

## ORDINANCE NO. 830

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON AMENDING CHAPTER 6.56, CANNABIS BUSINESS PILOT PROGRAM, OF TITLE 6, HEALTH AND SAFETY, OF THE PATTERSON MUNICIPAL CODE, RELATING TO CANNABIS

**WHEREAS**, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

**WHEREAS**, in 2016, the voters of California approved Proposition 64 entitled the “Control, Regulate and Tax Adult Use of Marijuana” (“AUMA”). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

**WHEREAS**, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which created a single regulatory scheme for both medicinal and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

**WHEREAS**, the City of Patterson (“City”) City Council (“City Council”) considered and adopted Ordinance No. 806 on November 7, 2017, to amend Chapter 6.56 to establish a Cannabis Business Pilot Program to authorize and regulate cannabis dispensaries, cannabis manufacturing businesses, cannabis cultivation businesses, and cannabis testing laboratories (the “Cannabis Ordinance”); and

**WHEREAS**, on December 7, 2017, the Bureau of Cannabis Control, the Department of Agriculture, and the Department of Public Health issued final emergency regulations relating to all cannabis business allowed under the MAUCRSA (collectively, the “Emergency Regulations”). The Emergency Regulations require a licensed distributor to transport all cannabis and cannabis products between cannabis businesses; and

**WHEREAS**, on September 4, 2018, the City Council adopted Ordinance No. 822 amending the Cannabis Ordinance to authorize and regulate cannabis distribution businesses within the City under the same requirements established for other cannabis businesses regulated by the Cannabis Ordinance; and

**WHEREAS**, MAUCRSA allows cannabis business operators, except testing laboratories, to hold licenses in more than two (2) separate licensing categories (known as a “Vertically Integrated Cannabis Business”); and

**WHEREAS**, the City Council finds that city-wide regulation of Vertically Integrated Cannabis Businesses is proper and necessary to avoid the risks of criminal activity; and

**WHEREAS**, the City Council of the City of Patterson finds that this ordinance is in the best interest of the health, welfare, and safety of the public.

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

**SECTION 1:** Section 6.56.010 is hereby amended as follows:

**6.56.010 Purpose.**

A. The purpose and intent of this chapter is to establish a cannabis business pilot program containing a comprehensive set of regulations with regulatory permits applicable to the operation of cannabis businesses and to protect the health, safety, and welfare of the residents of the city of Patterson. It is the intent of the city to encourage responsible commercial cannabis activities and to discourage violations of related state laws, especially those that prohibit the sale, use, or distribution of cannabis and cannabis products to minors. It is not the intent of the city to expand, reduce, or alter the penalties for violations of state cannabis laws.

B. The city finds and declares that the outdoor cultivation of cannabis can adversely affect the health, safety, and well-being of city residents by increasing the risks of criminal activity, degradation of the natural environment, and malodorous smells that may result from such activities.

C. The city finds and declares that placing a limit on the number and type of cannabis businesses allowed to operate within the city is necessary to maintain the integrity of the cannabis business pilot program. No more than six (6) cannabis businesses may be allowed to operate within the city, at any given time, subject to approval by the city and the requirements set forth in this chapter.

D. A cannabis business authorized to operate within city limits may operate a vertically integrated business, as defined in section 6.56.020, subject to approval by the city. Any such business shall comply with the requirements of any and all sections of this chapter applicable to the additional licenses obtained to achieve such vertical integration.

EE. This chapter is not intended to conflict with federal or state law, nor is this chapter intended to answer or invite litigation over the unresolved legal questions posed by the existing conflict between state and federal law regarding the legality of cannabis. It is the intention of the city council that this chapter be interpreted to be compatible with existing federal and state enactments and in furtherance of the public purposes that those enactments encompass.

**SECTION 2:** Section 6.56.020 is hereby amended as follows:

**6.56.020 Definitions.**

A. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

B. “Cannabis business” means any business engaged in commercial cannabis activity. “Cannabis business” does not include any of the following:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the Health and Safety Code.
5. The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by Section 11362.7 of Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, Sections 11362.5 and 11362.765 of the Health and Safety Code.

C. “Cannabis cultivation business” means any cannabis business that, pursuant to a Type 1, Type 1A, Type 1B, Type 1C, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, Type 5B, or Type 12 state cannabis license, cultivates cannabis or cannabis products.

