agenda.
 10. **CONSENT CALENDAR AND APPROVAL OF THE AGENDA**

Consent Calendar items appear below, with the Secretary's or City Attorney's designation as such. Members of the public wishing to address the Commission on Consent Calendar items are asked to address the Secretary and submit a completed speaker card prior to the approval of the agenda. Such requests shall be granted, and items will be addressed in the order in which they appear in the agenda. After making any changes to the agenda, the agenda shall be approved. All matters are approved under one motion unless requested to be removed for discussion by a commissioner or any member of the public.

11. PUBLIC HEARING

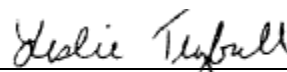
- A. Project Title: Code Text Amendment (CTA) #17-0004
Applicant: City of Vallejo
Location: City-wide
Project Description: Introduction of an Ordinance amending Title 16 of Vallejo Municipal Code (Zoning Ordinance) regarding medical marijuana cultivation, manufacturing, and distribution. The amendment adds medical marijuana cultivation, manufacturing, and distribution as a permitted use subject to a Minor Use Permit in the Intensive Use (IU), Intensive Use-Limited (IUL), and Planned Development Industrial (PDI).
- Proposed Environmental Determination: The adoption of the Code Text Amendment is exempt from the California Environmental Quality Act. California Business & Professions Code Section 26054(h), as amended by the Medicinal and Adult-Use Cannabis Regulation & Safety Act of 2017, provides that the California Environmental Quality Act does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. The discretionary review in the proposed Code Text Amendment includes any applicable environmental review pursuant to CEQA
- Staff Recommendation: Adopt a resolution recommending City Council adoption of an Ordinance amending Title 16 of Vallejo Municipal Code regarding marijuana cultivation, manufacturing and distribution, based on the findings.
- Project Manager: Joanna Altman, (707) 648-4362, joanna.altman@cityofvallejo.net

i. Disclosure of Ex Parte Communications

12. ADJOURNMENT

I, Leslie Trybull, Planning Executive Secretary, do hereby certify that I have caused a true copy of the above notice and agenda to be delivered to each of the members of the Vallejo Planning Commission, at the time and in the manner prescribed by law and that this agenda was posted at City Hall, 555 Santa Clara Street, CA at 6:00 p.m. Wednesday, November 1, 2017.

Dated Wednesday, November 1, 2017



Leslie Trybull, Planning Executive Secretary

Minutes

**CITY OF VALLEJO PLANNING COMMISSION
REGULAR MEETING MINUTES
COUNCIL CHAMBERS
OCTOBER 16, 2017**

1. CALL TO ORDER

The meeting was called to order by Chair Cortez at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: Chair Cortez, Vice-Chair Schussel, Commissioners Kinney, Matulac, Platzer, Cohen-Thompson and Diohep

Absent: None

Staff present: Planning Manager Hamid, Planning Secretary Trybull, Assistant City Attorney Eckmeyer

4. APPROVAL OF THE MINUTES

A. October 2, 2017

Action: Moved by Vice-Chair Schussel and carried to adopt the minutes of the October 2, 2017 meeting (Abstain – Diohep).

5. WRITTEN COMMUNICATIONS – None

6. REPORT OF THE SECRETARY

A. Upcoming Meetings:

November 6, 2017 Code Text Amendment for Marijuana (Tentative)

Variance for a 65-ft. tall 271 sq. ft. freestanding freeway sign for Redwood Plaza (Tentative)

B. Staff-Level Approved Projects

Planning Manager Hamid provided a report covering items A and B as noted above.

7. CITY ATTORNEY REPORT – None

8. REPORT OF THE PRESIDING OFFICER AND MEMBERS OF THE PLANNING COMMISSION AND LIAISON REPORTS

A. Report of the Presiding Officer and Members of the Planning Commission – None

B. Council Liaison to Planning Commission – None

C. Planning Commission Liaison to City Council

Vice-Chair Schussel reported on the Council approval of the Glen Cove Assisted Living facility

9. COMMUNITY FORUM – None

10. CONSENT CALENDAR AND APPROVAL OF THE AGENDA

Action: Moved by Vice-Chair Schussel and carried unanimously to approve the consent calendar and agenda.

11. PUBLIC HEARING

- A. Project Title: Site Development Permit (SD) #16-0024 & Major Use Permit (UP) #17-0004 (Shell Gas Station @ 1604 Lewis Brown Dr.)

Recommendation: Adopt a resolution approving Site Development #16-0024 and Use Permit #17-0004 subject to the Conditions of Approval.

Ex Parte Communications:

Vice-Chair Schussel reported speaking with Commissioner Kinney about the drawings Commissioner Kinney reported speaking with staff, Vice-Chair Schussel and Roy Olsen Commissioner Matulac reported visiting the site and speaking with Commissioner Kinney

Staff presented the project and proposed recommendation.

Commissioners asked questions of staff and the applicant, who provided responses.

Chair Cortez opened the Public Hearing.

Speaker: Bill Elliott

Chair Cortez closed the Public Hearing.

Action: Moved by Commissioner Diohep to approve the project as presented by staff (Resolution PC 17-20).

Vice-Chair Schussel offered a two additional conditions in a friendly amendment; Commissioner Diohep did not accept the amendment.

AYES: Chair Cortez, Commissioners Kinney, Platzer, Cohen-Thompson, Diohep
NOES: Vice-Chair Schussel, Commissioner Matulac
ABSENT: None
ABSTAIN: None

- B. Project Title: General Plan 2040 Amendments

Recommendation: Adopt a resolution recommending City Council adoption of an amendment to General Plan 2040 with the revisions described in the staff report.

Staff presented the project and proposed recommendation.

Commissioners asked questions and staff provided responses.

Chair Cortez opened the Public Hearing.

Speaker: Kenneth Dent

Chair Cortez closed the Public Hearing.

Action: Moved by Vice-Chair Schussel and carried unanimously to adopt a resolution recommending City Council adoption of an amendment to General Plan 2040 with the revisions included in the staff report.

AYES: Chair Cortez, Vice-Chair Schussel, Commissioners Kinney, Matulac, Platzer, Cohen-Thompson, Diohep
NOES: None
ABSENT: None
ABSTAIN: None

12. OTHER

A. Informational Presentation on Proposed Marijuana Code Text Amendment

Staff presented the proposed amendment.

Commissioners asked questions and staff provided responses.

13. ADJOURNMENT

The meeting adjourned at 9:50 p.m.

ROBERTO CORTEZ, CHAIR

ATTEST:

LESLIE TRYBULL
PLANNING SECRETARY

Staff Reports



DATE: November 6, 2017
TO: Planning Commission
FROM: Joanna Altman, Assistant to the City Manager
SUBJECT: **PUBLIC HEARING AND ADOPTION OF A RESOLUTION FINDING TITLE 16 AMENDMENTS REGARDING MEDICAL MARIJUANA CONSISTENT WITH THE GENERAL PLAN**

RECOMMENDATION

Have Planning Commission conduct a public hearing and to adopt a resolution finding that Title 16 amendments regarding medical marijuana are consistent with the City of Vallejo’s (City) General Plan (General Plan 2040). Vallejo Municipal Code (VMC) Section 16.86.040(A) requires that amendments to Title 16 must be supported by evidence provided by the Planning Division demonstrating consistency with General Plan 2040. Amendments to the VMC may be initiated in several ways, in this case the initiation is through the City Council pursuant to VMC Section 16.86.030(D). The proposed amendments to the VMC (Attachment 1) reflect consistency with General Plan 2040. Staff recommends that the Planning Commission hold the public hearing as required by VMC, adopt a resolution making consistency findings with General Plan 2040, and recommend that City Council approve the text amendments to amend the VMC to comply with the State legislation, local laws and establish zoning for medical marijuana cultivation, distribution, and manufacturing.

REASONS FOR RECOMMENDATION

On June 7, 2017, the City Council held a special meeting to provide policy direction to staff on marijuana businesses in Vallejo and formed an Ad-Hoc Committee of the City Council to evaluate the economic diversification, range of industries and tax generating businesses. The Ad-Hoc Committee directed staff to facilitate amendments to the VMC. The Ad-Hoc Committee has worked with staff to develop a recommended approach to regulate medical marijuana uses in both Title 7 and Title 16 of the VMC, as reflected in Attachment 1 to this staff report.

Title 16 on Zoning Amendment consistency to General Plan 2040

The proposed Title 16 changes are consistent to the City’s General Plan 2040. The General Plan 2040 under Chapter 5, Economy, Education & Training states the following policies, listed below in bold, with staff response in italics, that are applicable to the proposed amendments:

- | | |
|-----------------|---|
| Policy EET-2.1 | Economic Diversification. Attract employment and tax generating businesses that support the economic diversity of the city.
<i>The proposed amendments will further diversify the economic base of the City of Vallejo (the City) and provide additional tax generating revenue for the City.</i> |
| Action EET-2.1A | In City economic development plans, target firms in production, distribution, and repair that are part of the supply chain to Vallejo’s key industries.
<i>The proposed amendments will support manufacturing, distribution and cultivation of existing Medical Marijuana Dispensaries, a key industry.</i> |
| Policy EET-2.2 | Good Jobs. Retain and attract new businesses offering high quality jobs. |

The proposed amendments will attract workforce to support a key industry by retaining existing Medical Marijuana Dispensaries.

Action EET-2.2A **Update City regulations to streamline project review as feasible for businesses that meet the City’s economic development and workforce support objectives.**
The proposed amendments to Title 16 of Zoning recognize the City as a business friendly community by allowing Medical Marijuana Dispensaries a code compliant process that allows them to operate cultivation, distribution and manufacturing.

Action EET-2.2B **Seek out businesses that build on Vallejo’s competitive advantages and offer high and living wage jobs in a range of industries such as advanced manufacturing, maritime industrial, biosciences/life sciences, and tourism/hospitality.**
The proposed amendments build and encourage the Medical Marijuana industry to locate in zoning districts similar to other uses that manufacture.

The proposed Title 16 amendments are not only consistent to the General Plan 2040, but also help to implement it. The amendments come from City Council direction.

BACKGROUND AND DISCUSSION

Background on Title 7 and Title 16 Amendments

In July 2015, the City Council adopted an ordinance adding Chapter 7.100 to the VMC to provide limited immunity from civil land-use prosecution to medical marijuana dispensaries that met specified criteria. Following significant changes to California State law, the City Council provided direction to staff regarding additional amendments to the VMC.

The most recent changes to State law came with the passage of SB 94, the Medical and Adult Use of Cannabis Regulatory and Safety Act (MAUCRSA), which eliminated a number of differences between the Medical Cannabis Regulatory and Safety Act (MCRSA) and the Adult Use of Marijuana Act (AUMA, Proposition 64). MAUCRSA preserves the authority of cities to adopt business and land use regulations for commercial marijuana business activities or ban them altogether. It defines a range of business license types, including: retailers, cultivators, manufacturers, distributors, transporters and testing laboratories. Cities may expressly ban or adopt business and/or land use regulations pertaining to any or all of the State license types. It is anticipated that the State administrative agencies authorized to implement MAUCRSA will issue regulations this month and begin issuing licenses for marijuana activities on January 1, 2018.

