

ORDINANCE NO. 1622

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WOODLAND AMENDING ARTICLE 21.5 OF CHAPTER 25 OF THE
WOODLAND MUNICIPAL CODE RELATED TO ZONING OF
PERSONAL CULTIVATION OF CANNABIS**

WHEREAS, the City of Woodland Municipal Code currently permits indoor personal cultivation of medical marijuana in residential zones by qualified patients and primary caregivers for medical purposes, subject to certain registration requirements and performance standards; and

WHEREAS, the City’s Municipal Code prohibits commercial cultivation of medical marijuana, cultivation of marijuana for non-medical purposes, and outdoor cultivation within any residential zone and within 600 feet of any child care center, park, school or residential use; and

WHEREAS, at the November 1, 2016 City Council meeting, the City Council adopted Ordinance No. 1602, an urgency interim zoning ordinance establishing a moratorium in all zoning districts on the outdoor cultivation of marijuana for non-medical purposes, in anticipation of Proposition 64 passing at the November 8, 2016 election; and

WHEREAS, at the November 8, 2016 election, California voters adopted Proposition 64, the Adult Use of Marijuana Act (“AUMA”), which took effect the day after the election on November 9, 2016, and authorized certain personal cultivation of marijuana for non-medical purposes; and

WHEREAS, at the November 15, 2016 City Council meeting, the City Council adopted Ordinance No. 1607 to extend the moratorium established by the previous urgency ordinance until October 1, 2017, in order to provide staff time to consider and develop recommendations for personal cultivation of marijuana in light of AUMA; and

WHEREAS, the City Council has determined that certain revisions to the City’s Zoning Ordinance regarding the personal cultivation of marijuana for medical and non-medical purposes are necessary in light of AUMA; and

WHEREAS, the City Council has determined that the reasonable regulations regarding personal cultivation contained in this Ordinance balance individuals’ rights to cultivate marijuana pursuant to State law with the public health and safety concerns of the City posed by cultivation of marijuana; and

WHEREAS, the City Council further finds that this Ordinance merely clarifies existing zoning regulations and prohibitions regarding cultivation of marijuana in light of State law and does not authorize new or more intensive land uses, and therefore it can be seen with reasonable certainty that this Ordinance does not have the potential for causing a significant effect on the environment; and

WHEREAS, to ensure consistency with State law, this Ordinance changes the word “marijuana” to “cannabis,” but the meaning of the word is the same; and

WHEREAS, it is the City Council’s intent that the moratorium on all outdoor cultivation of marijuana for non-medical purposes, as set forth in Ordinances Nos. 1602 and 1607, shall be repealed upon the effective date of this Ordinance.

NOW, THEREFORE, the City Council of the City of Woodland does hereby ordain as follows:

Section 1. Recitals. The above recitals are hereby adopted by the City Council and incorporated as though set forth in this section.

Section 2. Findings. Pursuant to Chapter 25, Article 29 of the Woodland Municipal Code, the City Council makes the following additional findings in support of the zoning amendments contained in this Ordinance:

A. The amendments contained in this Ordinance are necessary to clarify and maintain existing prohibitions and zoning regulations regarding personal cultivation of cannabis in light of State law amendments. Specifically, this Ordinance ensures that the zoning regulations and performance standards imposed on personal cultivation of cannabis apply to both medical and non-medical uses of cannabis, and clarifies that all outdoor cultivation of cannabis is prohibited in the City. Accordingly, pursuant to Section 25-29-01 of the Woodland Municipal Code, the City Council finds that this Ordinance is necessary for the public necessity, convenience, and general welfare of the City, its residents, and visitors.

B. The Planning Commission, after a duly noticed public hearing on August 3, 2017, determined that the proposed amendments in this Ordinance conform to the General Plan of the City and recommended adoption of this Ordinance.

Section 3. Amendment. Article 21.5 of Chapter 25 of the Woodland Municipal Code is hereby amended to read as follows:

Article 21.5. - Personal Cultivation of Cannabis.

Sec. 25-21.5-10. - Purpose.

The purpose and intent of this article is to regulate the personal cultivation of cannabis in a manner that protects the health, safety, and welfare of the community. This article is not intended to interfere with a patient's right to medical cannabis, as provided for in California Health and Safety Code Section 11362.5, as it may be amended, nor does it criminalize medical cannabis possession or cultivation by specifically defined classifications of persons, pursuant to state law. This article is not intended to give any person independent legal authority to grow cannabis; it is intended simply to impose zoning restrictions on the cultivation of cannabis when it is authorized by California state law for medical or other purposes.

Sec. 25-21.5-20. - Applicability.

(a) Applicability. This article is adopted notwithstanding the provisions of Section 25-2-40 concerning compliance with state and federal laws. No part of this article shall be deemed to

conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule, or regulation.

- (b) Nothing in this article shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of cannabis. No provision of this article shall be deemed a defense or immunity to any action brought against any person by the Yolo County District Attorney's Office, the Attorney General of the State of California, or the United States of America.

Sec. 25-21.5-30. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

“Cannabis” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including cannabis products derived therefrom. For purposes of this Article, “cannabis” shall mean and include both cannabis for medical purposes and non-medical cannabis, unless otherwise specified. No distinction is made in this article between cannabis used for medical purposes and cannabis used for non-medical purposes.

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

“Marijuana” has the same meaning as “cannabis.”

