

## ORDINANCE NO. 2237

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWTHORNE, CALIFORNIA, AMENDING CHAPTERS 17.04, 17-14, 17.25, 17.26, 17.28, 17.29, 17.32, AND 17.34, AND DELETING AND REPLACING CHAPTER 17.90 OF TITLE 17 (ZONING) OF THE HAWTHORNE MUNICIPAL CODE RELATED TO ZONING OF CANNABIS BUSINESSES**

**WHEREAS**, in 2016 California voters passed Proposition 64, The Adult Use of Marijuana Act or AUMA which legalized the adult (21 years and over) use of cannabis; and

**WHEREAS**, in 2016 the City Council adopted Ordinance No. 2106 which amended Title 17 of the Zoning Code to prohibit all forms of cannabis cultivation, processing, and delivery within the City of Hawthorne except where the City is prohibited by state or federal law from such prohibitions; and

**WHEREAS**, in 2017, SB 93 or Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) became law which merged the medicinal licensing with the adult use laws; and

**WHEREAS**, in 2017 the City Council adopted Ordinance No. 2148 which prohibited all forms of non-medical cannabis businesses from operating within the City of Hawthorne; and

**WHEREAS**, in November 2020, the registered voters of the City of Hawthorne passed Measure CC which approved a 5% tax on gross revenue of cannabis business; and

**WHEREAS**, in October 2021, the City passed Resolution No. 8305 which created the Cannabis Working Committee that endeavored to implement the City's cannabis program while holding several town-hall meetings and regular open meetings to discuss and inform the community residents regarding the cannabis program; and

**WHEREAS**, based on the series of Cannabis Working Committee meetings and City Council meetings, a direction was given to author a comprehensive Commercial Cannabis Business ordinance, and

**WHEREAS**, the City Council held a public hearing on October 25, 2022, on the Commercial Cannabis Business ordinance and adopted the same at the regular meeting of November 8, 2022; and

**WHEREAS**, it is necessary to designate which cannabis business activities may occur in which zones; and

**WHEREAS**, on November 16, 2022, the Planning Commission of the City of Hawthorne considered the zone text amendment and, after a duly noticed public hearing where all persons in support and in opposition were heard, adopted Resolution No. PC2022-15 recommending approval of the ordinance to the City Council; and

**WHEREAS**, on January 10, 2023, the City Council considered the Planning Commission's recommendation and, after a duly noticed public hearing where all persons in support and in opposition were heard, introduced this ordinance; and

**WHEREAS**, the City Council of the City of Hawthorne wishes to now adopt Ordinance No. 2237 in furtherance of the City's objective to provide appropriate zoning and separation regulations for cannabis businesses.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWTHORNE DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The foregoing recitals are true and correct.

**SECTION 2.** Section 17.04.010 (Definitions) of Chapter 17.04 (Definitions) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the addition of the following definitions in their appropriate alphabetical order and removal of any text that is struck through, (new language is underlined and language to be removed shown in strikethrough):

"California Environmental Quality Act (CEQA)" is the state law (California Public Resources Code Sections 21000 et seq.) requiring public agencies to document and consider the environmental effects of a proposed action, prior to allowing the action to occur.

"Cannabis adult-use retail" is the business wherein cannabis, cannabis products or devices for the use of cannabis, are offered for retail sales or delivery to persons 21 years of age and over, and qualifies for an A-license under Division 10 of the Business and Professions Code.

"Cannabis business" is a business engaged in any commercial cannabis activity pursuant to local and state laws.

"Cannabis consumption area". is a licensed retail premise where cannabis may be purchased for on-site consumption only by persons 21 years of age and over.

"Cannabis delivery services" means the commercial transfer of cannabis or cannabis products to a customer, including the use by a retailer of any technology platform owned and controlled by the retailer.

"Cannabis distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees only, not to retail customers or medical patients.

“Cannabis manufacturer” is an establishment that conducts production, propagation, blending, infusion, or, compounding of cannabis or cannabis products either directly or indirectly by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis products or labels or relabels its container.

“Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate. This includes but is not limited to, concentrated cannabis, an edible or topical product containing cannabis, or concentrated cannabis with other ingredients.

“Cannabis Screening Application (CSA)” is the initial application required for all prospective cannabis businesses proposed within the city.

“Cannabis testing laboratory” means a laboratory or facility that offers or performs tests of both adult use and medical cannabis or cannabis products and that is both of the following: (1) accredited by an accrediting body (i.e., International Organization for Standardization (ISO)) that is independent from all other persons involved in commercial cannabis activity in the state; and (2) is licensed by the Bureau of Cannabis Control.

“Commercial cannabis activity” is any commercial activity involving retail, delivery, distribution, planting, growing, harvesting, drying, curing, grading, trimming, or testing of cannabis, as well as the manufacturing of cannabis products, except for the personal cultivation allowed for medical patients and adults under state law.

“Commercial cannabis cultivation” is any commercial activity involving planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, except for the personal cultivation allowed for medical patients and adults under state law.

“Commercial daycare center” is a business that provides care and supervision to children or adults without overnight stays and is located in a commercial zone. Large and small family daycare are residential uses and are not included in this definition.

~~“Marijuana cultivation (for medical or non-medical purposes)” means growing, planting, harvesting, drying, curing, grading, trimming, or processing of marijuana plants or any part thereof.~~

~~“Marijuana dispensary” or “marijuana dispensaries (for medical or non-medical purposes)” means any business, office, store, facility, location, retail storefront or wholesale component of any establishment, cooperative or collective that delivers (as defined in Business and Professions Code Section 19300.5(m) or any successor statute thereto) whether mobile or otherwise, dispenses, distributes, exchanges, transmits, transports, sells or provides~~

~~marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California, or for the purposes set forth in California Health and Safety Code Section 11362.5.~~

~~“Marijuana processing (for medical or non-medical purposes)” means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including, but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.~~

~~“Medical marijuana collective” or “medical marijuana cooperative” means any group that is collectively or cooperatively cultivating and distributing marijuana for medical or non-medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 or California Health and Safety Code Sections 11362.7 to 11362.83.~~

~~“Medical marijuana dispensary” means a facility, business or entity of any nature that grows, sells, provides, or otherwise distributes marijuana for medical purposes as described in California Health and Safety Code Section 11362.5 or any successor provision thereto. This definition shall not include any state licensed health care facility that may lawfully be established and operate as such within any zone of the city. Medical marijuana dispensaries are prohibited in the city of Hawthorne.~~

~~“Treatment/recovery facility” is a residential or commercial facility that holds a license from the Department of health Care Services (DHCS) to deliver drug or alcoholism recovery or treatment services.~~

**SECTION 3.** Section 17.14.030 (Prohibited uses) of Chapter 17.14 (R-1 low density residential classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended to read as follows:

~~Marijuana cultivation, marijuana processing, marijuana delivery, except as authorized in Section 17.90.070, and marijuana dispensaries;~~ Commercial cannabis cultivation, manufacturing, distribution, testing, delivery, and retail business except where the city is prohibited by federal or state law from enacting a prohibition on any such activity.

**SECTION 4.** Section 17.25.020 (Permitted uses) of Chapter 17.25 (Regional commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the addition of the following text in alphabetical order:

- Cannabis businesses, subject to all of the provisions of Chapter 17.90;

**SECTION 5.** Section 17.25.025 (Prohibited uses) of Chapter 17.25 (Regional commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the removal of the following text:

- ~~Marijuana cultivation, marijuana processing, marijuana delivery, except as authorized in Section 17.90.070, and marijuana dispensaries, except where the city is prohibited by federal or state law from enacting a prohibition on any such activity;~~

**SECTION 6.** Section 17.26.020 (Permitted uses) of Chapter 17.26 (C-2 local commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the addition of the following text in alphabetical order:

- Cannabis businesses, subject to all of the provisions of Chapter 17.90;

**SECTION 7.** Section 17.26.025 (Prohibited uses) of Chapter 17.26 (C-2 local commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the removal of the following text:

- ~~Marijuana cultivation, marijuana processing, marijuana delivery, except as authorized in Section 17.90.070, and marijuana dispensaries, except where the city is prohibited by federal or state law from enacting a prohibition on any such activity;~~

**SECTION 8.** Section 17.28.020 (Permitted uses) of Chapter 17.26 (C-3 general commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the addition of the following text in alphabetical order:

- Cannabis businesses, subject to all of the provisions of Chapter 17.90;

**SECTION 9.** Section 17.28.025 (Prohibited uses) of Chapter 17.26 (C-3 general commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the removal of the following text:

- ~~Marijuana cultivation, marijuana processing, marijuana delivery, except as authorized in Section 17.90.070, and marijuana dispensaries, except where the city is prohibited by federal or state law from enacting a prohibition on any such activity;~~

**SECTION 10.** Section 17.29.020 (Permitted uses) of Chapter 17.29 (CM mixed commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the addition of the following text in alphabetical order:

- Cannabis businesses, subject to all of the provisions of Chapter 17.90;

**SECTION 11.** Section 17.29.030 (Prohibited uses) of Chapter 17.29 (CM mixed commercial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the removal of the following text:

- ~~Marijuana cultivation, marijuana processing, marijuana delivery, except as authorized in Section 17.90.070, and marijuana dispensaries, except where the city is prohibited by federal or state law from enacting a prohibition on any such activity;~~

**SECTION 12.** Section 17.32.020 (Permitted uses) of Chapter 17.32 (M-1 limited industrial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the addition of the following text in alphabetical order:

- Cannabis businesses, subject to all of the provisions of Chapter 17.90;

**SECTION 13.** Section 17.32.025 (Prohibited uses) of Chapter 17.32 (M-1 limited industrial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the removal of the following text:

- ~~Marijuana cultivation, marijuana processing, marijuana delivery, except as authorized in Section 17.90.070, and marijuana dispensaries, except where the city is prohibited by federal or state law from enacting a prohibition on any such activity;~~

**SECTION 14.** Section 17.34.020 (Permitted uses) of Chapter 17.34 (M-2 heavy industrial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the addition of the following text in alphabetical order:

- Cannabis businesses, subject to all of the provisions of Chapter 17.90;

**SECTION 15.** Section 17.34.025 (Prohibited uses) of Chapter 17.34 (M-2 heavy industrial classification) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be amended by the removal of the following text:

- ~~Marijuana cultivation, marijuana processing, marijuana delivery, except as authorized in Section 17.90.070, and marijuana dispensaries, except where the city is prohibited by federal or state law from enacting a prohibition on any such activity;~~

**SECTION 16.** Chapter 17.90 (non-medical marijuana) of Title 17 (Zoning) of the Hawthorne Municipal Code shall be deleted in its entirety and replaced with the following:

**Chapter 17.90 COMMERCIAL CANNABIS BUSINESSES**

17.90.010 Purpose.

17.90.020 Sensitive uses separation requirements

17.90.030 Zoning

17.90.040 Cultivation for personal use

**17.90.010 Purpose.**

The purpose and intent of this section is to establish zoning and development standards for commercial cannabis businesses in order to promote the health, safety and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to state law. All commercial cannabis activities must be conducted in compliance with all applicable local and state laws, as they may change from time to time, without exception. Protection of the public shall be the highest priority for the City in exercising its regulatory and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

**17.90.020 Sensitive Uses Separation Requirements.**

All commercial cannabis activities, as authorized in Chapter 5.100, shall be subject to the following sensitive uses separation requirements.

A. A licensed cannabis retailer must be outside of a 600-foot radius of any public park, private or public K-12 school; and outside of a 150-foot radius of a commercial daycare center, treatment/recovery facility, and other licensed retailers or consumption businesses.