On June 7, 2017, the City Council held a special meeting to provide policy direction to staff on marijuana businesses in Vallejo and formed an Ad-Hoc Committee of the City Council to direct further amendments to the VMC. In particular, the City Council directed staff to amend VMC Chapter 7.100 to provide permits to medical marijuana dispensaries to offer reassurance to the local industry that they have the required local “authorization” in order to apply for a State license in the future. Other topics of discussion included allowing for cultivation, distribution and manufacturing through zoning, the future transfer of existing businesses to new entities, expansion, relocation, delivery, testing, and research. It was also clear that the City Council wanted to address medical marijuana activities in the City before any further discussion of adult use (recreational) marijuana activity.

The Ad-Hoc Committee has been working with staff to develop amendments to Title 7, Public Health, Safety and Welfare, and Title 16, Zoning. At tonight’s hearing, the purview of the Planning Commission is to consider proposed

amendments to VMC Title 16, Zoning. Other Code sections VMC Title 7, Public Health, Safety and Welfare are provided for reference, Attachment 2 to this staff report. VMC Title 7, in which a business would need to apply for and maintain both a Title 16 minor use permit as well as a Title 7 permit to operate manufacturing, distribution and cultivation (MFG/DST/CLT). These amendments will be presented to the City Council for consideration along with the proposed Zoning Ordinance Amendments on the tentative date of December 12, 2017. It is requested the Planning Commission make General Plan consistency findings and recommend the amendments to City Council.

Draft Ordinance Amending Title 16 on Zoning

The City recognizes that providing permits to applicants for certain specified medical marijuana activity is harmonious with State law and regulations regarding medical marijuana activity, including the recently approved Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). If approved, the ordinance would establish land use regulations for medical marijuana MFG/DST/CLT uses, as described further below. All such uses would require a minor use permit, along with a local marijuana permit to operate MFG/DST/CLT, which is described in the draft amendments to Title 7, Public Health, Safety and Welfare, and the appropriate State license under MAUCRSA. As described below in the section on the draft amendments to Title 7, only those local medical marijuana dispensaries that are in possession of a permit to operate (MMD) in Vallejo as of October 1, 2017, could apply for and obtain a minor use permit and permit to operate (MFG/DST/CLT) a medical marijuana cultivation, distribution, and/or manufacturing business.

Use Classifications and Permit Requirements

The draft ordinance would establish three new use classifications in Sections 16.06.544, 16.06.545, and 16.06.546, under Article V, Industrial Use Types:

- **Medical marijuana cultivation:** The medical marijuana cultivation use type refers to commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical marijuana on a canopy area less than 10,000 square feet. This use classification is consistent with the State license type for microbusinesses under MAUCRSA.
- **Medical marijuana distribution:** The medical marijuana distribution use type refers to the procurement, sale, and transport of medical marijuana and medical marijuana products between holders of State licenses and local permits, but excludes retail sales to medical marijuana customers or consumers. This use classification is consistent with the State license type for distribution under MAUCRSA.
- **Medical marijuana manufacturing:** The medical marijuana manufacturing use type refers to the non-volatile production, preparation, propagation, or compounding of medical marijuana or medical marijuana 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 medical marijuana or medical marijuana products or labels or re-labels its container. This use classification is consistent with the State license type for level 1 manufacturing (non-volatile) under MAUCRSA.

The draft ordinance also includes amendments to VMC Sections 16.06.460 (retail sales), 16.06.500 (wholesaling, storage, and distribution), 16.06.550 (general description of agricultural use types), and 16.60.050 (home occupation exclusions) to clarify that retail, wholesaling, storage, distribution, and agriculture use types do not include medical marijuana uses, and that home occupations cannot include businesses involving marijuana activities.

The draft ordinance would amend the zoning districts in VMC Sections 16.33.030, 16.34.030, and 16.110.021 to indicate that medical marijuana cultivation, distribution, and manufacturing uses are permitted, subject to limitations, in the Intensive Use – Limited (IU-L), Intensive Use (IU), and Planned Development Industrial (PDI). A

minor use permit would be required. These zoning districts and uses are consistent to the General Plan 2040 designations and surrounding manufacturing uses.

The draft ordinance would also amend VMC Section 16.82.150 to specify that a use permit authorizing medical marijuana cultivation, distribution, and manufacturing would be deemed to be abandoned if the use ceases operation for one year.

Limitations on Medical Marijuana Uses

The draft ordinance would amend VMC Section 16.57.020 to establish limitations for medical marijuana cultivation, distribution, and manufacturing uses. As indicated above, this section requires that all medical marijuana cultivation, distribution, and manufacturing uses obtain and maintain required State and local permits and licenses, including a permit to operate (MFG/DST/CLT) from the City, as described in the draft amendments to Title 7, Public Health, Safety and Welfare below. This section also specifies that revocation of either a State license or the local marijuana business permit is grounds for revocation of the minor use permit in Title 16, and visa versa.

Medical marijuana cultivation, distribution, and manufacturing uses would be required to be located at least 1,000 feet from uses involving minors, which are schools, day care centers, and youth centers, consistent with State requirements. These uses would also be subject to development and operational standards that address the following:

- Indoor cultivation only
- Lighting for security and safety
- Signage regarding the age of people that are allowed on the site and regarding the use or consumption of marijuana on or near the site
- Use of screening to ensure activity is not visible from less intense uses (e.g. residential)
- Ensuring that fencing, screening, and landscaping prevent and deter crime
- Prohibiting use of generators
- Odor control
- Property maintenance
- Other existing VMC standards

In addition, the proposed amendments to VMC Section 16.110.030 would indicate that, although VMC Chapters 16.70 (Screening and Landscaping Regulations) and 16.75 (Site Development Standards) are not applicable to the PDI zoning district, medical marijuana cultivation, distribution, and manufacturing uses in that zoning district would be subject to those regulations and standards.

Finally, the proposed amendments to VMC Section 16.62.100 would specify that medical marijuana cultivation, distribution, and manufacturing uses would be subject to the same off-street parking requirements as other industrial uses.

Other Amendments

The draft ordinance also includes amendments to other sections of the VMC to strengthen or make express the City's permitting provisions for all uses. These amendments include the following:

- VMC Section 16.02.040 to explicitly state that any uses that are not listed in Title 16 are prohibited and to

clarify the permit requirements and related responsibilities of the applicant.

- VMC Sections 16.100.045 and 16.100.048 to establish a clear permit revocation procedure.
- VMC Section 16.100.050 to refine the language and clarify that maintaining a use in the absence of, or in a manner inconsistent with, a previously imposed condition of approval is a public nuisance.
- VMC Section Title 16 with a purpose and intent section.

General Plan 2040 Title 16 for Zoning Amendment Consistency Findings

VMC 16.86.050(G), requires that the Planning Commission hold a hearing and within 90 days issue a resolution specifying a statement of findings to the City Council. The findings are listed below in bold with staff response in italics as follows:

1. A statement of findings that the petition or resolution of intention is, or is not, consistent with the general plan of the city; and

A positive recommendation from the Planning Commission to the City Council to adopt the proposed amendment is consistent with the General Plan 2040 as the amendment will generate new tax revenue, support manufacturing, distribution and cultivation of an existing Medical Marijuana Dispensary industry, allow MMDs to operate in a code compliant manner with local and State laws, and locate in prescribed zoning districts.

2. A recommendation including the reasons for the recommendation as they relate to the above statement of findings.

Staff proposes a recommendation to adopt amendments to Title 16 of Zoning for the following reasons:

- 1. Consistency with the General Plan.*
- 2. Consistency with the Zoning Map (Attachment 3).*
- 3. Further diversification of the economic base in the City of Vallejo.*
- 4. Support and retention of an existing industry that is vital to the City of Vallejo.*
- 5. Support and location of an existing industry in zoning districts that allow similar types of uses.*

Draft Ordinance Amending Title 7. Public Health, Safety and Welfare

The City Council will also consider amendments to Title 7, Public Health, Safety and Welfare, related to medical marijuana activities in Vallejo. This section provides a brief summary of those amendments, which are being presented to the Planning Commission as information only; no action is required by the Planning Commission.

VMC Chapter 7.100 establishes regulations for medical marijuana dispensaries in Vallejo. The draft ordinance proposes minimal amendments to that Chapter to reflect updated State law under MAUCRSA and clarify existing local law. The substantial change to Title 7 in the draft ordinance would be a new Chapter 7.200, which would establish a marijuana business permit process for medical marijuana cultivation, distribution, and manufacturing uses. Only those businesses that have already obtained a permit to operate Medical Marijuana Dispensary operators (MMD) from the City for a medical marijuana dispensary business would be eligible to obtain a permit to operate (MFG/DST/CLT) under Chapter 7.200. The marijuana business permit would be subject to annual review. Chapter 7.200 would also establish prohibited activities, operating conditions, and the application, renewal, denial, revocation, and appeal process for the marijuana business permit.

Community & Stakeholder Meeting

Staff met with the MMDs on October 30, 2017, to brief them on these recommended amendments. The MMDs requested staff evaluate canopy size versus cultivation versus building size and a review of distribution. Staff has modified the ordinance language to now reflect canopy size under 10,000 square feet. In regards to distribution,

staff have included a stop-gap the first of either June 30, 2018 or when an operator receives their minor use permit.

ENVIRONMENTAL REVIEW

Adoption of the proposed amendments to Title 16 is exempt from the California Environmental Quality Act (CEQA). Section 26055(h) of the California Public Resources Code states: “Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code [i.e., CEQA] does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.”

By applying this exemption to the adoption of the proposed amendments, any future land use applications for medical marijuana uses will be subject to CEQA review.

Staff recommends that the Planning Commission recommend approval of the Title 16 of amendments to the City Council and approval of the General Plan 2040 consistency findings.