“Personal Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of cannabis or any part thereof, conducted by an individual for personal use, and not intended or conducted for sale, resale, or other commercial activity.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code Section 11362.7(d), as it may be amended.

“Qualified patient” shall mean a person identified in California Health and Safety Code Section 11362.7(c) or (f), as they may be amended.

Sec. 25-21.5-40. - Prohibited locations.

- (a) Personal cultivation of cannabis, including by a qualified patient or primary caregiver, is prohibited outdoors.
- (b) No person shall cultivate cannabis indoors in the city, except within a detached, fully-enclosed and secure secondary structure or primary residential structure that meets the requirements set forth in Section 25-21.5-50.

Sec. 25-21.5-50. - Indoor cultivation.

- (a) The indoor personal cultivation of cannabis shall only be conducted within a primary residential structure or within a detached, fully-enclosed and secure secondary structure.
- (b) All indoor personal cultivation of cannabis shall conform to the following minimum standards:
 - (1) The cannabis is cultivated by either:
 - (A) a qualified patient exclusively for his or her own personal medical use;
 - (B) a primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides medical cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code Section 11362.765(c); or
 - (C) a person 21 years of age or older for that person's personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with this Article and state law, as applicable.
 - (2) Indoor grow lights in any structure shall not exceed an aggregate of one thousand two hundred watts (1,200 W) and shall comply with all applicable building code regulations. Gas products (including, without limitation, CO₂, butane, propane, and natural gas) or generators shall not be used within any detached structure used for the cultivation of cannabis.
 - (3) Any detached, fully-enclosed and secure secondary structure or residential structure used for the personal cultivation of cannabis must have a ventilation and filtration system installed that shall mitigate cannabis plant odors from exiting the interior of the structure and that shall comply with all applicable building code regulations, including obtaining all required permits and approvals. The ventilation and filtration system must be approved by the city and installed prior to commencing cultivation within the detached, fully-enclosed and secure structure or residential structure.
 - (4) A detached, fully-enclosed and secure secondary structure used for the personal cultivation of cannabis shall be located in the rear yard area of a parcel, maintain a minimum ten-foot setback from the rear yard property line and a side yard setback that is equal to the same side yard setback required for the residential lot on which the home sits,

and the area surrounding the structure or yard must be enclosed by a solid fence at least six feet in height.

- (5) Cannabis cultivation occurring within a residence and/or detached structure shall not exceed more than a cumulative total of six living plants at one time, and shall occur in a cumulative area totaling no larger than fifty square feet, regardless of how many persons are residing at the premises.
- (6) Personal cultivation of cannabis shall not inhibit the occupancy of the residence or take place in the kitchen or bathrooms of any structure.
- (7) Personal cultivation of cannabis shall not take place on any carpeted surface.
- (8) Cannabis cultivation areas, whether in a detached structure or inside a residence, shall not be readily accessible to persons under 21 years of age.
- (9) No exterior evidence of cannabis cultivation occurring at the property shall be visible from the public right of way.

Sec. 25-21.5-60. - Reserved.

Sec. 25-21.5-70. - Public nuisance.

Any violation of this article is declared to a public nuisance and may be abated by the city pursuant to Chapter 14A of this code.

Sec. 25-21.5-80. - Penalty.

A violation of this article shall either be a misdemeanor or an infraction at the discretion of the prosecuting attorney. However, notwithstanding anything in this code to the contrary, persons violating this article shall not be subject to criminal liability under this code solely to the extent such conduct or condition is immune from criminal liability pursuant to the Compassionate Use Act of 1996 (Health and Safety Code Section 11362.5) and/or the Medical Marijuana Program (Health and Safety Code Section 11362.7 et seq.) as they may be amended. This section does not prohibit the city from abating violations of this article by any administrative, civil or other non-criminal means. In such cases, a violation of this article may be considered the civil or administrative equivalent of an infraction or misdemeanor as applicable.

Section 4. Severability. If any provision or clause of this Ordinance or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this Ordinance are declared to be severable.

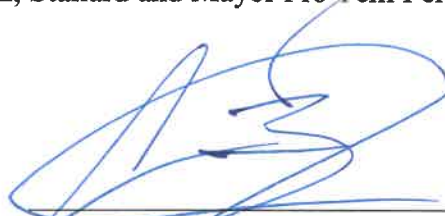
Section 5. CEQA. The City Council hereby finds that this Ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15061(b)(3)) because this Ordinance is not a project and does not have the

potential for causing a significant effect on the environment. This Ordinance is intended only to clarify existing prohibitions regarding personal cultivation of marijuana, and to impose reasonable zoning regulations and performance standards related to indoor, personal cultivation of marijuana consistent with State law.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City.

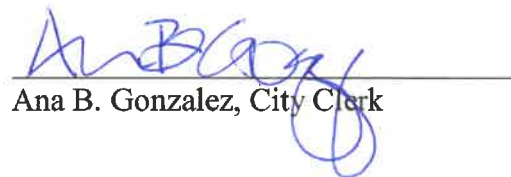
PASSED AND ADOPTED by the City Council this 5th day of September, 2017, by the following vote:

AYES: Council Member Davies, Rodriguez, Stallard and Mayor Pro Tem Fernandez
NOES: None
ABSENT: Mayor Barajas
ABSTAIN: None



Enrique Fernandez, Mayor Pro Tem

ATTEST:



Ana B. Gonzalez, City Clerk

APPROVED AS TO FORM:



Kara K. Ueda, City Attorney