D. “Cannabis delivery business” means any cannabis business that, pursuant to a Type 10 state cannabis license, delivers, makes available, or distributes cannabis and cannabis products to a consumer.

E. “Cannabis distribution business” means any cannabis business that, pursuant to a Type 11 or Type 13 state cannabis license or its successor, procures, sells, or transports cannabis and cannabis products between cannabis business licensees.

F. “Cannabis manufacturing business” means any cannabis business that, pursuant to a Type 6, Type 7, or Type 12 state cannabis license manufactures cannabis or cannabis products.

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

H. “Cannabis testing laboratory” means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license.

I. “Commercial cannabis activity” includes the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products that requires a state license.

J. “Commercial cannabis waste” means cannabis plants and plant materials that are discarded by a cannabis business, including but not limited to extra vegetative plants, failed clones, and harvest waste.

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

L. “Dispensary” means any cannabis business where medicinal or adult-use cannabis or cannabis products are sold at retail to customers, pursuant to a Type 10 state cannabis license.

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

N. “Indoor cultivation” means the cultivation of cannabis for personal use within a fully enclosed and secure structure that has a complete roof in which cannabis plants cannot be seen from any public right of way. Indoor cultivation does not include any commercial cannabis activity.

O. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

P. “Outdoor cultivation” means the cultivation of cannabis that does not meet the definition of indoor cultivation.

Q. “Primary caregiver” has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

R. “Qualified patient” has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

R.S. “Vertical integration” or “vertically integrated cannabis business” means engaging in more than one commercial cannabis activity, consisting of cannabis cultivation, manufacturing or distribution, pursuant to State issued licenses.

**SECTION 3:** Section 6.56.040 is hereby amended as follows:

**6.56.040 Commercial cannabis cultivation.**

A. Not more than one (1) cannabis cultivation business~~(es)~~ may be permitted within city limits pursuant to a development agreement, pursuant to Section 3.65.030, and conditional use permit, pursuant to Section 18.18.020.

B. ~~Additionally~~In addition to the cannabis cultivation business allowed to operate under subsection A, not more than one (1) cannabis business that operates as both a cannabis cultivation business and cannabis manufacturing business may be permitted within city limits pursuant to the requirements of subsection A of this section. Any such cannabis business shall comply with the requirements of this section and Section 6.56.070. A cannabis cultivation business shall only be allowed in a light industrial (LI), heavy industrial (HI), West Patterson industrial business park (IBP), or West Patterson light industrial (IL) district, or in other districts as specified in a development agreement, conditional use permit and applicable zoning code provisions.

C. A commercial cannabis cultivation business shall not cultivate outdoors anywhere within the city.

D. All commercial cannabis cultivation businesses shall maintain any applicable state permit, city business license, conditional use permit, and comply with all of the following:

1. **Secure Building.** All commercial cannabis activity shall occur entirely inside of a building that is secure, locked, and fully enclosed, with a ceiling, roof, or other enclosure. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures (commercial greenhouse structures are not allowed), and include material strong enough to prevent entry except through an open door. Notwithstanding the foregoing, the roof may be of solid material provided other security measures to ensure that the commercial cannabis activity cannot be seen, heard, or smelled beyond the property line.

2. **Security.** A cannabis cultivation business shall comply with security requirements acceptable to the police chief on an individual project basis. At a minimum, the cultivation security system shall consist of:

a. **Security Surveillance Cameras.** Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights-of-way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the cultivation site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

b. **Security Video Retention.** Video from the security surveillance cameras shall be recording at all times (twenty-four hours a day, seven days a week) and the recording shall be maintained for at least thirty days. The video recordings shall be made available to the city upon request.

c. Alarm System. Professionally and centrally monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.

d. Law Enforcement. Any security plan shall comply with the applicable regulations required by law enforcement at the time of operation.

3. Odor Control. A detailed plan shall be submitted describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.

4. Insurance. A cannabis cultivation business shall maintain insurance in the amounts and of the types that are acceptable to the city manager or his or her designee. The city shall be named as additional insured on all city-required insurance policies.