ATTACHMENTS

1.	Draft Ordinance Amending Title 16, Zoning
2.	Draft Ordinance Amending Title 7, Public Health, Safety and Welfare
3.	Map: Zoning Districts and General Plan 2040 Designations
4.	Resolution No. PC 17-22

CONTACT

Joanna Altman, Assistant to the City Manager, (707) 648-4362 Joanna.Altman@cityofvallejo.net

ORDINANCE NO. _____ N.C. (2d)

**AN ORDINANCE OF THE CITY OF VALLEJO MUNICIPAL CODE AMENDING
TITLE 16 RELATED TO MEDICAL MARIJUANA USES**

[Deleted text is shown in ~~strikethrough~~
Added text is shown in ***bold italic***]

WHEREAS, The City of Vallejo zoning ordinance, Title 16 has consistently and properly been interpreted that any use of land not expressly enumerated as constituting a permissible use is an impermissible use, and the City seeks to expressly set forth that rule of statutory construction; and;

WHEREAS, It is the purpose and intent of this chapter to accommodate the needs of the seriously ill and protect their health and safety, while protecting neighborhood character and specifically neighborhoods, children, and businesses from negative impacts and comply with state law and federal guidelines; and

WHEREAS, It is the intent of this chapter to regulate the cultivation, distribution and manufacturing of medical marijuana in a manner which is responsible and protects the health, safety, and welfare of the City of Vallejo, its residents, environs and neighborhoods. It is the intent of the City of Vallejo to have strong and effective development standards that work with regulatory and enforcement systems that addresses public safety, health, and other law enforcement interests through robust procedures that are effective in practice; and

WHEREAS, studies indicate the use of marijuana by minors is harmful to their health and brain development. Furthermore, nothing in state law or federal guidelines permits the distribution of marijuana to minors. Notwithstanding the foregoing, all persons who choose to be involved with medical marijuana do so entirely at their own risk that their involvement may constitute a violation of federal or state law.

NOW THEREFORE THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS

SECTION 1. Section 16.02.040 of the Vallejo Municipal Code is hereby amended to read as follows:

“16.02.040 - Applicability.

This title shall be applicable to all of the incorporated areas of the city. The use and employment of all land and any buildings or structures located upon the land and the construction, reconstruction, alteration, expansion, or relocation of any building or

structure upon the land shall conform to all regulations applicable to the district in which the land is located. Except as provided in this title:

- A. **Conformity of Buildings and Land.** No building, structure, or premises shall be used or occupied, and no building or parts thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.
- B. **Conformity of Buildings.** No building, structure or premises shall be erected, altered or used so as to produce greater heights, smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
- C. **Conformity of Open Spaces.** No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this title.
- D. ***Permitted Uses.*** *Any use that is not listed or enumerated in this title is prohibited. Unless specified in this chapter, no land use may be established within the city by right. All persons wishing to establish a use within the city must check with the planning manager or his or her designee to ascertain if the proposed use is permitted, and must apply for and receive approval for the proposed use as provided in this title.*
- E. ***Permits.*** *Any person desiring to operate, establish, expand, convert one use to another, or relocate any use shall file with the planning division an application for the appropriate permit on a standard application form supplied by the planning division.*
- F. ***Use Justification.*** *It is the burden of the applicant to supply evidence to justify the granting of the desired use.”*

SECTION 2. Sections 16.04.113, 16.04.313, and 16.04.314 of the Vallejo Municipal Code are hereby added to read as follows:

“16.040.113 – Canopy.

“Canopy” means (1) The designated area(s) at a licensed premises that will contain plants at any stage of growth; (2) Canopy shall be calculated in square feet and measured around the outermost perimeter of each separate and discrete area of marijuana cultivation at the dripline of the canopy, including all of the space(s) within the boundaries; (3) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or open space; and (4) If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.”

“16.04.313 – Marijuana.

“Marijuana” has the same meaning as cannabis, cannabis concentrate, cannabis products, and edible cannabis product as defined in California Business & Professions Code Section 26001.

16.04.314 –Marijuana, medical.

“Medical marijuana” means marijuana or a marijuana product intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health & Safety Code, by a medical marijuana patient who possesses a State of California licensed and board certified physician’s recommendation or identification card issued pursuant to State law.”

Words or phrases related to medical marijuana uses, wherever used in this Chapter, shall be given the definitions specified in Chapter 7.200, Cultivation, Distribution, and Manufacturing of Medical Marijuana.

SECTION 3. Section 16.06.020 of the Vallejo Municipal Code is hereby amended to read as follows:

16.06.020 - Listing of use classifications.

D. Industrial Use Types:

Custom manufacturing
General industrial
Heavy industrial
Live/work

Medical marijuana cultivation

Medical marijuana distribution

Medical marijuana manufacturing

SECTION 4. Section 16.06.460 of the Vallejo Municipal Code is hereby amended to read as follows:

16.06.460 - Retail sales.

Retail sales refers to places of business primarily engaged in the sale of commonly used goods and merchandise, but excludes those classified as agricultural supplies and services, animal sales and services, automotive and equipment, business equipment sales and services, food and beverage retail sales and gasoline sales. ***This use type also excludes retail sales of marijuana.*** The following are retail sales use types:

- A. General. The retail sale or rental, from the premises, of goods and merchandise for personal or household use, but excluding those uses listed above. Typical uses include department stores, apparel stores or furniture stores.
- B. Swap Meets. The display, exchange, barter or sale of new or used common household items or office equipment and furnishings, providing that such activity is carried on

in a swap lot. Typical uses include flea markets where clothing, personal effects, household furnishings and household appliances are sold or otherwise exchanged.

- C. Adult Uses. The retail sale or rental, from the premises, of goods and merchandise for adult use as defined and regulated by Chapter 16.59.

SECTION 5. Section 16.06.500 of the Vallejo Municipal Code is hereby amended to read as follows:

16.06.500 - Wholesaling, storage, and distribution.

Wholesaling, storage, and distribution refers to establishments or places of business primarily engaged in wholesaling, storage, distribution and open-air handling of materials and equipment other than live animals and plants. *This use type also excludes wholesaling, storage, and distribution of marijuana.* The following are wholesaling, storage and distribution use types:

- A. Light. Wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, food and beverage processing and manufacturing plants, storage warehouse or moving and storage firms.
- B. Heavy. Open-air storage, distribution and handling of materials and equipment. Typical uses include monument or stone yards, grain elevators or open storage yards.

SECTION 6. Section 16.06.510 of the Vallejo Municipal Code is hereby amended to read as follows:

16.06.510 - General description of industrial use types.

Industrial use types include the on-site production of goods by methods that are not agricultural or extractive in nature. *However, medical marijuana cultivation, medical marijuana distribution, and medical marijuana manufacturing are included in industrial use types.* They also include certain uses accessory to the above, as specified in Chapter 16.58, Accessory and Temporary Use Regulations.

SECTION 7. Sections 16.06.544, 16.06.545, and 16.06.546 of the Vallejo Municipal Code are hereby added to read as follows:

16.06.544 – Medical marijuana cultivation.

The medical marijuana cultivation use type refers to commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical marijuana.

16.06.545 – Medical marijuana distribution.

The medical marijuana distribution use type refers to the procurement, sale, and transport of medical marijuana and medical marijuana products between holders of

state licenses and local permits, but excludes retail sales to medical marijuana customers.

16.06.546 – Medical marijuana manufacturing.

The medical marijuana manufacturing use type refers to the non-volatile production, preparation, propagation, or compounding of medical marijuana or medical marijuana 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 medical marijuana or medical marijuana products or labels or re-labels its container.

SECTION 8. Section 16.06.550 of the Vallejo Municipal Code is hereby amended to read as follows:

16.06.550 - General description of agricultural use types.

Agricultural use types include the on-site production of plant and animal products by agricultural methods. They also include certain uses accessory to the above as specified in Chapter 16.58, Accessory and Temporary Use Regulations. *Agricultural use types excludes marijuana cultivation.*

SECTION 9. Section 16.33.030 of the Vallejo Municipal Code is hereby amended to read as follows:

16.33.030 - Permitted uses subject to limitations.

The following use types are permitted subject to complying with the intent and purpose of this chapter and to the applicable provisions of Chapter 16.57 (the letter in parentheses following the use type refers to the subsection of Section 16.57.020 which applies):

A. Commercial Use Types.

1. Animal sales and services: kennels (D);
2. Automotive and equipment: cleaning (F);
3. Food and beverage retail sales (L);
4. Retail sales: adult uses (R).

B. Industrial Types.

1. *Medical marijuana cultivation (II);*
2. *Medical marijuana distribution (II);*
3. *Medical marijuana manufacturing (II).*

SECTION 10. Section 16.34.030 of the Vallejo Municipal Code is hereby amended to read as follows:

16.34.030 - Uses subject to limitations.

The following use types are permitted subject to complying with the intent and purpose of this chapter and to the applicable provisions of Chapter 16.57 (the letter in parenthesis following the use type refers to the subsection of Section 16.57.020 which applies):

- A. Civic Use Types.
 - 1. Administrative services.
 - 2. Clinic services.
 - 3. Community education (X).
- B. Commercial Use Types.
 - 1. Animal sales and services: kennels (D);
 - 2. Animal sales and services: veterinary (small animals - outdoor kennels and runs) (E);
 - 3. Automotive and equipment: cleaning (F);
 - 4. Eating and drinking establishments (J), (K);
 - 5. Food and beverage retail sales (L);
 - 6. Transient habitation: emergency shelter for homeless (FF);
 - 7. Wholesaling, storage, and distribution: light (S).
- C. *Industrial Types.*
 - 1. *Medical marijuana cultivation (II);*
 - 2. *Medical marijuana distribution (II);*
 - 3. *Medical marijuana manufacturing (II).*

SECTION 11. Section 16.57.020 of the Vallejo Municipal Code is hereby amended to read as follows:

16.57.020 - Applicability.

The following limitations shall apply to uses indicated by the corresponding letter in parentheses in the previous sections entitled "Permitted uses subject to limitations."
...

II. Medical marijuana cultivation, distribution, and manufacturing uses are allowed subject to approval of a minor use permit as set forth in Chapter 16.82, as long as all applicable district requirements are met, together with the following requirements:

- 1. *Regulatory Permits. Medical marijuana cultivation (P-CLT), distribution (P-DST) and manufacturing (P-MFG) uses must obtain and maintain all required State and local permits and licenses including the local permit required under Chapter 7.200 of this Code. Revocation of the State marijuana license or the local permit under Chapter 7.200 of this Code shall be grounds for revocation of the minor use permit for the medical marijuana cultivation, distribution, and manufacturing use. Valid and applicable State and local licenses and permits shall be publicly displayed at all times during hours of operation.*

2. ***Locational Limitation.*** Any medical marijuana cultivation, distribution, or manufacturing use may not be located within a six hundred-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center as defined in Health & Safety Code Section 11353.1. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school or center to the closest property line of the lot on which the permittee is to be located without regard to intervening structures.
3. ***Development and Operational Standards.*** Cultivation, distribution and manufacturing uses shall comply with site development standards specified in the applicable zoning district (i.e., Section 16.33.060 in the Intensive Use-Limited District, Section 16.34.060 in the Intensive Use District, and Section 16.110.030 in the Planned Development Industrial District). Such uses shall also comply with the following standards:
 - a. ***General:***
 - i. All activities shall occur within a secure fence at least eight (8) feet in height that fully encloses the area. The fence must include a lockable gate(s) that is locked at all times, except for during times of active ingress/egress.
 - ii. No person under age 18 shall be allowed on the property.
 - iii. The site shall not be open to the general public.
 - iv. No transactions outside, or partially outside of an enclosed building are permitted. No transactions which are performed through walk-up or drive-through service are allowed.
 - v. No use, inhalation, smoking, eating, ingestion, or otherwise consumption of marijuana on the Property, including the parking areas of the property.
 - vi. No exhibition or product sales area or retail sales are allowed on the premises.
 - b. ***Cultivation:***
 - i. The canopy shall not exceed ten thousand square feet; and
 - ii. All medical marijuana cultivation shall occur indoors, completely enclosed in a structure with opaque walls, and shall not be visible from any public right-of-way
 - b. ***Lighting:***
 - i. Exterior perimeter lighting shall be in place prior to operation;
 - ii. Exterior lighting shall be high pressure sodium, or equivalent type, and shall have an illumination intensity of between one and four foot candles;
 - iii. Lights shall be directed and shielded so as not to illuminate into adjoining properties;
 - iv. Lights shall have a housing to protect against breakage;
 - v. Broken or burnt out lights shall be replaced within one hundred twenty business hours;
 - vi. Transitional lighting shall be incorporated in exterior areas going to and from buildings or uses within a site; and
 - vii. Trees and shrubs shall not interfere with the distribution of lighting as required by this section.

