

**ORDINANCE NO. 1770 N.C. (2d)**

**AN ORDINANCE AMENDING CHAPTER 7.100 OF THE VALLEJO MUNICIPAL CODE  
PERTAINING TO REQUIREMENTS FOR MEDICAL MARIJUANA DISPENSARIES**

**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 or any marijuana business 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but not limited to the Medical Marijuana Regulation and Safety Act of 2015 and later amendments to the Act, later repealed and partly reenacted through the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017; and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**, the City recognizes that the availability of medical marijuana through a limited number of regulated medical marijuana dispensaries is a valid governmental interest to ensure access to those sick people who have a doctor's recommendation or marijuana card in compliance with state law while ensuring that the impacts of those dispensaries on the neighborhood are regulated, as detailed in staff reports; and

**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 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 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 with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a Medical Marijuana Dispensary, including but not limited to members 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 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 section shall be construed as defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017: “Attending Physician,” “Identification Card,” “Primary Caregiver,” “Qualified Patient.”

**7.100.030 No Authority to Permit 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 and state law. The prohibition includes renting, leasing, or otherwise permitting a Medical Marijuana Dispensary 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 a Medical Marijuana Dispensary. The permit shall be subject to revocation pursuant to subsection 7.100.085. Within 90 days of issuance of permit, 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 be located a minimum of one thousand (1,000) feet from any public or private school, kindergarten through high school. 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 must relocate to a site compliant with subsection A 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..

7.100.070 Prohibited 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.

D. 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.

E. No Member 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.

F. No Medical Marijuana Dispensary shall possess Marijuana that was not cultivated by its Managers or members.

G. 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.

H. 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.

I. 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.

1. 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 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 collective 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.

#### 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 member and Manager who participates in the collective cultivation of Marijuana.
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. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption.

**FIRST READ** at a regular meeting of the Council of the City of Vallejo held on the 22nd day of August 2017 and finally passed and adopted a regular meeting of the Council held on the 12th day of September 2017 by the following vote:

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

  
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BOB SAMPAYAN, MAYOR

ATTEST:

  
\_\_\_\_\_  
DAWN G. ABRAHAMSON, CITY CLERK