

**ORDINANCE NO. 1782 N.C. (2d)**

**AN EMERGENCY 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; and

**WHEREAS**, the City Charter at Section 316 provides that no ordinance shall become effective until 30 days after adoption, with the exception of an emergency ordinance adopted in the manner provided by the Charter; and

**WHEREAS**, the City Charter at Section 312 provides that any ordinance declared by the Council to be necessary as an emergency measure for preserving the public peace, health or safety and containing a statement of the reasons for its urgency may be introduced and adopted at the same meeting if passed by at least five affirmative votes; and

**WHEREAS**, the state legislature passed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) in June 2017 and minor amendments through AB 133 in September 2017, which set forth a state licensing framework for commercial marijuana activity and deeming the activity permitted by state license not unlawful so long as permitted pursuant to local authorization; and

**WHEREAS**, MAUCRSA requires state licensing agencies to begin issuing state licenses by January 1, 2018, and provides that the state licensing agencies may adopt emergency regulations which shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare; and

**WHEREAS**, the state licensing agencies issued emergency regulations on November 16, 2017, and the Office of Administrative Law issued is expected to issue its proposed decision on the adoption of the regulations on or before December 8, 2017, and a final decision by January 1, 2018; and

**WHEREAS**, the City of Vallejo has provided permits authorizing medical marijuana dispensaries to operate in the City, and proposes permitting the dispensaries to engage in cultivation, distribution, and manufacturing pursuant to local requirements; and

**WHEREAS**, the City Council finds that immediate adoption will increase protection of the public and the environment from the harms associated with an unregulated commercial marijuana market and prevent access to marijuana by persons under age 21 who do not possess a valid physician's recommendation; and

**WHEREAS**, the City Council finds that immediate adoption of the ordinance and making the ordinance effective January 1, 2018, is necessary for the preservation of the public peace, health and safety.

**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)
- 7.200.010 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 (e.g. Microbusiness 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 21 calendar days 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 30 calendar days of submission of the application, after which the applicant will have 14 calendar days from receipt of notice to correct the deficiency. If the deficiency is not corrected within 14 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 (e.g. Microbusiness license) and any correspondence received from the state regarding an applicant's state license to the city manager or his/her designee within seven calendar 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 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 calendar 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 14 calendar 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.

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 Emergency Ordinance shall take effect and be in full force and effect on January 1, 2018.

Adopted by the City Council of the City of Vallejo as an emergency ordinance at a regular meeting held on December 12, 2017 by the following vote:

AYES: Mayor Sampayan, Vice Mayor McConnell, Councilmembers Dew-Costa, Miessner, Sunga and Verder-Aliga  
NOES: None  
ABSENT: Councilmember Malgapo  
ABSTAIN: None

  
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BOB SAMPAYAN, MAYOR

ATTEST:

  
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DAWN G. ABRAHAMSON, CITY CLERK