- c. *Off-street parking: as prescribed in Chapter 16.62.*
- d. *Signs:*
 - i. *A sign shall be posted on the door or in view of the entrance stating that no person under the age of 18 is allowed on site; and*
 - ii. *A sign shall be posted stating that the use or consumption of marijuana or marijuana products on or near the premises is prohibited; and*
 - iii. *A sign shall be posted stating loitering on or near the premises is prohibited; and*
 - iiii. *Other requirements as prescribed in Chapter 16.64.*
- e. *Fencing, screening and landscaping:*
 - i. *Where the medical marijuana cultivation, distribution, or manufacturing use abuts a district with less intensive uses, such as a residential district, all aspects of the medical marijuana activity shall be screened through the use of Code-compliant fencing and/or landscaping so that the activity is not visible from any parcel or part of the district with less intense uses;*
 - ii. *All fencing shall be in compliance with Chapter 16.70, and shall not be constructed or covered with plastic or cloth;*
 - iii. *Shrubs located next to pedestrian walkways and other vulnerable areas as determined by the planning manager or his or her designee shall not exceed 3 feet in height at maturity;*
 - iv. *Trees shall be pruned up to 6 feet above ground;*
 - v. *Trees and shrubs shall be pruned back from windows, doors and walkways;*
 - vi. *Decorative stone, brick, and other masonry material shall be grouted to prevent removal by hand;*
 - vii. *Property lines shall be defined with landscaping or decorative fencing;*
 - viii. *Entrances to the site and parking lots shall be defined with landscaping or entry feature;*
 - ix. *Outdoor waste and recycle bins shall be contained within a locked structure to prevent unauthorized entry; and*
 - x. *Other requirements as prescribed in Chapter 16.70.*
- f. *Noise:*
 - i. *The use of generators is prohibited, except as short-term temporary emergency back-up systems; and*
 - ii. *Other requirements as prescribed in Section 16.72.030.*
- g. *Odor control: A sufficient odor-absorbing ventilation and exhaust system shall be installed to ensure that odor generated by the use is not detected outside the property, anywhere on adjacent properties or public rights-of-way, or within any other unit located within the same building as the medical marijuana use.*
- h. *Maintenance:*
 - i. *Property shall be maintained free of debris, litter and trash; and*
 - ii. *Comply with Chapter 7.54, Property Maintenance.*

- i. Other performance standards: comply with all requirements prescribed in Chapter 16.72.*

SECTION 12. Section 16.60.050 of the Vallejo Municipal Code is hereby amended to read as follows:

16.60.050 - Exclusions.

The following activities shall not in any case qualify as a home occupation:

- A. Teaching of organized classes totaling more than six persons at one time or a business that has more than ten clients per day;
- B. Banks and financial institutions, including but not limited to, nontraditional financial institutions;
- C. Care, treatment or boarding of animals for profit;
- D. Operation of food handling, processing or packing that is not in compliance with Solano County Environmental Health regulations and Section 113758 of the California Health and Safety Code;
- E. On-site vehicle-related uses such as, but not limited to, storing of either operational or non-operational vehicles, cleaning, dismantling, embellishing, installing, manufacturing, repairing or servicing, selling, leasing or renting, and towing, driving schools, dispatching of vehicles, boat towing, scrap yards, parts sales or any storage of autos. Where the person conducting the home occupation serves as an agent or intermediary between off-site suppliers and off-site customers in which case all articles shall be received, stored and sold directly to customers at off-premises locations;
- F. Any on-premises retail sales including, but not limited to, firearms, weaponry, ammunition, liquor, tobacco, or medicinal marijuana, and any off-premises sales of tobacco or tobacco related products. Retail sales consistent with provisions of cottage food operations shall be allowed per Section 113758 of the California Health and Safety Code;
- G. Funeral and interment services, including but not limited to, crematories, mortuaries, mausoleums and undertaking;
- H. Uses as defined and regulated in California Health and Safety Code Section 1500 et seq.;
- I. Transient habitation, with the exception of bed and breakfast inns as defined in Section 16.06.490(A);
- J. Bona fide eating and drinking places, including but not limited to, bars, nightclubs and restaurants;
- K. Laundry and dry cleaning services;
- L. Communication facilities, including, but not limited to, transmission towers;
- M. Businesses involving hazardous materials, including, but not limited to, waste facilities, transfer, storage and treatment;
- N. Adult uses, including but not limited to, retail and performance oriented;
- O. Any use not allowed in Chapter 16 of the Vallejo Municipal Code.
- P. *Businesses involving medical marijuana activity.***

SECTION 13. Section 16.62.100 of the Vallejo Municipal Code is hereby amended to read as follows:

16.62.100 - Table of off-street parking requirements and standards.

TABLE OF OFF-STREET PARKING REQUIREMENTS

Industrial Use Types	
Custom Manufacturing	P
General Manufacturing	P
Heavy Industrial	P
<i>Medical Marijuana Cultivation</i>	<i>P</i>
<i>Medical Marijuana Distribution</i>	<i>P</i>
<i>Medical Marijuana Manufacturing</i>	<i>P</i>

TABLE OF OFF-STREET PARKING STANDARDS

(Section 16.62.100)

	Standard	Requirement
P	four spaces for first 5,000 square feet of floor area and one space for each additional 2,000 square feet of floor area, or one space for each one and one-half employees, whichever is greater	

SECTION 14. Section 16.82.150 of the Vallejo Municipal Code is hereby amended to read as follows:

16.82.150 - Use permit abandoned.

- A. A use permit, or portion of a use permit, authorizing adult uses as provided in Chapter 16.59, or the sale of alcoholic beverages shall be deemed to be abandoned if the adult use or the sale of alcoholic beverages ceases and remains "not in use" for twelve consecutive months. A new use permit shall be secured prior to the resumption of the adult use or the sale of alcoholic beverages.
- B. A use permit, or portion of a use permit, authorizing adult uses as provided in Chapter 16.59 shall be deemed to be abandoned if the adult use ceases operation and remains

"not in use" for twelve consecutive months. A new use permit shall be secured prior to the resumption of the adult use.

- C. *A use permit, or portion of a use permit, authorizing medical marijuana cultivation, distribution, or manufacturing uses shall be deemed to be abandoned if the use ceases operation and remains "not in use" for twelve consecutive months. A new use permit shall be secured prior to the resumption of the medical marijuana cultivation, distribution, or manufacturing use.*

SECTION 15. Section 16.100.045 of the Vallejo Municipal Code is hereby added to read as follows:

16.100.045 – Permit revocation.

- A. *For purposes of this chapter, a “permit” includes any administrative permit, minor use permit, major use permit, site development plan, unit plan, planned development permit or any other land use entitlement granted by the planning manager or his or her designee, the planning commission, or the city council, as may be applicable, pursuant to the requirements of the city’s zoning ordinance contained in Title 16.*
- B. *No permit issued pursuant to the provisions of this title may be revoked except in compliance with the procedures of this chapter.*
- C. *Whenever the City Manager or his or her designee has sufficient cause to believe that the holder of a permit is in violation of the provisions of this title, or has failed to maintain a use in accordance with the specific conditions of approval attached to the permit, the City Manager or his or her designee shall give notice to the property owner(s) and the occupant(s) that the manner of use of the property is violation with the provisions of this title or the conditions of approval attached to the permit. The notice shall specify the violation(s) and identify the date by which the corrective action(s) must occur.*
- D. *If the corrective action specified by the City Manager or his or her designee does not occur by the date set in the notice, the City Manager or his or her designee shall issue a written notice of hearing on the proposed permit revocation, together with written notification of the specific grounds of complaint against the property owner(s) and the occupant(s). These shall be personally delivered or sent by certified mail to the property owner and the occupant at least ten days prior to the hearing.*
- E. *The public hearing on the permit revocation shall be scheduled for consideration by the planning commission within 60 days of the date set in the notice, and shall be in accordance with the provisions of this title, including sections 16.82.130 or 16.116.150 as may be applicable.*
- F. *The planning commission may revoke, modify or take no action on the permit. Any additional conditions imposed on the permit shall be in keeping with the applicable standards for the use and the zoning district in which the property is located.*
- G. *The planning commission's decision shall be in writing, and shall be hand delivered or mailed to the property owner and the occupant.*

- H. The planning commission shall make its decision within thirty days of the public hearing.*
- I. The decision of the planning commission shall be final.*
- J. In the event a permit is revoked pursuant to this chapter, a new permit for the same use may not be issued for twelve months after the date of such revocation.*

SECTION 16. Section 16.100.048 of the Vallejo Municipal Code is hereby added to read as follows:

16.100.048 - Grounds for revocation.

A permit may be revoked by the city on the basis of any of the following:

- A. That the business or activity has been conducted in a manner which violates the provisions of this title, or is a public nuisance in violation of the Vallejo Municipal Code, or fails to adhere to one or more of the conditions of approval imposed upon the issuance of the permit, or which fails to conform to the plans and procedures described in the application.*
- B. That the permittee has failed to obtain or maintain all required city and state licenses and permits required for its operation.*
- C. That the permittee is engaging in a use that is not allowed or a use that is different from that for which the permit was issued.*

SECTION 17. Section 16.100.050 of the Vallejo Municipal Code is hereby amended to read as follows:

16.100.050 - ~~Effect of zoning permit requirements~~ Conditions of approval.

Any condition *of approval* attached to the granting of a use permit, planned unit development permit, variance permit or site development plan review approval, or any other permit or approval provided for in this title shall have the same force and effect as if it were ~~incorporated in~~ *a requirement mandated by this title. Maintaining a use in the absence of, or in a manner inconsistent with, a previously imposed condition of approval is a public nuisance.*

SECTION 18. Section 16.110.021 of the Vallejo Municipal Code is hereby added to read as follows:

16.110.021 - Permitted uses subject to limitations.