5. Waste Management Plan. A cannabis cultivation business shall submit a cannabis waste management plan to, and have that plan approved by, the public works department describing how commercial cannabis waste will be disposed. A cannabis cultivation business shall comply with its cannabis waste management plan at all times. If applicable, the plan shall include a description of measures to be taken relating to light bulb recycling.

**SECTION 4:** Section 6.56.070 is hereby amended as follows:

**6.56.070 Cannabis manufacturing business.**

A. No more than one (1) cannabis manufacturing business~~(es)~~ may be permitted within city limits pursuant to a development agreement, pursuant to Section 3.64.030, and conditional use permit, pursuant to Section 18.18.020.

B. ~~Additionally~~In addition to the cannabis manufacturing business allowed to operate under subsection A, not more than one (1) cannabis business~~(es)~~ that operates as both a cannabis cultivation business and a cannabis manufacturing business may be permitted within city limits pursuant to the requirements of subsection A of this section. Any such cannabis business shall comply with the requirements of this section and Section 6.56.040.

C. A cannabis manufacturing business shall only be located in light industrial (LI), heavy industrial (HI), West Patterson industrial business park (IBP), or West Patterson light industrial (IL) districts, or in other districts as specified in a development agreement, conditional use permit and applicable zoning code provisions.

D. All cannabis manufacturing businesses shall obtain any applicable state permit, obtain a city business license, and maintain compliance with all of the following:

1. Secure Building. All commercial cannabis activity shall occur entirely inside of a building that is secure, locked, and fully enclosed, with a ceiling, roof, or other enclosure. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures, and include material strong enough to prevent entry except through an open door. Notwithstanding the foregoing,

the roof may be of solid material provided other security measures exist to ensure that the commercial cannabis activity cannot be seen, heard, or smelled beyond the property line.

2. Security. A cannabis manufacturing business shall comply with security requirements acceptable to the police chief on an individual project basis. At a minimum, the cannabis manufacturing business's security system shall consist of:

a. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights-of-way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the manufacturing site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

b. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four hours a day, seven days a week) and the recording shall be maintained for at least thirty days. The video recordings shall be made available to the city upon request.

c. Alarm System. Professionally and centrally monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.

d. Law Enforcement. Any security plan shall comply with the applicable regulations required by law enforcement at the time of operation.

3. Odor Control. A detailed plan shall be submitted describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.

4. Insurance. A cannabis manufacturing business shall maintain insurance in the amounts and of the types that are acceptable to the city manager or his or her designee. The city shall be named as additional insured on all city-required insurance policies.

5. Waste Management Plan. A cannabis manufacturing business shall submit a cannabis waste management plan to, and have that plan approved by, the public works department describing how commercial cannabis waste will be disposed. A cannabis manufacturing business shall comply with its cannabis waste management plan at all times.

6. Manufacturing Site Compliance. A cannabis manufacturing business shall at all times comply with any applicable volatile or nonvolatile regulations imposed by state law or regulation. A cannabis manufacturing business shall not open their manufacturing site to the public. A cannabis manufacturing business shall not allow anyone on the manufacturing site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters. A manager must be on the manufacturing site at all times that any other person, except for a security guard, is on the site. A juvenile shall not be on the manufacturing site or operate a

cannabis manufacturing business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.

**SECTION 5:** Notice of the public hearing on the Ordinance was published in the Patterson Irrigator, a newspaper of general circulation; and notices of the public hearing on the proposed Amendment were mailed to all interested parties and property owners within 300 feet of the property, according to the most recent assessor's roll.

**SECTION 6:** If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 7:** This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Patterson held on the 4<sup>th</sup> day of December 2018, by Mayor Novelli, who moved its introduction, which motion was duly seconded by Councilmember McCord. Said Ordinance was given a second reading at a regular meeting of the City Council held on the 18th, day of December, 2018, and after such reading, \_\_\_\_\_ moved its adoption, seconded by \_\_\_\_\_, and said Ordinance was thereupon adopted by the following roll call vote:

AYES:

NOES:

EXCUSED:

APPROVED:

\_\_\_\_\_  
Deborah M. Novelli  
Mayor of the City of Patterson

ATTEST:

\_\_\_\_\_  
Maricela L. Vela  
City Clerk of the City of Patterson