B. Licensed cannabis cultivation, manufacturing, distribution, delivery, or testing business must be outside of a 150-foot radius of any public park, private or public K-12 school, commercial daycare center, treatment/recovery facility, and other licensed cannabis retailers or consumption businesses.

**17.90.030 Zoning.**

A. The table below summarizes the allowed commercial cannabis businesses within the Hawthorne Municipal Code, Chapter 5.100. No commercial cannabis activities are allowed unless explicitly expressed in this chapter.

CANNABIS USE	ZONE	
	All C-zones	All M-zones
Retail with or without consumption lounge or ancillary delivery service	CSA & CUP*	CSA & CUP*
Commercial indoor cultivation, delivery service not ancillary to retail, distribution, manufacturing, or testing laboratory	NP	CSA
Commercial outdoor cultivation (greenhouses included)	NP	NP

Key: CUP – Conditional Use Permit; CSA – Cannabis Screening Application; NP – Not Permitted  
\* Only one CUP is required for retail. Delivery or consumption that is ancillary to retail is covered by the retail CUP.

B. Application fees for cannabis conditional use permits shall be established and amended by resolution of the City Council.

### **17.90.040 Limitation on cannabis consumption areas.**

The space devoted to cannabis consumption in conjunction with retail shall not exceed 50% of the total floor area of interior, but in no case more than 1,500 square feet.

### **17.90.050 Cultivation for Personal Use.**

Personal Use cultivation activities must be conducted in accordance with state law. Generally, residents can grow up to 6 cannabis plants at home if they are at least 21 years old. If the cannabis is turned into a product, volatile solvents like butane or propane cannot be used.

**SECTION 17. CEQA.** The City Council hereby finds, in the exercise of its independent judgement and analysis, that this Ordinance is exempt from the State CEQA Guidelines, the proposed Ordinance is a project subject to the California Environmental Quality Act (CEQA) and qualifies for an exemption from CEQA pursuant to Section 15061(b)(3) (Common Sense Exemption) of the State CEQA Guidelines (Chapter 3 of Division 6 of Title 14 of the California Code of Regulations). The activities are covered by the Common Sense Exemption because CEQA applies only to projects which have the potential for causing a significant effect on the environment. The amendments to Title 17 of the Hawthorne Municipal Code relate to the siting of commercial cannabis activities in commercial and industrial zones and establishing minimum separations between such businesses and other sensitive uses. There is no possibility that the change to the municipal code may have a significant effect to the environment, therefore the activity is not subject to CEQA. No special circumstances exist that the proposed change would create a significant adverse effect on the environment. Retail cannabis establishments will be subject to discretionary permits and will be assessed individually to ensure CEQA is applied accordingly. Other cannabis businesses will be subject to a ministerial approval process. A Notice of Exemption was completed and will be filed in compliance with CEQA and CEQA Guidelines.

**SECTION 18. SEVERABILITY.** If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any 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 this Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 19. AUTHORIZATION TO PUBLISH SUMMARY OF ORDINANCE.** Pursuant to Government Code Section 36933(c)(1), the City Attorney is authorized to prepare a summary of this ordinance. The City Clerk is also authorized to publish a summary of the text of this ordinance in the Hawthorne Press Tribune at least five days prior to the adoption of this ordinance. Within 15 days after adoption of the ordinance, the City Clerk is directed to publish a summary of this ordinance in the Hawthorne Press Tribune.



**SECTION 20. EFFECTIVE DATE.** This ordinance shall take effect 30 days after passage thereof.

**PASSED, APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_ 2023.

\_\_\_\_\_  
ALEX VARGAS, Mayor  
City of Hawthorne, California

**ATTEST:**

\_\_\_\_\_  
DAYNA WILLIAMS-HUNTER, City Clerk  
City of Hawthorne, California

**APPROVED AS TO FORM**

\_\_\_\_\_  
ROBERT KIM, City Attorney  
City of Hawthorne, California