The following use types are permitted subject to the applicable provisions of Chapter 16.57 (the letter in parentheses following the use type refers to the subsection of Section 16.57.020 which applies).

- A. Industrial Types.*
 - 1. Medical marijuana cultivation (II);*

2. *Medical marijuana distribution (II)*;
3. *Medical marijuana manufacturing (II)*.

SECTION 19. Section 16.110.030 of the Vallejo Municipal Code is hereby amended to read as follows:

16.110.030 - Development standards.

As part of the planned development permit procedures, as described in Chapter 16.116, a set of development standards shall be submitted to the planning division. These development standards will be evaluated on the following criteria:

- A. Size, configuration, orientation and location of the site;
- B. Circulation patterns, including delineation of arterial, collector and local streets, pedestrian access, public transit;
- C. Topography of the site, including vegetation, soils, proposed grading, slopes;
- D. Preservation of natural resources, including ridgetops, riparian areas, unique features, trees, drainage;
- E. Relationship to surrounding area, including visual and land use compatibility;
- F. Architecture;
- G. Landscaping;
- H. Availability of public improvements and facilities;
- I. Development intensity;
- J. Intent and purpose of the proposed project, including consistency with the Vallejo general plan and stated purpose of this district.

Note: The *Screening and Landscaping Regulations (Chapter 16.70) and the Site Development Standards Chapter 16.75* following chapters of this title are not applicable to this district. *However, minor use permits involving medical marijuana cultivation, distribution, and manufacturing uses are subject to specific regulations and standards contained in those chapters.*

~~Chapter 16.70—Screening and Landscaping Regulations;~~

~~Chapter 16.75—Site Development Standards.~~

SECTION 20. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a 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 passed and adopted this Ordinance, and each one all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

SECTION 21. Effective Date. This Ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.”

IN THE CITY COUNCIL OF THE CITY OF VALLEJO
ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 7.100 OF THE VALLEJO MUNICIPAL CODE

WHEREAS, the Compassionate Use Act adopted by voters in 1996, and the Medical Marijuana Program Act, enacted by the state legislature in 2003, provided California's qualified patients and their primary caregivers with limited immunities to specified criminal prosecutions under state law for purposes including to ensure that qualified patients and their primary caregivers who obtain and use marijuana for medical purposes are not subject to state criminal prosecution; and

WHEREAS, in November 2011, City of Vallejo voters passed Measure C, a marijuana business tax-revenue ordinance which provides that payment of a business license tax and its acceptance by the City shall not entitle any person to carry on a marijuana business in a zone or locality in which the conduct of such marijuana business is in violation of any law; and

WHEREAS, the zoning ordinance of the City of Vallejo does not allow medical marijuana dispensaries as a use, which renders any such use an illegal public nuisance per se; and

WHEREAS, before the passage of Chapter 7.100, according to police sightings, neighborhood complaints, and internet information, more than 40 medical marijuana businesses were operating in the City of Vallejo without any land use approval under the Vallejo Municipal Code, and an unknown number of businesses continued to open, close, and reopen in Vallejo with no regulatory authorization from the City; and

WHEREAS, in July 2015, Chapter 7.100 was added to the Vallejo Municipal Code; and

WHEREAS, neither permits of any kind, nor fire inspections, nor payment of taxes in any way bestows a legal right to use land for a medical marijuana dispensary; and

WHEREAS, the City recognizes that providing permits to applicants for certain specified medical marijuana activity is harmonious with state law and regulations regarding medical marijuana activity, including but not limited to the Medical Marijuana Regulation and Safety Act of 2015 and later amendments to the Act, later repealed and partly reenacted through the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017; and

WHEREAS, in August 2017, Chapter 7.100 was amended to authorize issuance of a permit to each medical marijuana dispensary that had been issued a letter of limited immunity.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN as follows:

SECTION 1. Vallejo Municipal Code Chapter 7.100 is hereby amended to read as follows:

Chapter 7.100 Medical Marijuana

7.100.010 Purpose and Intent
7.100.020 Definitions

- 7.100.030 No Authority to Permit **Medical Marijuana Dispensary** Use in Any Zone; Unlawful to Distribute Marijuana; Unlawful to Make False Statements
- 7.100.040 No Vested or Nonconforming Rights
- 7.100.050 Permit to Operate Medical Marijuana Dispensary
- 7.100.060 Location
- 7.100.070 Prohibited Activity
- 7.100.080 Requirements and Proof of Compliance
- 7.100.085 Revocation of Permit
- 7.100.088 Appeal
- 7.100.090 Operating Conditions
- 7.100.100 Prohibition Against Transfer or Relocation
- 7.100.110 Maintenance of Records
- 7.100.120 Inspection Authority
- 7.100.130 Public Nuisance
- 7.100.140 Enforcement
- 7.100.150 Limited Severability

7.100.010 Purpose and Intent.

It is the purpose and intent of this chapter to address the proliferation of Medical Marijuana Dispensaries and exercise local police power and authority to the full extent allowed by the California Constitution and Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017. This ordinance is not intended to conflict with federal or state law. Nothing in this ordinance purports to permit activities that are otherwise illegal under federal, state, or local law.

7.100.020 Definitions.

The following words or phrases, whenever used in this Chapter, shall be given the following definitions:

"City" means the City of Vallejo, and any legislative body granted regulatory authority over Medical Marijuana Dispensary operations **or any other medical marijuana business** by this ordinance.

"City Manager" means the City Manager of the City of Vallejo or his/her designee.

"Manager" means a Medical Marijuana Dispensary ~~member~~ **person** with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a Medical Marijuana Dispensary, including but not limited to ~~members~~ **persons** who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the Medical Marijuana Dispensary.

"Marijuana" has the same meaning as cannabis, cannabis concentrate, cannabis products, and edible cannabis product as defined in California Business & Professions Code Section 26001.

"Medical marijuana" means marijuana or a marijuana product intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section

11362.5 of the California Health & Safety Code, by a medical marijuana patient who possesses a physician's recommendation or identification card.

"Medical Marijuana Dispensary" is any storefront that dispenses, sells, makes available, or distributes Marijuana for medicinal purposes that requires a license pursuant to MAUCRSA, and any association, collective or cooperative that sells, makes available or distributes Marijuana for medicinal purposes pursuant to Health & Safety Code Section 11362.775 until that section is repealed pursuant to Section 11362.775(e). Medical Marijuana Dispensary does not include the donation or provision of medical Marijuana meeting the requirements of MAUCRSA at California Business & Professions Code Section 26033 for an exemption from state licensure.

~~"Member" is a patient, manager, or other person who has acquired membership and who participates in the collective, cooperative or dispensary by buying, receiving, distributing, dispensing, storing, exchanging, processing, or delivering marijuana to the Medical Marijuana Dispensary.~~

"Property" as used in this chapter means the location at which the Medical Marijuana Dispensary members, employees, volunteers or agents distribute Marijuana.

The following words or phrases when used in this Chapter shall be construed as defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 **and regulations promulgated by the state implementing agencies**: "Attending Physician," "**Distribution,**" "Identification Card," "Physician's Recommendation," "Primary Caregiver," "Qualified Patient."

7.100.030 No Authority to Permit **Medical Marijuana Dispensary** Use in Any Zone; Unlawful to Distribute Marijuana; Unlawful to Make False Statements.

A. The use of any building, structure, location, premises or land for a Medical Marijuana Dispensary is not currently enumerated in the Vallejo Municipal Code's zoning ordinance as a permitted use in any zone. The Medical Marijuana Dispensary land use is therefore not allowed. So long as this chapter remains in effect, the planning manager shall not have the authority to determine that the use of any building, structure, location, premise or land as a Medical Marijuana Dispensary may be permitted in any zone, or to grant any variance authorizing any Medical Marijuana Dispensary. Both primary and accessory Medical Marijuana Dispensary uses are included in this prohibition.

B. It is unlawful for any person to cause, permit or engage in the cultivation, possession, distribution, exchange or giving away of Marijuana or products containing Marijuana in any form, for medical or non-medical purposes except as provided in this chapter, ~~and pursuant to any and all other applicable local~~ **Code** and state law. The prohibition includes renting, leasing, or otherwise permitting a Medical Marijuana business to occupy or use a location, vehicle, or other mode of transportation.

C. It is unlawful for any person knowingly to make any false, misleading or inaccurate statement or representation in any form, record, filing or documentation required to be maintained, filed or provided to the City under this chapter or any applicable section of the Vallejo Municipal Code. A violation of this subsection may be prosecuted as a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

7.100.040 No Vested or Nonconforming Rights.

Neither this chapter, nor any other provision of the Vallejo Municipal Code, failure to act, statement, representation, certificate, approval, or permit issued by the City or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit or land use entitlement running with the land regarding any Medical Marijuana Dispensary.

7.100.050 Permit to Operate Medical Marijuana Dispensary.

Notwithstanding the activities prohibited by this chapter, and notwithstanding that Medical Marijuana Dispensary is not a land use allowed pursuant to the zoning ordinance, and in light of the enactment of MAUCRSA in June 2017, any person who has received a limited immunity authorization letter from the City of Vallejo on or before August 22, 2017, shall receive a permit to operate ~~-(P-MMD)~~ **for their** a Medical Marijuana Dispensary, **and for Distribution until the earliest of June 30, 2018, or issuance of a minor use permit for Distribution pursuant to Title 16.** The permit shall be subject to revocation pursuant to subsection 7.100.085. **The permit is valid for one year from the date of issuance and must be renewed annually on or by June 30 for the next fiscal year. The requirements of Chapter 7.200.100 apply to renewal of permit for Medical Marijuana Dispensary.**

Within 90 days of issuance of the permit **to operate (P-MMD)**, the Medical Marijuana Dispensary must comply with the following:

- A. Display a sign in the Medical Marijuana Dispensary prohibiting use or consumption of Marijuana on or near the premises.
- B. Contain outdoor waste and recycle bins within a locked structure to prevent unauthorized entry.
- C. Comply with outdoor signage restrictions of Chapter 16.64.
- D. Install exterior perimeter lighting system. Exterior lighting should be high pressure sodium, or equivalent type, and shall have an illumination intensity of between one and four foot candles. Lights shall be directed and shielded so as not to illuminate into adjoining properties. Lights shall have a housing to protect against breakage. Broken or burnt out lights shall be replaced within one hundred twenty business hours.

7.100.060 Location.

A. All Medical Marijuana Dispensaries shall **not** be located ~~a minimum of one thousand (1,000)~~ **within a six hundred (600) foot radius** feet from ~~any public or private school, kindergarten through high school~~ **of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center.** The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the Medical Marijuana Dispensary is to be located without regard to intervening structures.

B. Any Medical Marijuana Dispensary that is otherwise compliant with the provisions of this chapter, but does not comply with subsection A **and California Health & Safety Code Section 26054(b)**, must relocate to a site compliant with subsection A **and California Health & Safety**

~~**Code Section 26054(b)** and at least 2,000 feet from another Medical Marijuana Dispensary no more than 90 days after the effective date of this ordinance, with an additional 90 days if the City Manager determines the Medical Marijuana Dispensary has shown good cause. Relocation must occur on or before March 30, 2018.~~

7.100.070 Prohibited **Medical Marijuana Dispensary** Activity.

A. No person shall cause or permit the sale, cultivation, manufacture, distribution or exchange of Marijuana except that any Medical Marijuana Dispensary with a local permit is authorized to sell medical Marijuana.

B. All MMDs must comply at all times with requirements of MAUCRSA including implementing regulations, which statutes and regulations may be amended from time to time. ~~There shall be limited cultivation of Marijuana subject to regulations developed by staff and approved by City Council resolution at a later date.~~

~~C. No manufacture of concentrated cannabis in violation of California Health and Safety Code section 11379.6 is allowed.~~

DC. No Medical Marijuana Dispensary shall be open to or provide Marijuana, in any form, to anyone between the hours of eight o'clock (8:00) p.m. and nine o'clock (9:00) a.m.

~~ED.~~ No ~~Member~~ **person** under age 18 shall be allowed on the property unless he or she is accompanied by his or her licensed attending physician, parent(s) or documented legal guardian, or is an emancipated minor as demonstrated by documentation.

~~GE.~~ No Medical Marijuana Dispensary, Manager or member shall cause or permit the sale, dispensing, or consumption of alcoholic beverages, or any controlled substance, on the property or in the parking area of the Property.

~~HF.~~ No transactions outside, or partially outside of an enclosed building are permitted. No transactions which are performed through walk-up or drive-through service are allowed.

~~IG.~~ No Medical Marijuana Dispensary, Manager or member shall cause or permit the use, inhalation, smoking, eating, ingestion, or otherwise consumption of marijuana on the Property, including the parking areas of the property.

7.100.080 Requirements and Proof of Compliance.

No Medical Marijuana Dispensary, Manager or person shall carry on, maintain or conduct any Medical Marijuana Dispensary related operations, including retail or wholesale sales of Marijuana or preparing, giving away or distributing edible Marijuana products unless all requirements in sections 7.100.60-7.100.110 are met. The City Manager is authorized to determine that a requirement is met when a Medical Marijuana Dispensary demonstrates circumstances beyond its control.

A. Any Medical Marijuana Dispensary seeking to pay marijuana business tax and receive limited immunity from prosecution shall submit to the City Manager or designee the following on or before September 20, 2015.

1. A tax certificate issued by the City to the dispensary before April 23, 2013.

2. Evidence that the Medical Marijuana Dispensary operated prior to April 23, 2013.
3. Evidence demonstrating the Medical Marijuana Dispensary paid quarterly taxes from the date of opening until the City ceased accepting tax in February 2015.
4. The address of the property where the Medical Marijuana Dispensary is operating.
5. Evidence that the site of the Medical Marijuana Dispensary complies with the location requirement of section 7.100.060.
6. The name, address, telephone number, title and function(s) of each Manager. For each Manager, a fully legible copy of one (1) valid government-issued form of photo identification, such as a driver's license.
7. No person who is currently charged with or has been convicted within the previous ten (10) years of a crime of moral turpitude (such as theft, fraud, or assault), or who is currently on parole or probation for crimes involving the sale or distribution of any controlled substance, shall be engaged directly or indirectly in the management of the Medical Marijuana Dispensary nor, further, shall manage or handle the receipts and expenses of the collective. For each Manager, submit a summary criminal history ("LiveScan") prepared not more than two (2) weeks prior to the date of submission and demonstrating that there are no pending charges or convictions for any crime (including, without limitation, theft, fraud, or assault) within the previous 10 years, and that the subject is not currently on parole or probation for the sale or distribution of a controlled substance.
8. Either (a) if the Medical Marijuana Dispensary is incorporated, a certified copy of Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information and a copy of the Medical Marijuana Dispensary's bylaws demonstrating that the Medical Marijuana Dispensary is organized as a non-profit entity; or (b) if the Medical Marijuana Dispensary is unincorporated, a copy of the Medical Marijuana's notarized creating document demonstrating that the Medical Marijuana Dispensary is organized as a non-profit entity. A creating document may include articles of association, bylaws, constitution, or other documents that set forth how the Medical Marijuana Dispensary will operate.
9. A seller's permit from the California Board of Equalization.
10. The name and address of the applicant's current agent for service of process.
11. A copy of the Medical Marijuana Dispensary's operating conditions, containing a statement dated and signed by each Manager, under penalty of perjury, he or she has read, understands and shall ensure compliance with all operating conditions.
12. A copy of the prohibited activity checklist, available from the City containing a statement dated and signed by each Manager, under penalty of perjury, that he or she has read, understands and shall ensure that neither the Medical Marijuana Dispensary nor its members and Managers shall engage in the prohibited activity.
13. A statement of whether edible medical marijuana is prepared at the Property and, if so, evidence of approval from Solano County Department of Resource Management.
14. No Medical Marijuana Dispensary owner shall own and operate more than one Medical Marijuana Dispensary in Vallejo.

B. Annually with the application to renew the tax certificate and permit the Medical Marijuana Dispensary shall submit any updates to or revisions to the information in subsection A.

7.100.085 Revocation of Permit

- A. The city manager may revoke a permit if any of the following conditions apply:
1. Failure or inability to comply with the provisions of Chapter 7.100.
 2. Failure to provide information required by city.

3. Any owner or manager of Medical Marijuana Dispensary has been convicted of an offense listed in subsection 7.100.080(A)(7).
4. Medical Marijuana Dispensary has had state license pursuant to MAUCRSA suspended or revoked.
5. Failure to pay city marijuana tax.
6. Failure to maintain valid state seller's permit.

B. No revocation shall occur unless the city manager has issued a written warning sent by U.S. mail to the Medical Marijuana Dispensary and the Medical Marijuana Dispensary has failed to comply within 30 days of mailing.

7.100.088 Appeal

A. Any person aggrieved by the decision of the city manager to revoke the permit may appeal the city manager's written decision to a hearing officer selected by the city. The hearing officer shall render a decision affirming or reversing the decision of the city manager. The hearing officer may direct the reconsideration of the matter in the light of his or her decision but the decision shall not limit or control in any way the discretion vested by law in the city.

B. Any person aggrieved by the decision of the hearing officer may seek judicial review of the decision by filing a petition with a court of competent jurisdiction pursuant to Code of Civil Procedure Section 1094.5 and 1094.6.

7.100.090 Operating Conditions.

A Medical Marijuana Dispensary must have a prohibited activity checklist acknowledging each prohibited activity set forth in section 7.100.070, to be signed by each Manager, with an obligation to refrain from such activity. In addition, each Medical Marijuana Dispensary shall continually operate in accordance with all of the following conditions of operation, provided that additional conditions may be imposed by the City as necessary to preserve the public health, safety, and welfare:

A. The Property satisfies all location requirements as set forth in this chapter.

B. All taxes and fees paid to the City are current.

C. The Property complies with all applicable Building and Fire Code provisions, the Property Maintenance Ordinance, and the Property is maintained free of debris, litter and trash.

D. The Property provides a sufficient odor-absorbing ventilation and exhaust system so that odor generated inside the Property is not detected outside the Property, anywhere on adjacent Property or public rights-of-way, or within any other unit located within the same building as the Medical Marijuana Dispensary.

E. ~~No Medical Marijuana Dispensary shall operate for profit.~~ All transactions, including but not limited to cash or in-kind contributions, reimbursement or compensation, shall be fully documented.

F. The Medical Marijuana Dispensary must have a security plan including procedures for verifying identification of Qualified Patients and Primary Caregivers both before entering the dispensary and again before receiving medical marijuana; a description of the physical presence of licensed and uniformed security guards required to be present including their number, location

and specific hours on site; and a theft prevention plan which includes locked exterior doors and windows during the times the business is closed.

G. The Medical Marijuana Dispensary must use point of sale software acceptable to the finance director.

H. A Medical Marijuana Dispensary may only do business, apply for local and state licenses, advertise and dispense under one name, which must be the name on the local permit and on the state license.

I. A Medical Marijuana Dispensary shall file with the City Manager a copy of any state application for new or renewed marijuana licenses within 7 days of the application.

7.100.100 Prohibition Against Transfer or Relocation.

A. No Medical Marijuana Dispensary that is sold or transferred will receive limited immunity. Transfer is a change in principals, assignment of lease or sale of business asset other than a Marijuana product.

B. Except for a relocation allowed under section 7.100.060, no Medical Marijuana Dispensary shall relocate. The following shall be deemed an unauthorized change in location:

1. Any relocation or expansion that includes a separate piece of property or parcel of land.
2. Any expansion of the property which represents a greater than fifty (50) percent increase in the square footage of occupancy or in the square footage that is open to the public.

7.100.110 Maintenance of Records.

A. A Medical Marijuana Dispensary shall maintain the following accurate and truthful records on the Property:

1. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the Property.
2. The full name, address, and telephone number(s) of each Manager and the exact nature of the participation in the management of the Medical Marijuana Dispensary.
3. The full name, address, and telephone number(s) of each Medical Marijuana Dispensary Manager.
4. The current address of all sites at which Marijuana is cultivated on behalf of the Medical Marijuana Dispensary.
5. The full name, date of birth, residential address, and telephone number(s) of each Medical Marijuana Dispensary member and Manager; the date each joined; the exact nature of each member's and Manager's participation in the Medical Marijuana Dispensary; and the status of each member and Manager as a Qualified Patient or Primary Caregiver.
6. A written accounting of all cash and in-kind contributions, reimbursements, and compensation provided by or to the Managers and members to or from the Medical Marijuana Dispensary, and all expenditures and costs incurred by the Medical Marijuana Dispensary.
7. An inventory record documenting the dates and amounts of Marijuana stored on the property.

8. Copies of the prohibited activity checklist containing a statement dated and signed by each Medical Marijuana Dispensary member and Manager, under penalty of perjury, that he or she has read, understands and shall not engage in the prohibited activity.

B. These records shall be maintained by the Medical Marijuana Dispensary for a period of five (5) years and shall be made available by the collective to the City upon request, subject to the authority set forth in section 7.100.120.

7.100.120 Inspection Authority.

City representatives may enter and inspect the property of every Medical Marijuana Dispensary between the hours of nine o'clock (9:00) a.m. and seven o'clock (7:00) p.m., or at any reasonable time to ensure compliance and enforcement of the provisions of this chapter. It is unlawful for any Property owner, landlord, lessee, Medical Marijuana Dispensary member or Manager or any other person having any responsibility over the operation of the Medical Marijuana Dispensary to refuse to allow, impede, obstruct or interfere with an inspection.

7.100.130 Public Nuisance

Any Medical Marijuana Dispensary that is not in compliance with sections 7.100.060-.080 and 7.100.080-.110 is an illegal public nuisance.

7.100.140 Enforcement.

A. Any person violating any provision of this chapter or misrepresenting any material fact in demonstrating compliance with requirements for limited immunity shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.

B. As a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state law for any violation committed by the Medical Marijuana Dispensary, its Managers, members or any person related or associated with the Medical Marijuana Dispensary.

~~7.100.150 Limited Severability.~~

~~If any provision or clause of section 7.100.030 of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall invalidate every other provision, clause and application of section 7.100.030 of this chapter, and to this end the provisions and clauses of section 7.100.030 of this chapter are declared to be inseverable.~~

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a 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 passed and adopted this ordinance, and each and all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

SECTION 3. Effective Date.

This Ordinance shall take effect and be in full force and effect from and after (30) days after its final passage.

DRAFT

ORDINANCE NO. _____N.C. (2d)

AN ORDINANCE ADDING CHAPTER 7.200 TO THE VALLEJO MUNICIPAL CODE ESTABLISHING REGULATORY REQUIREMENTS FOR MEDICAL MARIJUANA CULTIVATION, DISTRIBUTION, AND MANUFACTURING

WHEREAS, the City recognizes that the issuance of permits for cultivation, manufacturing and/or distribution of medical marijuana is a valid governmental interest to ensure access to medical marijuana by those sick people who have a doctor’s recommendation or identification card in compliance with state law while ensuring that the impacts of those businesses on the neighborhood are regulated, as detailed in staff reports;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN as follows:

SECTION 1. Vallejo Municipal Code Chapter 7.200 is hereby added to read as follows:

*Chapter 7.200
Cultivation, Distribution, and
Manufacturing of Medical Marijuana*

- 7.200.010** *Purpose and Intent*
- 7.200.020** *Definitions*
- 7.200.030** *Marijuana Business Permit Required; Unlawful to Make False Statements*
- 7.200.040** *Approval of permit to operate*
- 7.200.050** *Renewal of permit to operate (P-MFG) (P-DST) (P-CLT)*
- 7.200.060** *No Vested or Non-Conforming Rights.*
- 7.200.070** *Regulatory requirements for Medical Marijuana Cultivation, Manufacturing and/or Distribution Activity.*
- 7.200.080** *Additional Operating Conditions for (P- MFG) Medical Marijuana Manufacturing Permittees*
- 7.200.090** *Revocation of Permit to operate (P-MFG) (P-DST) (P-CLT),*
- 7.200.100** *Appeal of Denial or revocation of a permit to operate (P-MFG) (P-DST) (P-CLT)*
- 7.200.110** *Severability*
- 7.200.120** *Effective Date.*

7.200.010 *Purpose and Intent.*

It is the purpose and intent of this chapter to exercise local police power and authority to the full extent allowed by the California Constitution and Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017, facilitate safe access to and regulate certain businesses

involved in the manufacturing, cultivation and distribution of medical marijuana, and prevent the proliferation of noncompliant illegal marijuana businesses and negative secondary effects associated with them including crime, code violations, and strain on municipal staff and resources. This ordinance is not intended to conflict with federal or state law. Nothing in this ordinance purports to permit activities that are otherwise illegal under federal, state, or local law.

7.200.020 Definitions.

In addition to specific definitions listed below, words or phrases, wherever used in this Chapter, shall have the same meaning as those listed in Chapter 7.100 Medical Marijuana.

“Distribution” means the procurement, sale, and transport of marijuana and marijuana products between licensees.

“Licensee” means a person who holds both a state license and a local permit under the jurisdiction of a city or county.

“Manufacturing” refers to the non-volatile production, preparation, propagation, or compounding of medical marijuana or medical marijuana 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 medical marijuana or medical marijuana products or labels or re-labels its container.

The following words or phrases when used in this section shall be construed as defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 and regulations promulgated by the state implementing agencies: “Cultivation,” “Cultivation Site,” “Volatile Solvent.”

7.200.030 Permit to Operate Required; Unlawful to Make False Statements

A. *Any Marijuana Cultivation, Distribution or Manufacturing business, shall operate in conformance with all applicable laws set forth in this chapter, the Vallejo Municipal Code, and applicable California state law and regulations.*

B. *Only persons who have been issued a permit to operate a Medical Marijuana Dispensary (P-MMD) pursuant to Section 7.100.050 may apply for and receive a permit to conduct the following activities: Medical Marijuana Manufacturing (P-MFG), Distribution (P-DST) and/or Cultivation (P-CLT). It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises within the City of Vallejo any Marijuana Manufacturing, Distribution or Cultivation activity without a (P-MFG), (P-DST) and/or (P-CLT) permit authorizing the activity, or in violation of all applicable local and state laws. Each Medical*

Marijuana Dispensary that has been issued a permit to operate (P-MMD) may apply for one each of the following permits to operate a (P-MFG), a (P-DST) or a (P-CLT), and is limited to one location in addition to the MMD location.

C. The applications for a permit to operate (P-MFG) (P-DST) (P-CLT) shall be submitted to the City Manager's office on a form provided by the city. The application shall be accompanied by a fee in an amount to be set by city council resolution. The following items shall accompany the application:

- 1. A copy of the current permit to operate (P- MMD).*
- 2. Property address for the proposed activity and preliminary assessment by the Planning Manager that Title 16 requirements can be met at the location. The cultivation, manufacture, and distribution of marijuana pursuant to this Chapter may, but does not have to, be located on the same site as a permitted medical marijuana dispensary so long as the use is permitted pursuant to Title 16 and meets the requirements of this Code and State law.*
- 3. The name, address, telephone number, title and function(s) of each Manager. For each Manager, a fully legible copy of one (1) valid government-issued form of photo identification, such as a driver's license.*
- 4. A copy of section 7.200.050, containing a statement dated and signed by each Manager, under penalty of perjury, he or she has read, understands and shall ensure compliance with all requirements.*
- 5. A statement of whether edible medical marijuana is prepared onsite and, if so, evidence of approval from Solano County Department of Resource Management.*
- 6. A security plan for the proposed location, including a description of the physical presence of licensed and uniformed security guards required to be present including their number, location and specific hours on site, and a theft prevention plan which includes locked exterior doors and windows during the times the business is closed.*
- 7. A summary criminal history, also known as LiveScan, prepared for each Manager at each site. LiveScan must be run no more than three weeks prior to the date of submission and it must demonstrate there are no pending charges or convictions for any crime including without limitation theft, fraud, or assault within the previous 10 years, and that the individual is not currently on parole or probation for the sale or distribution of a controlled substance.*

D. If any of the application requirements are not met, the city manager shall notify the applicant of the deficiency within thirty calendar days of submission of the application, after which the applicant will have ten calendar days from receipt of notice to correct the deficiency. If the deficiency is not corrected within ten calendar days, the City manager may deny the permit and notify the applicant of this determination in writing.

E. A permit to operate (P-MFG) (P-DST) (P-CLT) is valid for one year from the date of issuance and must be renewed on or before June 30 of every year thereafter.

F. Annually with the application to renew the applicable permit to operate (P-MFG) (P-DST) (P-CLT) and tax certificate, the Medical Marijuana Dispensary shall submit any updates to or revisions to the initial information provided in the application as contained in section 7.200.030 C.

7.200.040 Approval of permit to operate

The city manager in his or her reasonable discretion, may grant a permit to operate (P-MFG) (P-DST) (P-CLT) to any person who possesses a P-MMD and meets all the applicable requirements of this chapter, and all other applicable zoning, tax, local laws and state laws. A permitted Medical Marijuana Dispensary that is otherwise eligible for a permit to cultivate, distribute or manufacture under this chapter, and that has applied for but not yet been issued a minor use permit, or other necessary license or entitlement, may nevertheless obtain a conditional permit to operate (P-MFG) (P-DST) (P-CLT) contingent upon subsequent approvals by the planning commission, city council, or other regulatory body. The applicant must forward a copy of any state license and any correspondence received from the state regarding an applicant's state license to the city manager or his/her designee within 7 days of receipt.

7.200.050 Renewal of permit to operate (P-MFG) (P-DST) (P-CLT)

- A. Applications for the renewal of a permit to operate (P-MFG) (P-DST) (P-CLT) shall be filed with the city manager at least sixty (60) calendar days before the expiration of the current permit. Any permittee who fails to obtain a renewal on or before expiration of a current permit shall be required to submit a new application and pay the fee for the new application.***
- B. Any person seeking to obtain a renewal of a permit under this chapter shall file an application under penalty of perjury on the required form with the City manager. The application shall be accompanied by a nonrefundable fee established by the City Council. An applicant for renewed permit shall update the information last submitted and provide any new and/or additional information as may be reasonably required by the City manager to determine whether the permit should be renewed.***
- C. It is unlawful for any person knowingly to make any false, misleading or inaccurate statement or representation in any form, record, filing or documentation required to be maintained, filed or provided to the City under this chapter or any applicable section of the Vallejo Municipal Code. A violation of this subsection may be prosecuted as a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.***

7.200.060 No Vested or Non-Conforming Rights.

Issuance of a permit to operate (P-MFG) (P-DST) (P-CLT) pursuant to this chapter does not create, confer, or convey any vested or nonconforming right or benefit or land use entitlement

running with the land regarding any medical marijuana cultivation, distribution, or manufacturing business.

7.200.070 Regulatory requirements for Medical Marijuana Cultivation, Manufacturing and/or Distribution Activity.

Each applicant for a permit to operate under this chapter (P-MFG) (P-DST) (P-CLT), shall demonstrate initial and continuing compliance with the following requirements:

- A. The applicant has met or can meet all applicable requirements of Title 16 (zoning ordinance). Any permit to operate under this chapter shall be contingent upon obtaining and maintaining compliance with a minor use permit (or any other applicable land use entitlement or approval under Title 16), obtaining all local approvals (including but not limited to building permits and certificates of occupancy if applicable), and paying all required fees.*
- B. All taxes and fees paid to the City are current.*
- C. The property complies with all applicable Building and Fire Code provisions, the Property Maintenance Ordinance, and the Property is maintained free of debris, litter and trash.*
- D. All transactions shall designate Vallejo as the point of sale and be completed through a single, fully integrated point of sale software system acceptable to the Finance Director.*
- E. Inspections by a representative of the City may be conducted anytime during the business's regular business hours, to the full extent allowed by state and federal law.*
- G. An applicant or permittee may only do business, apply for local and state licenses, advertise and dispense under one name, which must be the name on their local permits and on their state license.*
- H. A person holding a P-MMD shall maintain, own or control no more than two locations within the city of Vallejo in which he/she conducts business under a permit to operate (P-MFG) (P-DST) (P-CLT) pursuant to this chapter.*

7.200.080 Additional Operating Conditions for (P- MFG) Medical Marijuana Manufacturing Permittees

- A. Manufacturing Permittee may only conduct non-volatile extractions, repackaging and relabeling, infusions and extractions.*
- B. No Manufacturing of any kind other than as described by Permittee in the permit application may be conducted.*

7.200.090 Revocation of Permit to operate (P-MFG) (P-DST) (P-CLT),

- A. The City Manager may revoke a permit if any of the following conditions apply:*

1. *Failure or inability to comply with the provisions of Chapter 7.200 or 7.100 or any other applicable provision of the Vallejo Municipal Code or applicable state law;*
2. *Failure to provide information required by City;*
3. *Conviction of an offense listed in Section 7.100.080(A)(7) of the Vallejo Municipal Code;*
4. *Suspension or revocation of a required state license pursuant to MAUCRSA ;*
5. *Failure to pay City marijuana tax; or*
6. *Failure to maintain valid State seller's permit.*

B. No revocation shall occur unless the City Manager has issued a written warning sent by U.S. mail to the holder of the permit to operate and the permit holder has failed to comply within 30 days of mailing.

7.200.100 Appeal of Denial or revocation of a permit to operate (P-MFG) (P-DST) (P-CLT)

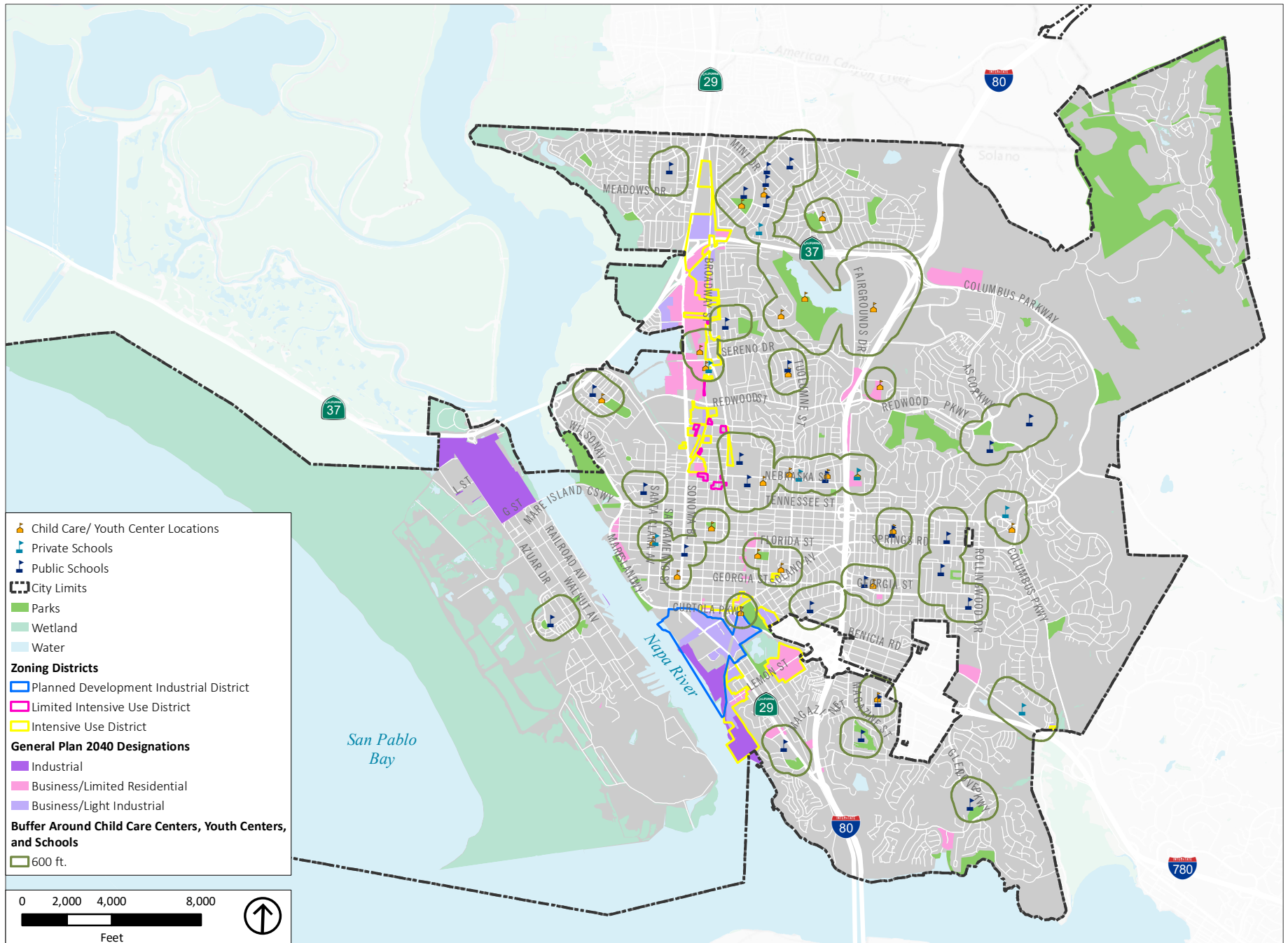
- A. *Any person aggrieved by the decision of the City Manager or his/her designee to deny or revoke the permit to operate (P-MFG) (P-DST) (P-CLT) may appeal the City Manager or his/her designee's written decision within 10 days of the date of issuance.*
- B. *The appeal shall be heard by a hearing officer selected by the City. The hearing officer shall render a written decision affirming or reversing the decision of the City Manager or his/her designee.*
- C. *Any person aggrieved by the decision of the hearing officer may seek judicial review of the decision by filing a petition with a court of competent jurisdiction pursuant to Code of Civil Procedure Section 1094.5 and 1094.6.*

7.200.110 Severability

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a 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 passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

7.200.120 Effective Date

This Ordinance shall take effect and be in full force and effect from and after thirty (30) days after its final passage.



Source: ESRI, 2017; City of Vallejo, 2017; PlaceWorks, 2017.

CITY OF VALLEJO PLANNING COMMISSION

RESOLUTION NO. PC 17-22

**A RESOLUTION OF INTENTION OF THE PLANNING COMMISSION TO
INITIATE AMENDMENTS TO TITLE 16 REGARDING MEDICAL
MARIJUANA CULTIVATION, DISTRIBUTION AND MANUFACTURING, AND
MAKING A STATEMENT OF FINDINGS OF CONSISTENCY WITH
GENERAL PLAN 2040, AND RECOMMENDING TO CITY COUNCIL
ADOPTION OF ORDINANCES**

BE IT RESOLVED by the City Planning Commission of the City of Vallejo as follows:

WHEREAS, the City Council seeks to provide for the use of land for the purpose of medical marijuana cultivation, distribution and manufacturing, and consistent with California State Law Senate Bill 94 Medical and Adult Use of Cannabis Regulatory and Safety Act (MAUCRSA); and

WHEREAS, the City Council on June 7, 2017 formed an Ad-Hoc Committee of the City Council and directed staff to amend Vallejo Municipal Code to provide permits to medical marijuana dispensaries to offer reassurance to the Marijuana Medical Dispensary industry that they will have local authorization for future State licenses under MAUCRSA; and

WHEREAS, this resolution of intention finds that the amendments to the Vallejo Municipal Code Zoning Ordinance are consistent to the City of Vallejo’s General Plan 2040 as the amendments will generate new tax revenue, support manufacturing, distribution and cultivation of an existing Marijuana Medical Dispensary industry, allowing the industry to operate in a code compliant manner with local and State laws and locate in prescribed zoning districts; and

WHEREAS, this resolution of intention finds that the amendments to the Vallejo Municipal Code Zoning Ordinance is consistent to the City of Vallejo’s General Plan 2040 policies and zoning map; and

WHEREAS, this resolution of intention is only a precursor to the possible adoption of an ordinance at a future time, and therefore it is an action which may not cause either a direct physical change in the environment or a reasonable foreseeable indirect physical change in the environment, it is therefore not a ‘project’ within the meaning of CEQA Guidelines 21065.

NOW THEREFORE BE IT RESOLVED, that the City Planning Commission hereby expresses its intention to initiate amendments to Title 16 regarding medical marijuana cultivation, distribution, and manufacturing.

BE IT FURTHER RESOLVED, the Planning Commission hereby finds consistency with the General Plan 2040 as follows:

Policy EET-2.1 Economic Diversification. Attract employment and tax generating businesses that support the economic diversity of the city.

The proposed amendments will further diversify the economic base of the City of Vallejo (the City) and provide additional tax generating revenue for the City.

Action EET-2.1A In City economic development plans, target firms in production, distribution, and repair that are part of the supply chain to Vallejo's key industries.

The proposed amendments will support manufacturing, distribution and cultivation of existing Medical Marijuana Dispensaries, a key industry.

Policy EET-2.2 Good Jobs. Retain and attract new businesses offering high quality jobs.

The proposed amendments will attract workforce to support a key industry by retaining existing Medical Marijuana Dispensaries.

Action EET-2.2A Update City regulations to streamline project review as feasible for businesses that meet the City's economic development and workforce support objectives.

The proposed amendments to Title 16 of Zoning recognize the City as a business friendly community by allowing Medical Marijuana Dispensaries a code compliant process that allows them to operate cultivation, distribution and manufacturing.

Action EET-2.2B Seek out businesses that build on Vallejo's competitive advantages and offer high and living wage jobs in a range of industries such as advanced manufacturing, maritime industrial, biosciences/life sciences, and tourism/hospitality.

The proposed amendments build and encourage the Medical Marijuana industry to locate in zoning districts similar to other uses that manufacture.

BE IT FURTHER RESOLVED, that the Planning Commission recommends City Council adoption of ordinances amending Title 16 based on the following findings:

General Plan 2040 Title 16 for Zoning Amendment Consistency Findings

VMC 16.86.050(G), requires that the Planning Commission hold a hearing and within 90 days issue a resolution specifying a statement of findings to the City Council. The findings cited are consistent with the General Plan. The findings are listed below in bold with staff

response in italics as follows:

1. A statement of findings that the petition or resolution of intention is, or is not, consistent with the general plan of the city; and

A positive recommendation from the Planning Commission to the City Council to adopt the proposed amendment is consistent with the General Plan 2040 as the amendment will generate new tax revenue, support manufacturing, distribution and cultivation of an existing Medical Marijuana Dispensary industry, allow MMDs to operate in a code compliant manner with local and State laws, and locate in prescribed zoning districts.

2. A recommendation including the reasons for the recommendation as they relate to the above statement of findings.

Staff proposes a recommendation to adopt amendments to Title 16 of Zoning for the following reasons:

- 1. Consistency with the General Plan.*
- 2. Consistency with the Zoning Map (Attachment 3).*
- 3. Further diversification of the economic base in the City of Vallejo.*
- 4. Support and retention of an existing industry that is vital to the City of Vallejo.*
- 5. Support and location of an existing industry in zoning districts that allow similar types of uses.*

ADOPTED by the City Planning Commission of the City of Vallejo at a regular meeting held on November 6, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN: