

**PLANNING COMMISSION OF MONTEREY PARK  
AGENDA**

**SPECIAL PLANNING COMMISSION MEETING  
Monterey Park City Hall Council Chambers  
320 West Newmark Avenue**

**Thursday  
November 30, 2023  
6:30 PM**

**MISSION STATEMENT**

The mission of the City of Monterey Park is to provide excellent services to enhance the quality of life for our entire community.

**LAND ACKNOWLEDGMENT**

We would like to acknowledge that the land we inhabit today was once known as Tovangaar, the home of the Gabrieleño-Tongva people. We show our respect to the Gabrieleño-Tongva people, as well as all Indigenous people, past, present, and future, and honor their labor as original caretakers of this land. We commit to uplift the Gabrieleño-Tongva people, invite you to acknowledge the history, and join us in caring for this land.

**GENERAL INFORMATION**

Documents related to an Agenda item are available to the public in the Community Development Department – Planning Division located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and the City's website at <http://www.montereypark.ca.gov/AgendaCenter>.

**PUBLIC PARTICIPATION**

You may speak up to 5 minutes on Agenda item. You may combine up to 2 minutes of time with another person's speaking. No person may speak more than a total of 10 minutes. The Chairperson and Planning Commission Members may change the amount of time allowed for speakers. Written Communication will be accepted up to 24 hours before the meeting via email to [planningpermitcounter@montereypark.ca.gov](mailto:planningpermitcounter@montereypark.ca.gov)

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call City Hall at (626) 307-1359 for reasonable accommodation at least 24 hours before a meeting. Council Chambers are wheelchair accessible.

**CALL TO ORDER**

Chairperson Chiang

**FLAG SALUTE**

Vice Chairperson Tammy Sam

**ROLL CALL**

Chairperson Jack Chiang, Vice Chairperson Tammy Sam, Peter Fung, Jasmine Pesantes, Bethelwel Wilson

## **AGENDA ADDITIONS, DELETIONS, CHANGES AND ADOPTIONS**

**PUBLIC COMMUNICATIONS.** While all comments are welcome, the Brown Act does not allow the Commission to take discuss, deliberate, or take action on any item not on the agenda. The Commission may briefly respond to comments after Public Communications is closed. Persons may, in addition to any other matter within the Commission's subject-matter jurisdiction, comment on agenda Items at this time. If you provide public comment on a specific agenda item at this time, however, you cannot later provide comments at the time the agenda Item is considered.

## **ORAL AND WRITTEN COMMUNICATIONS**

### **[1] PUBLIC HEARING**

#### **PUBLIC HEARING – ZONING CODE AMENDMENT NO. 23-05 (ZCA-23-05) – CONSIDERATION AND POSSIBLE ACTION TO ADOPT A RESOLUTION 1-A. RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE MONTEREY PARK MUNICIPAL CODE TO IMPLEMENT CALIFORNIA LAW RELATED TO MEDICINAL CANNABIS**

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) After considering the evidence received during the public hearing, adopt a resolution recommending that the City Council adopt the Ordinance amending regulations related to medical cannabis under ZCA-23-05; and
- (5) Taking such additional, related, action that may be desirable.

The City reviewed the environmental impacts of this proposed Ordinance pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.* “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, *et seq.*, the “CEQA Guidelines”). No additional environmental review is required for this Ordinance pursuant to CEQA Guidelines § 15060(c)(2), § 15378(b)(5) § 15301 § 15303 and § 15061(b)(3). The proposed Ordinance is exempt from CEQA because it is a zoning text amendment which permits delivery of medical cannabis in the City’s commercial zone, which will not have a direct or reasonably foreseeable indirect physical change in the environment and does not qualify as a “project” under CEQA because it will not make physical changes to the environment. The proposed Ordinance is also exempt pursuant to CEQA Guidelines § 15301 and 15303 for activities that involve negligible or no expansion of use for existing facilities and for the conversion of existing small structure for another use. Finally, the proposed Ordinance is exempt from CEQA under the common sense exemption that it will not affect the environment.

## **ADJOURN**

Next regular scheduled meeting is on December 12, 2023.



# Planning Commission Staff Report

**DATE:** November 30, 2023

**AGENDA ITEM NO:** 1-A

**TO:** The Planning Commission  
**FROM:** Ephraim S. Margolin, Deputy City Attorney  
**SUBJECT:** **PUBLIC HEARING - ZONING CODE AMENDMENT NO. 23-05 (ZCA-23-05)** – Consideration and possible action to adopt a resolution recommending that the City Council approve an amendment to Monterey Park Municipal Code to implement California law related to medical cannabis delivery-only retailers

## **RECOMMENDATION:**

It is recommended that the Planning Commission consider:

- (1) Opening the public hearing;
- (2) Receiving documentary and testimonial evidence;
- (3) Closing the public hearing;
- (4) After considering the evidence received during the public hearing, adopt a resolution recommending that the City Council adopt the Ordinance amending regulations related to medical cannabis under ZCA-23-05 (Attachment 1); and
- (5) Taking such additional, related, action that may be desirable.

## **CEQA (California Environmental Quality Act):**

The City reviewed the environmental impacts of this proposed Ordinance pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.* "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, *et seq.*, the "CEQA Guidelines"). No additional environmental review is required for this Ordinance pursuant to CEQA Guidelines § 15060(c)(2), § 15378(b)(5) § 15301 § 15303 and § 15061(b)(3). The proposed Ordinance is exempt from CEQA because it is a zoning text amendment which permits delivery of medical cannabis in the City's commercial zone, which will not have a direct or reasonably foreseeable indirect physical change in the environment and does not qualify as a "project" under CEQA because it will not make physical changes to the environment. The proposed Ordinance is also exempt pursuant to CEQA Guidelines § 15301 and 15303 for activities that involve negligible or no expansion of use for existing facilities and for the conversion of existing small structure for another use. Finally, the proposed Ordinance is exempt from CEQA under the common sense exemption that it will not affect the environment.

**TYPE OF ACTION (LEGISLATIVE; QUASI-JUDICIAL; OR ADVISORY)**

**Advisory:** In considering approval of the “Zone Ordinance Text Amendment,” the Planning Commission is acting as an advisory body to the City Council. Approval of a text amendment is solely within the authority of the City Council. Accordingly, the Planning Commission does not have legal authority to adopt this ordinance. The recommendation to the City Council, however, plays an important role in the approval process and should include the factual and legal basis for the Planning Commission’s findings. The City Council can then consider those findings when making its own determination.

For the proposed text amendment, the Planning Commission must make the findings delineated in Monterey Park Municipal Code (“MPMC”) § 21.38.050:

- That the proposed text amendment is consistent with the goals, policies, and objectives of the General Plan;
- That the proposed text amendment will not adversely affect surrounding properties; and
- That the proposed text amendment promotes public health, safety, and general welfare and serves the goals and purposes of the MPMC’s zoning regulations.

These findings are included in the draft Ordinance; the facts upon which these findings rely are also included with the draft documents.

**EXECUTIVE SUMMARY:**

The California Legislature adopted Senate Bill 1886 (“SB 1186”) in 2022 which precludes cities from imposing regulations that have the effect of prohibiting medical cannabis delivery within the City and becomes effective on January 1, 2024. SB 1186 declares that any City regulation that does not allow a physical premises from which retail sale by delivery of medical cannabis may be conducted within the City has the effect of prohibiting medical cannabis delivery. Accordingly, the proposed ordinance will conditionally allow non-store front locations for the sale by delivery of medical cannabis in the Commercial Services Zone and impose reasonable regulations.

**BACKGROUND**

SB 1186 (2022) is intended to increase access to medical cannabis. The California Legislature stated that access to medical cannabis has been adversely impacted by the Medicinal and Adult Use Cannabis Regulation and Safety Act, which gave cities the ability to ban all cannabis activity, including medical cannabis.

The MPMC currently prohibits all commercial cannabis facilities, including medical cannabis. MPMC § 6.35.030 prohibits all “commercial cannabis activity” within the City. “Commercial cannabis activity” is defined as the “cultivation, possession, manufacture,

processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or a cannabis product.” MPMP § 6.35.040 defines a cannabis “facility” to include “medical marijuana collective[s].” Medical marijuana dispensaries are also prohibited in residential zones by MPMPC § 21.08.030.

### **ANALYSIS**

Pursuant to SB 1186, a City may not impose regulation of any of the following type that has the effect of prohibiting the retail sale by delivery of medical cannabis:

- (1) The number of medical cannabis businesses authorized to deliver medical cannabis in the local jurisdiction.
- (2) The operating hours of medical cannabis businesses.
- (3) The number or frequency of sales by delivery of medical cannabis.
- (4) The types or quantities of medical cannabis authorized to be sold by delivery.
- (5) The establishment of physical premises from which retail sale by delivery of medical cannabis within the jurisdiction is conducted by a licensed non-storefront retailer.

However, SB 1186 allows the City to impose reasonable regulations on the retail sale by delivery of medical cannabis through the City’s police powers. Therefore, the City can adopt or enforce reasonable regulations on the non-storefront retail delivery of medical cannabis related to:

- (1) Zoning requirements.
- (2) Security or public health and safety requirements.
- (3) Licensing requirements.
- (4) Imposing or collecting applicable state or local taxes on retail sales of medical cannabis occurring within the city.
- (5) Regulations consistent with requirements or restrictions imposed on cannabis businesses by state law or regulations issued by the Department of Cannabis Control.

The proposed ordinance will ensure that the MPMC is compliant with California law concerning medical cannabis effective on January 1, 2024, by:

- (1) Deleting MPMC § 9.102 (Medical Marijuana) which referenced a non-existent section of the MPMC;
- (2) Amending MPMC § 6.35.030 (Prohibition) to add a clause stating that all commercial cannabis activity is prohibited “without the permits required by this code[;]”
- (3) Adding a new chapter to the MPMC § 6.36 (Medical Cannabis Delivery) which imposes operational standards on physical premises from which retail sale by delivery of medical cannabis is conducted;
- (4) Adding chapter 21.02.015 (Consistency with State and Federal Law) to the MPMC

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to clarify that “no new use is permitted unless permitted by both State and Federal law[;]”

- (5) Deleting MPMC § 21.04.557 (Marijuana) which defined marijuana;
- (6) Deleting MPMC § 21.04.571 (Medical Marijuana Dispensary) which defined “medical marijuana dispensaries”; and
- (7) Adding chapter 21.27 (Cannabis-Related Uses) to the MPMC to establish land use restrictions for where delivery-only medical cannabis retailers are permitted in the Commercial Services Zone with a conditional use permit.

Respectfully prepared and submitted,

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Ephraim S. Margolin  
Deputy City Attorney

**ATTACHMENTS:**

Attachment 1: SB 1186 Legislative Text

Attachment 2: Resolution

Attachment 3: Ordinance

Attachment 4: Notice of Exemption

# ATTACHMENT 1

SB 1186 Legislative Text

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## SB-1186 Medicinal Cannabis Patients' Right of Access Act. (2021-2022)

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Date Published: 09/20/2022 02:00 PM

### Senate Bill No. 1186

#### CHAPTER 395

An act to amend Section 26200 of, and to add Chapter 26 (commencing with Section 26320) to Division 10 of, the Business and Professions Code, relating to cannabis.

[ Approved by Governor September 18, 2022. Filed with Secretary of State September 18, 2022. ]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1186, Wiener. Medicinal Cannabis Patients' Right of Access Act.

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by Proposition 215 at the November 6, 1996, statewide general election, declares that its purpose is, among other things, to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes, as specified, and exempts from state criminal liability certain patients and their primary caregivers who possess or cultivate marijuana for the personal medical purposes of the patient. Existing law, known as the Medical Marijuana Program, establishes a voluntary registration program for qualified medicinal cannabis patients and their primary caregivers through a statewide identification card system maintained by the State Department of Public Health and sets forth guidelines for the possession of medicinal cannabis.

The Control, Regulate and Tax Adult-Use of Marijuana Act of 2016 (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, established a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana. AUMA reserved to a local jurisdiction specified powers regarding commercial adult-use cannabis activity, including adopting and enforcing local ordinances regulating commercial adult-use cannabis activity. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities, including the retail sale of medicinal cannabis.

This bill would enact the Medicinal Cannabis Patients' Right of Access Act, which, on and after January 1, 2024, would prohibit a local jurisdiction from adopting or enforcing any regulation that prohibits the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers by medicinal cannabis businesses, as defined, or that has the effect of prohibiting the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers in a timely and readily accessible manner and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the local jurisdiction, as specified. The bill, on and after January 1, 2024, would provide that the act may be enforced by an action for writ of mandate brought by a medicinal cannabis patient or their primary caregiver, a medicinal cannabis business, the Attorney General, or any other party otherwise authorized by law.



This bill would incorporate additional changes to Section 26200 of the Business and Professions Code proposed by AB 2210 to be operative only if this bill and AB 2210 are enacted and this bill is enacted last.

To the extent this bill would impose additional duties on local jurisdictions, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 26200 of the Business and Professions Code is amended to read:

**26200.** (a) (1) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require the department to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the department upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 60 days of being so informed, the department shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the department, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(e) (1) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities, at a minimum, comply with all the following:

(A) The requirements of paragraphs (1) to (3), inclusive, of subdivision (g).

(B) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed under this division to engage in that activity.

(C) The activities are otherwise consistent with regulations promulgated and adopted by the department governing state temporary event licenses.

(D) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

(E) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the department a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event. If any changes occur in that list, the licensee shall provide the department with a final updated list to reflect those changes. A person shall not engage in the onsite retail sale of cannabis or cannabis products, or in any way participate in the event, who is not included in the list, including any updates, provided to the department.

(2) The department may impose a civil penalty on any person who violates this subdivision, or any regulations adopted by the department governing state temporary event licenses, in an amount up to three times the amount of the license fee for each violation, consistent with Sections 26018 and 26038.

(3) The department may require the event and all participants to cease operations without delay if in the opinion of the department or local law enforcement it is necessary to protect the immediate public health and safety of the people of the state. The department may also require the event organizer to immediately expel from the event any participant selling cannabis or cannabis products without a license from the department that authorizes the participant to sell cannabis or cannabis products. If the unlicensed participant does not leave the event, the department may require the event and all participants to cease operations immediately.

(4) The order by the department for the event to cease operations pursuant to paragraph (3) does not entitle the event organizer or any participant in the event to a hearing or an appeal of the decision. Chapter 3 (commencing with Section 490) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to the order by the department for the event to cease operations pursuant to paragraph (3).

(5) The smoking of cannabis or cannabis products at temporary events authorized pursuant to this subdivision is prohibited in locations where smoking is prohibited. For purposes of this section, "smoking" has the same meaning as defined in subdivision (c) of Section 22950.5.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(g) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

- (1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older.
- (2) Cannabis consumption is not visible from any public place or nonage-restricted area.
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

(h) This division shall not be interpreted to supersede Section 6404.5 of the Labor Code.

**SEC. 1.5.** Section 26200 of the Business and Professions Code is amended to read:

**26200.** (a) (1) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) Except as set forth in the Medicinal Cannabis Patients' Right of Access Act (Chapter 26 (commencing with Section 26320)), this division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require the department to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the department upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 60 days of being so

informed, the department shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the department, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(e) (1) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities, at a minimum, comply with all the following:

(A) The requirements of paragraphs (1) to (3), inclusive, of subdivision (g).

(B) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed under this division to engage in that activity.

(C) The activities are otherwise consistent with regulations promulgated and adopted by the department governing state temporary event licenses, except as otherwise provided in paragraphs (6), (7), and (8).

(D) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

(E) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the department a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event. If any changes occur in that list, the licensee shall provide the department with a final updated list to reflect those changes. A person shall not engage in the onsite retail sale of cannabis or cannabis products, or in any way participate in the event, who is not included in the list, including any updates, provided to the department.

(2) The department may impose a civil penalty on any person who violates this subdivision, or any regulations adopted by the department governing state temporary event licenses, in an amount up to three times the amount of the license fee for each violation, consistent with Sections 26018 and 26038.

(3) The department may require the event and all participants to cease operations without delay if in the opinion of the department or local law enforcement it is necessary to protect the immediate public health and safety of the people of the state. The department may also require the event organizer to immediately expel from the event any participant selling cannabis or cannabis products without a license from the department that authorizes the participant to sell cannabis or cannabis products. If the unlicensed participant does not leave the event, the department may require the event and all participants to cease operations immediately.

(4) The order by the department for the event to cease operations pursuant to paragraph (3) does not entitle the event organizer or any participant in the event to a hearing or an appeal of the decision. Chapter 3 (commencing with Section 490) of Division 1.5 and Chapter 4 (commencing with Section 26040) of this division shall not apply to the order by the department for the event to cease operations pursuant to paragraph (3).

(5) The smoking of cannabis or cannabis products at temporary events authorized pursuant to this subdivision is prohibited in locations where smoking is prohibited. For purposes of this section, "smoking" has the same meaning as defined in subdivision (c) of Section 22950.5.

(6) (A) All licensees who are issued a state temporary event license allowed pursuant to this subdivision may, upon completion or cessation of the temporary event, reconcile unsold inventory of cannabis or cannabis products and return it to the licensee's retail premises.

(B) All unsold inventory of cannabis or cannabis products from the temporary event shall be noted in track and trace prior to transport.

(C) All unsold inventory of cannabis or cannabis products from the temporary event shall be in its original packaging in which it was placed pursuant to Chapter 12 (commencing with Section 26120).

(7) The inventory of cannabis or cannabis products authorized to be sold by a state temporary event license pursuant to this subdivision shall only be transported to and from the temporary event by a licensed distributor or licensed microbusiness.

(8) The department shall not deny an application for a state temporary event license pursuant to this subdivision solely on the basis that there is a license issued pursuant to the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000)) for the proposed premises of the event. Furthermore, the Department of Alcoholic Beverage Control shall not take any disciplinary action against a person licensed pursuant to the Alcoholic Beverage Control Act on the basis of a state temporary event license issued by the department to a licensee pursuant to this subdivision that utilizes the same premises as the person licensed pursuant to the Alcoholic Beverage Control Act.

(A) All on- and off-sale privileges of alcoholic beverages at the venue shall be suspended for the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

(B) Alcohol consumption on the venue premises shall be strictly prohibited for the day of the event and shall not resume until 6 a.m. on the day after the event has ended.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(g) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

(1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older.

(2) Cannabis consumption is not visible from any public place or nonage-restricted area.

(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

(h) This division shall not be interpreted to supersede Section 6404.5 of the Labor Code.

(i) This section does not alter or affect the prohibition on the sale of alcoholic beverages by a licensee, as provided in Section 26054, on or at a venue premises licensed under this division.

**SEC. 2.** Chapter 26 (commencing with Section 26320) is added to Division 10 of the Business and Professions Code, to read:

#### **CHAPTER 26. Medicinal Cannabis Patients' Right of Access Act**

**26320.** The Legislature finds and declares as follows:

(a) Access to medicinal cannabis is an integral aspect of access to health care, and eliminating barriers to medicinal cannabis access is essential to promoting and preserving the health of Californians for whom physicians have recommended the use of cannabis or cannabis products.

(b) It is the policy of the state and the intent of the Legislature to ensure that Californians throughout the state have timely and convenient access to safe, effective, and affordable medicinal cannabis.

**26321.** (a) This act shall be known, and may be cited, as the Medicinal Cannabis Patients' Right of Access Act.

(b) For purposes of this chapter:

(1) "Medicinal cannabis" means medicinal cannabis or medicinal cannabis products, as those terms are defined in paragraph (1) of subdivision (ai) of Section 26001.

(2) "Medicinal cannabis business" means a retailer authorized to engage in the retail sale by delivery of medicinal cannabis to medicinal cannabis patients pursuant to an M-license.

(3) "Medicinal cannabis patient" means a qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who possesses a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2, or a qualified patient or primary caregiver for a qualified patient issued a valid identification card pursuant to Section 11362.71 of the Health and Safety Code.

(4) "Regulation" means a local ordinance, regulation, policy, or practice.

**26322.** (a) A local jurisdiction shall not adopt or enforce any regulation that prohibits the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers, or that otherwise has the effect of prohibiting the retail sale by delivery within the local jurisdiction of medicinal cannabis to medicinal cannabis patients or their primary caregivers by licensed medicinal cannabis businesses in a timely and readily accessible manner, and in types and quantities that are sufficient to meet demand from medicinal cannabis patients within the local jurisdiction, including, but not limited to, regulation of any of the following that has the effect of prohibiting the retail sale by delivery of medicinal cannabis:

(1) The number of medicinal cannabis businesses authorized to deliver medicinal cannabis in the local jurisdiction.

(2) The operating hours of medicinal cannabis businesses.

(3) The number or frequency of sales by delivery of medicinal cannabis.

(4) The types or quantities of medicinal cannabis authorized to be sold by delivery.

(5) The establishment of physical premises from which retail sale by delivery of medicinal cannabis within the jurisdiction is conducted by a licensed nonstorefront retailer, except that this paragraph shall not be construed to require the establishment of additional physical premises in a local jurisdiction that allowed medicinal cannabis retail as of January 1, 2022, and in which at least one physical premises engaged in the retail sale of medicinal cannabis, whether storefront or delivery, is already established.

(b) Nothing in this chapter shall be construed to prohibit the adoption or enforcement of reasonable regulations on retail sale by delivery of medicinal cannabis, including, but not limited to, reasonable regulations related to:

(1) Zoning requirements that are not inconsistent with subdivision (a). If compliance with subdivision (a) would otherwise require a local jurisdiction to authorize a physical premises from which retail sale by delivery of medicinal cannabis within the jurisdiction is conducted, this paragraph shall not be construed to alter that requirement.

(2) Security or public health and safety requirements.

(3) Licensing requirements.

(4) The imposition, collection, and remittance of any applicable state or local taxes upon retail sales occurring within the local jurisdiction.

(5) Regulations consistent with requirements or restrictions imposed on cannabis businesses by this division or regulations issued under this division.

(c) Nothing in this chapter shall be construed to limit or otherwise affect the ability of a local jurisdiction to adopt or enforce any regulations on commercial cannabis operations other than retail sale by delivery of medicinal cannabis in the local jurisdiction.

(d) This section shall become operative on January 1, 2024.

**26323.** (a) This chapter may be enforced by an action brought pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure by any of the following parties, who shall be beneficially interested within the meaning of Section 1086 of the Code of Civil Procedure:

(1) A medicinal cannabis patient or their primary caregiver who seeks to purchase medicinal cannabis or medicinal cannabis products within the local jurisdiction.

(2) A medicinal cannabis business that seeks to offer medicinal cannabis for sale within the local jurisdiction.

(3) The Attorney General.

(4) Any other party otherwise authorized by law.

(b) This section shall not be construed to limit the availability of any other remedy otherwise available to enforce this chapter. The existence of any other remedy shall not restrict the availability of relief to enforce this chapter under Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure.

(c) This section shall become operative on January 1, 2024.

**26324.** Nothing in this chapter shall be construed to limit or otherwise affect the ability or right of a local jurisdiction to regulate adult-use cannabis pursuant to Section 26200.

**26325.** This chapter addresses a matter of statewide concern and not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution.

**SEC. 3.** Section 1.5 of this bill incorporates amendments to Section 26200 of the Business and Professions Code proposed by both this bill and Assembly Bill 2210. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 26200 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 2210, in which case Section 1 of this bill shall not become operative.

**SEC. 4.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

# ATTACHMENT 2

Resolution

**RESOLUTION NO. PC 2023-\_\_\_\_\_**

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING THE MONTEREY PARK MUNICIPAL CODE TO IMPLEMENT STATE LAW RELATED TO MEDICINAL CANNABIS**

The Planning Commission of the City of Monterey Park does resolve as follows:

**SECTION 1.** The Planning Commission finds and declares that:

- A. The purpose of the draft Ordinance is to implement California law and impose reasonable regulations governing delivery of medicinal cannabis within the City's jurisdiction.
- B. The Planning Commission may review and make recommendations to the City Council regarding land use regulations.
- C. The City Planner reviewed the draft Ordinance pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regulations §§15000, *et seq.*, the "CEQA Guidelines"). CEQA and the CEQA Guidelines are collectively referred to as "CEQA Regulations."
- D. The City Planner completed her review and scheduled the public hearing regarding the application before the Planning Commission for November 30, 2023.
- G. On November 30, 2023, the Planning Commission held a public hearing to receive public testimony and other evidence regarding the proposed amendment, including, without limitation, information provided to the Planning Commission by City staff and public testimony.
- H. This Resolution and its findings are made based upon the evidence presented to the Commission at its November 30, 2023, hearing including, without limitation, the staff report submitted by the City Planner .

**SECTION 2.** *Factual Findings and Conclusions.* The Planning Commission finds as follows:

- A. Senate Bill 1186 ("SB 1186") (2022) amends the Business and Professions Code related to, among other things, allowing medicinal cannabis deliveries within city limits and becomes effective on January 1, 2024.
- B. SB 1186 allows cities to impose reasonable regulations on medicinal cannabis deliveries.



- C. Monterey Park Municipal Code (“MPMC”) section 6.36.030 prohibits all commercial cannabis activity in the City and was amended in 2019.

**SECTION 3. *Environmental Assessment.*** The City reviewed the environmental impacts of this proposed Ordinance pursuant to CEQA. No additional environmental review is required for this Ordinance pursuant to CEQA Guidelines § 15060(c)(2), § 15378(b)(5) § 15301 § 15303 and § 15061(b)(3). The proposed Ordinance is exempt from CEQA because it is a zoning text amendment which permits delivery of medicinal cannabis in the City’s commercial zone, which will not have a direct or reasonably foreseeable indirect physical change in the environment and does not qualify as a “project” under CEQA because it will not make physical changes to the environment. The proposed Ordinance is also exempt pursuant to CEQA Guidelines § 15301 and 15303 for activities that involve negligible or no expansion of use for existing facilities and for the conversion of existing small structure for another use. Finally, the proposed Ordinance is exempt from CEQA under the commonsense exemption that it will not affect the environment.

**SECTION 4: *Zone Text Amendment Findings.*** Pursuant to Government Code § 65860 and MPMC § 21.38.030, the Planning Commission finds as follows:

- A. The MPMC amendments in the Ordinance are consistent with the goals, policies and objectives of the General Plan.
1. The Ordinance is consistent with Policy 14.1 (Second-Hand Smoke Exposure — Outdoor Public Areas) of the Healthy Community Element of the General Plan as it does not affect MPMC § 6.20 (Smoking Prohibited) which prohibits publicly smoking cannabis in many areas of the City.
  2. The Ordinance is consistent with Goal 1 (Commercial districts that allow a variety of retail, service, and entertainment uses and that accommodate flexibility over time) of the Land Use and Urban Design Element of the General Plan as it permits delivery-only medicinal cannabis retailers to operate in the C-S Zone with a conditional use permit, fulfilling Policy 1.1’s (Flexibility) goal of providing flexibility regarding allowed uses in the City and Policy 1.3 (Economic Development) by encouraging businesses to locate in the City.
  3. The Ordinance is consistent with Goal 2 (Dynamic mix of businesses, uses, and employment that sustain a strong local economy and contributes to a fiscally sustainable tax base) of the Land Use and Urban Design Element of the General Plan and Policy 2.1 (Flexibility) and Policy 2.2 (Business Growth) by providing clear development and operational standards for delivery-only medicinal cannabis retailers to operate in and thrive economically.

4. The Ordinance is consistent with Goal 1 (Fiscal Balance) of the Economic Development Element of the General Plan, which has its goals of preserving, retaining, and building the City's tax base. This Ordinance is consistent with Goal 1 and will meet Policy 1.2 as it will encourage the growth and relocation of industries that generate local tax and employment benefits to the City.
  5. The Ordinance is consistent with Goal 2 (Business Attraction and Retention) of the Economic Development Element of the General Plan as this Ordinance will help attract new businesses to the City without the need for incentives.
- B. This Ordinance will not adversely affect surrounding properties. This Ordinance adopts reasonable regulations that will ensure that non-storefront medicinal cannabis facilities in the C-S (Commercial Services) zone do not adversely affect surrounding properties.
  - C. This Ordinance promotes public health, safety, and general welfare and serves the goals and purposes of the MPMC's zoning regulations. This Ordinance implements State law governing medicinal cannabis delivery facilities in the City to bring the MPMC into compliance with State law. Reasonable regulations are proposed to promote public health, safety, and general welfare in the City.

**SECTION 5. *Actions.*** The Planning Commission recommends the City Council take the following actions:

- A. Adopt the Ordinance attached as Attachment A, and incorporated into this Resolution by reference;
- B. Adopt the environmental determinations in Section 3 of this Resolution.

**SECTION 6. *Notice of Exemption.*** The Director of Community Development, or designee, is directed to file a Notice of Exemption in accordance with CEQA §§ 15062, and any other applicable law.

**SECTION 7. *Summaries of Information.*** All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**SECTION 8. *Reliance On Record.*** Each and every one of the findings and determination in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 9. Severability.** If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the Planning Commission intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Resolution are severable.

**SECTION 10. Preservation.** This Resolution does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Resolution's effective date. Any such amended part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Resolution.

**SECTION 11. Limitations.** The Planning Commission's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the Planning Commission's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the city's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

**SECTION 12. Electronic Signatures.** This Resolution may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 13.** This Resolution will remain effective until superseded by a subsequent resolution.

**SECTION 14.** The Secretary must certify to the adoption of this Resolution and forward a copy to the City Council.

**SECTION 15. Signature.** The Planning Commission Chairman, or presiding officer, is authorized to affix its signature to this Resolution signifying its adoption by the Planning Commission of the City of Monterey Park, and the Planning Commission Secretary is directed to attest.

PASSED AND ADOPTED this 30th day of November 2023.

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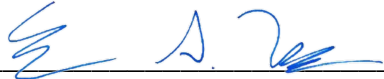
Chairperson  
City of Monterey Park Planning Commission

ATTEST:

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Secretary

APPROVED AS TO FORM:  
KARL H. BERGER, CITY ATTORNEY

By:   
Ephraim Margolin, Deputy City Attorney

# ATTACHMENT 3

Ordinance

## ORDINANCE NO. XXXX

### AN ORDINANCE ADOPTED PURSUANT TO THE CITY'S POLICE POWERS AND BUSINESS AND PROFESSIONS CODE § 26320 TO AMEND MONTEREY PARK MUNICIPAL CODE CHAPTERS 6.35 AND 9.102, AND ADDING NEW CHAPTERS 6.36 AND 21.27 TO IMPLEMENT CALIFORNIA LAW GOVERNING MEDICAL CANNABIS

#### THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:

##### SECTION 1. The City Council finds and determines as follows:

- A. Article XI, § 7 of the California Constitution empowers the City to enact and enforce ordinances regulating conditions that may be public nuisances or health hazards, or that promote social, economic, or aesthetic considerations.
- B. The Federal Controlled Substances Act, 21 U.S.C. § 801, *et seq.*, classifies cannabis as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, cannabis.
- C. The penalties for violating federal law include fines between \$10,000 and \$50,000 (21 U.S.C. § 841) for first time offenders. California law has similar provisions (*see, e.g.*, Health and Safety Code §§ 11352 and 11379.6).
- D. As of the effective date of this Ordinance, the City Council has not authorized any cannabis activity within its jurisdiction. To the contrary, Monterey Park Municipal Code ("MPMC") § 6.35.030 explicitly prohibits all commercial cannabis activity in the City including, without limitation, medical cannabis dispensaries and medical cannabis delivery services.
- E. A statewide initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA") was approved by voters on the November 2016 ballot. AUMA does not, and cannot, affect federal regulations as to cannabis or its derivatives.
- F. AUMA expressly preserves local control over the regulation of cannabis-related businesses and cannabis-related land uses (Business & Professions Code § 26200, *et seq.*).
- G. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that nothing in state cannabis law "expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land[.]" Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal

held that “there is no right – and certainly no constitutional right – to cultivate medical marijuana[.]” The Court in *Maral* affirmed the ability of a local governmental entity to prohibit the cultivation of cannabis under its land use authority.

- H. It is in the public interest for the City to take appropriate actions to protect citizens and their property from conditions that threaten public health, safety, and welfare including, without limitation, matters that devalue real property.
- I. On September 18, 2022, Governor Newsom signed Senate Bill (“SB”) 1186, known as the “Medicinal Cannabis Patients’ Right of Access Act” into law.
- J. SB 1186 imposes restrictions on how cities may regulate the retail sale by delivery of medical cannabis within their jurisdiction.
- K. The City Council is required by California law to enact this Ordinance to regulate how qualified delivery-only medical cannabis retailers may operate within the City in accordance with SB 1186.

**SECTION 2.** MPMC Chapter 9.102 is deleted.

**SECTION 3.** MPMC § 6.35.030 is amended to read as follows with additions denoted by underline and deletions with ~~striketrough~~:

**“6.35.030**     *Prohibition.*

Unless otherwise provided by California law, commercial cannabis activity is prohibited within the City of Monterey Park. No use permit, variance, building permit, or any other entitlement, license, or permit, whether ministerial or discretionary, may be issued or approved for any commercial cannabis activity in the City except as set forth in this code, and it is unlawful for any person to establish or conduct such activities in the City without the permits required by this code.”

**SECTION 4.** A new Chapter 6.36, entitled “Medical Cannabis Delivery,” is added to the MPMC read as follows:

**“Chapter 6.36**

**Medical Cannabis Delivery**

**6.36.010**     **Intent and Purpose.**

This chapter is adopted pursuant to the legal mandate imposed by the state of California via Business and Professions Code § 26320. Nothing in this chapter is intended to authorize any activity that is contrary to California law.

**6.36.020 Sunset Clause; Automatic Repeal.**

The regulations in this chapter will be automatically repealed without additional action by the City Council should Business and Professions Code § 26322 be repealed by the California Legislature or be invalidated by a court of competent jurisdiction.

**6.36.030 Responsibility for Compliance.**

The owners and operators of a delivery-only medical cannabis retailer, together with any person listed as the permittee or applicant on the delivery-only medical cannabis retailer application, are responsible for ensuring that the delivery-only medical cannabis retailer is, at all times, operating in a manner compliant with all applicable law.

**6.36.040 Definitions.**

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter. Words and phrases undefined in this chapter have the same meaning as set forth in the Compassionate Use Act; the Medical Cannabis Program Act; the Control, Regulate and Tax Adult Use of Cannabis Act; or the Medicinal and Adult-use Cannabis Regulation and Safety Act.

“Cannabis” is defined in Health and Safety Code § 11018.

“Delivery” means the commercial transfer of nonmedical cannabis or nonmedical cannabis products from a dispensary or delivery-only medical cannabis retailer to a customer over 21 years of age, or the commercial transfer of medical cannabis or medical cannabis products to a primary caregiver or qualified patient as defined in Health and Safety Code § 11362.7.

“Delivery” also includes the use by a dispensary or delivery-only medical cannabis retailer of any technology platform owned and controlled by the dispensary, delivery-only medical cannabis retailer, or independently licensed under California law, which enables customers or qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary or delivery-only medical cannabis retailer of cannabis or cannabis products.

“Delivery-only medical cannabis retailer” means a non-storefront delivery retailer authorized to engage in the retail sale by delivery of medical cannabis to qualified patients pursuant to an M-license.

“Delivery-only medical cannabis retailer permit” means a regulatory permit issued pursuant to this chapter.



**ORDINANCE NO.**

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“Identification card” means a document issued by the state of California that identifies a person authorized to engage in the medical use of cannabis and the person’s designated primary caregiver, if any.

“Medical cannabis” or “medical cannabis product” means a product containing cannabis, including, without limitation, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to Health and Safety Code § 11362.5. “Medical cannabis” does not include “industrial hemp” as defined by Food and Agricultural Code § 81000 or Health and Safety Code § 11018.5.

“Medical cannabis dispensary” or “medical marijuana dispensary” is a dispensary that offers or delivers medical cannabis and medical cannabis products for retail sale to qualified patients and primary caregivers.

“Operations Plan” means an operating plan that implements the standard requirements of this chapter along with such additional, reasonable, criteria needed to protect public health and safety as determined by the Police Chief based upon the size and location of the proposed cannabis-related business.

“Person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Health & Safety Code § 11362.7, *et seq.*

“Police Chief” means the Police Chief or any other individual appointed by the City Manager or approved pursuant to written agreement for law enforcement services executed pursuant to Government Code § 54981.

“Primary caregiver” means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

- A. In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Health and Safety Code § 1200, *et seq.*, a health care facility licensed pursuant to Health and Safety Code § 1250, *et seq.*, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Health and Safety Code § 1568.01, *et seq.*, a residential care facility for the elderly licensed pursuant to Health and Safety Code § 1569, *et seq.*, a hospice, or a home health agency licensed pursuant to Health and Safety Code § 1725, *et seq.*, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

- B. An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.
- C. An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.
- D. A primary caregiver must be at least 18 years old, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Family Code §§ 6922, 7002, 7050, or 7120.

“Qualified patient” means a person who is entitled to the protections of Health and Safety Code § 11362.5.

**6.36.050 Delivery-Only Medical Cannabis Retailer Permit Required to Engage in or Operate a Delivery-Only Medical Cannabis Retailer.**

It is unlawful for any person to engage in or operate a delivery-only medical cannabis retailer in the City unless the person possesses a valid delivery-only medical cannabis retailer permit from the City; and complies with all applicable law governing the delivery-only medical cannabis retailer, including the duty to obtain and maintain any required state license(s).

**6.36.060 Applications.**

- A. Delivery-only medical cannabis retailer permit applications must be made on a form approved by the City Manager, or designee, and accompanied by all information requested on the application.
- B. Each application must be accompanied by an application fee, the amount of which will be set by City Council resolution. Any application fee is in addition to any permit fee separately established by City Council resolution.
- C. The application must identify the address of the location where the delivery-only medical cannabis retailer is proposed to operate.
- D. No person may apply for a delivery-only medical cannabis retailer permit until and unless a conditional use permit issued pursuant to Title 21 authorizes a delivery-only medical cannabis retailer use at the subject location. A conditional use permit is required in addition to, and separately from, a delivery-only medical

cannabis retailer permit required by this chapter. Before an application for a delivery-only medical cannabis retailer permit will be accepted by the City for processing, the applicant must provide, on a form approved by the City Manager, or designee, proof that the owner of the underlying property, or his/her/its authorized agent, authorized filing the application for a delivery-only medical cannabis retailer permit at the subject location. A copy of the conditional use permit authorizing a cannabis-related use on the subject property must accompany the application for a delivery-only medical cannabis retailer permit. Only one application per parcel will be accepted and processed by the City at a given time. If an application for a delivery-only medical cannabis retailer permit is denied, a subsequent application for a delivery-only medical cannabis retailer permit on the same parcel may be accepted by the City only after one year following the denial is final and all available administrative and judicial remedies are exhausted.

- E. Completed applications must be submitted to the City Manager, or designee. Only complete applications will be considered. An application is complete if it is submitted with all of the information requested therein, together with full payment of the application fee. Applications will be considered in the order they are received. The City Manager, or designee, may require supplemental information from any applicant before deeming an application complete. Such information must be provided to the City Manager, or designee, within seven business days. Failure to provide the information results in the application losing its priority in the queue and will not be considered “received” until the date that all requested supplemental information is provided to the City Manager, or designee.
- F. The City Council may, by resolution, establish minimum threshold qualifications for all delivery-only medical cannabis retailer permit applicants including, without limitation, qualifications relating to previous relevant business experience, criminal history, minimum liquid assets, and/or net worth. Every application for a delivery-only medical cannabis retailer permit must be accompanied by credible evidence demonstrating that the applicant meets or exceeds each of the threshold requirements established by the City Council.

**6.36.070 Expiration.**

Each delivery-only medical cannabis retailer permit issued pursuant to this chapter must be activated within 30 days after the City approves the delivery-only medical cannabis retailer permit. Activation occurs when the permittee pays all fees required by this chapter; accepts all conditions; provides evidence that it was issued a valid Conditional Use Permit; and provides evidence that it applied with the state of California for all required permits.

Each delivery-only medical cannabis retailer permit issued pursuant to this chapter expires twelve months after the date it is issued. Delivery-only medical cannabis retailer permits may be renewed as provided in this chapter.

**6.36.080 Renewals.**

- A. An application for renewal of a delivery-only medical cannabis retailer permit must be filed at least 60 calendar days before the expiration of the current permit.
- B. The renewal application must contain all the information required for a new application.
- C. The renewal application must be accompanied by a renewal fee established by City Council resolution.
- D. The renewal application must be denied if any of the following circumstances exists:
  - 1. The renewal application is filed less than 60 calendar days before expiration of the permit.
  - 2. The delivery-only medical cannabis retailer permit is suspended at the time of the renewal application.
  - 3. The delivery-only medical cannabis retailer has not been in regular and continuous operation in the four months before the renewal application.
  - 4. The delivery-only medical cannabis retailer failed to conform to the requirements of this chapter, any regulations adopted pursuant to this chapter, or applicable state law.
  - 5. The permittee does not possess a valid license from the State of California, if required by law.
- E. The City Manager, or designee, is authorized to make all decisions concerning applications for renewal. The City Manager, or designee, may impose additional conditions on a renewal permit if he or she determines it is necessary to ensure compliance with state or local laws and regulations or to preserve and protect the public health, safety, or welfare.
- F. If a renewal application is denied for any reason, the permittee will be barred from renewing the delivery-only medical cannabis retailer permit. If the permittee wishes to obtain another delivery-only medical cannabis retailer permit, they must file a new application as set forth in this chapter.
- G. The City Manager's decision with respect to a renewal application is the City's final decision.

**6.36.090 Prohibition on Transfer of Delivery-Only Medical Cannabis Retailer Permits.**

- A. It is unlawful for any person to operate a delivery-only medical cannabis retailer at any location other than the location specifically authorized and identified on a City-issued delivery-only medical cannabis retailer permit.
- B. No person may transfer an ownership interest, ownership, or control of a delivery-only medical cannabis retailer or transfer any delivery-only medical cannabis retailer permit issued under this chapter. It is unlawful for a delivery-only medical cannabis retailer permittee to sell or transfer a delivery-only medical cannabis retailer permit to another party. Any attempt to transfer an ownership interest or ownership of a delivery-only medical cannabis retailer, or of a delivery-only medical cannabis retailer permit, will automatically render the delivery-only medical cannabis retailer permit void.

**6.36.100 Cannabis Permit Fee.**

In consideration of the privilege for obtaining a delivery-only medical cannabis retailer permit pursuant to this chapter, and in addition to any other requirements of this chapter, a permittee must pay to the City the following:

- A. Permit Fee.
  - 1. During the term of any permit, the permittee will pay the City an annual fee (the “permit fee”) as established by City Council resolution.
  - 2. The permit fee is due and payable annually on the anniversary date of the permit without demand and upon filing of the report required by this section. Any fees or expenses charged to permittees by City pursuant to this section, or any other provision of the permit, unless disputed in good faith, must be paid when due or are deemed delinquent. Any undisputed delinquent amounts will accrue an interest rate of ten percent per annum. Any neglect, omission or refusal by permittee to pay any undisputed delinquent fee with any late charges, within 30 days of written demand for payment is grounds for the City to declare the permit forfeited pursuant to the procedures established by this chapter.
  - 3. Payments must be made as determined by the City Manager, or designee. The permit fee must be paid annually during the term of the permit, including the year of granting the permit.
- B. Annual Increase.
  - 1. The amount of each annual payment of the permit fee is subject to an increase after the first year of the permit and each subsequent year.

2. The increase is based on the annual change in the Consumer Price Index (CPI), All Urban Consumers, for the Los Angeles- Riverside-Orange County area (1982-84 = 100), as published by the United States Bureau of Labor Statistics, Department of Labor, for the month of September immediately preceding the month in which payment is due and payable CPI for the year. If the Index is discontinued or revised during the term of this permit, such other governmental price index or computation with which it is replaced chosen by the City will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.
- C. Reports Required. A permittee must file with the City Clerk and Finance Director, on or before January 31st after the expiration of the calendar year, or fractional calendar year, following the date of the granting of this permit and on or before January 31st after the expiration of each calendar year thereafter, two copies of a report duly verified by the oath of the permittee or by the oath of a duly authorized representative of the permittee, showing for the immediately preceding permit period:
1. The total gross receipts received by the permittee from the sale of cannabis and the use, operation or possession of this permit during the preceding calendar year, or fractional calendar year.
- D. Any neglect, omission or refusal by permittee to file the verified statement required by the permit, or to pay any required payments at the time and in the manner specified is grounds for the declaration of a forfeiture of this permit and of all rights and privileges of permittee hereunder, provided that permittee has not cured said neglect, omission, or refusal to file or pay within fifteen days following written notice from the City of failure to file or pay the required amount, or, if such neglect, omission or refusal is not reasonably subject to cure within such fifteen day period, permittee has not commenced to cure such neglect, omission or refusal within such fifteen day period and has not continued to prosecute such cure to completion.
- E. The fee required by this section is in addition to any taxes imposed upon a cannabis business.

**6.36.110 Operations Plan Required.**

A conditional use permit issued pursuant to this code for a delivery-only medical cannabis retailer permit must include, as a condition of approval, the operational standards set forth in this chapter. In addition, the conditional use permit must incorporate by reference an Operations Plan approved by the Police Chief, or designee.

**6.36.120 Operational Standards.**

- A. To operate, a delivery-only medical cannabis retailer must obtain and maintain both the proper license from the state of California and a delivery-only medical cannabis retailer permit as set forth in this chapter.
- B. Subject to the conditions imposed by this chapter, mobile delivery privileges may be suspended or terminated by the City Manager, or designee, as set forth in this chapter.
- C. It is unlawful for alcohol or tobacco to be sold by a delivery-only medical cannabis retailer. Further, it is unlawful for smoking, vaporization, ingestion or consumption of alcohol, tobacco or cannabis in any form, to occur on the premises of a delivery-only medical cannabis retailer.
- D. It is unlawful for cannabis or cannabis products to be publicly visible from the exterior of the property of a delivery-only medical cannabis retailer.
- E. All cannabis and cannabis products sold or otherwise made available at a delivery-only medical cannabis retailer must be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with applicable law.
- F. Each delivery-only medical cannabis retailer must provide the City Manager, or designee, with the name and telephone number of an on-site employee or owner to whom emergency notice can be provided. The telephone number provided must be capable of accepting recorded voice messages in the event the contact person does not answer.
- G. It is unlawful for any person under 21 years of age to be allowed on the premises of a delivery-only medical cannabis retailer unless such person possesses a valid identification card issued by the state of California.
- H. It is unlawful for any person to employ another person under the age of 21 at a delivery-only medical cannabis retailer.
- I. Uniformed security personnel must be employed to monitor all entrances and exits of the delivery-only medical cannabis retailer and to serve as a visual deterrent to unlawful activities during all hours of operation. Every security guard employed by or provided by the delivery-only medical cannabis retailer must be currently licensed by the state of California and in possession of a valid "guard card." The number of such security personnel must be set forth in the Operations Plan.
- J. Odor control devices and techniques must be incorporated in a delivery-only medical cannabis retailer to ensure that odors from cannabis are not detectable

outside of the delivery-only medical cannabis retailer or in any tenant space or area adjacent to the delivery-only medical cannabis retailer.

- K. All law enforcement personnel seeking admission to the delivery-only medical cannabis retailer for the purpose of ascertaining compliance with the standards and regulations of this Code must always be given unrestricted access to all areas of the premises during hours of operation. Consent to such unrestricted access must be acknowledged by the permittee and included within the Operations Plan.
- L. All interior spaces of the retailer (except restrooms), and all entrances and exits to and from the premises, must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the City as determined by the Police Chief and set forth in the Operations Plan. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the City issues a certificate of occupancy for the delivery-only medical cannabis retailer.
- M. A delivery-only medical cannabis retailer must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.
- N. A delivery-only medical cannabis retailer must maintain a valid business license as required by this code.
- O. All food products, food storage facilities, food-related utensils, equipment and materials must be approved, used, managed and handled in accordance with Health & Safety Code § 113700, *et seq.* All food products must be protected from contamination at all times, and all food handlers must be clean, in good health, and free from communicable diseases. The Los Angeles County Department of Public Health may inspect the delivery-only medical cannabis retailer at any time during business hours to ensure compliance with applicable law.
- P. It is unlawful for a physician to be permitted in a delivery-only medical cannabis retailer at any time for the purpose of evaluating patients to issue a medical cannabis prescription or identification card.
- Q. As part of the Operations Plan, permittees must execute an agreement in a form approved by the City Attorney that defends and indemnifies the City of Monterey Park, along with its officials, officers, and employees, from any claim or liability arising from the City approving a delivery-only medical cannabis retailer permit. Such agreement must be secured with sufficient insurance, as determined by the City Attorney, and a surety, as approved by the City Attorney, to adequately protect the City from any and all liability.



- R. A delivery-only medical cannabis retailer permit is subject to all of the regulations and operational standards set forth in this section in addition to the conditions stated in the permit itself.
- S. Before dispensing medical cannabis or medical cannabis products to any person under the age of 21, the delivery-only medical cannabis retailer must verify that the person possesses a valid identification card.
- T. It is unlawful for any member of the public to be allowed on the premises of delivery-only medical cannabis retailer.
- U. A delivery-only medical cannabis retailer may sell by delivery medical cannabis, medical cannabis products, and medical cannabis accessories to a person 18 years of age or older who possesses a valid identification card under Health and Safety Code § 11362.71 and a valid government-issued identification card.

**6.36.130 Minimum Age for Delivery Drivers.**

It is unlawful for any person under the age of 21 to be allowed to serve as a delivery driver and no person or permittee can employ a person under the age of 21 for the purpose of making mobile deliveries of any cannabis product.

**6.36.140 Driver May Not Carry More Than \$200.**

No delivery driver may carry more than \$200 in cash while engaged in the service of delivering medical cannabis or medical cannabis products.

**6.36.150 Enforcement, Generally.**

A violation of this chapter constitutes a misdemeanor. The City Attorney may, at his or her discretion, reduce a violation to an infraction. Any violation of this chapter may also be abated as a public nuisance. The remedies provided by this chapter are cumulative and in addition to any other criminal or civil remedies.

**6.36.160 Revocation and Suspension.**

- A. In addition to any other penalty authorized by law, the City Manager, or designee, may suspend or revoke a delivery-only medical cannabis retailer permit for the following reasons:
  - 1. Upon learning or discovering facts that require permit denial under this chapter that were not previously disclosed or reasonably discoverable;
  - 2. If the permittee violates any condition imposed by this chapter or by the terms of the permit; or

3. Violation of any law of moral turpitude including, without limitation, a criminal conviction or civil liability arising from a complaint filed in a court of competent jurisdiction.
- B. Notice of Suspension or Revocation. If after having determined that adequate grounds exist the City Manager, or designee, elects to suspend or revoke a delivery-only medical cannabis retailer permit, the City Manager, or designee, must serve a notice of suspension or revocation on the permittee. The notice must state the reason(s) for the action and provide information regarding the right to a hearing before the City Manager. Except as otherwise provided, the suspension or revocation of the permit does not become effective until the time for filing a request for hearing has passed or, if a request for hearing is timely filed, until the decision of the City Manager, or designee, is final.
  - C. The notice of suspension or revocation will be sent to the business address indicated on the permit. Service is deemed complete one business day after deposit in the United States Mail.
  - D. A permittee that has been served with a notice of suspension or revocation may, within five business days, request a hearing before the City Manager, or designee. The request must be made on a form approved by the City Manager or designee.
  - E. If a timely request for a hearing is made by the permittee, the City Manager, or designee, will schedule a hearing within 30 days. The hearing may be held in the office of the City Manager, or designee, or at an alternative location designated by the City Manager, or designee. The permittee will be notified of the time and place of the hearing at least ten days before the scheduled date.
  - F. If the City Manager, or designee, determines, in his or her sole discretion, that the continued operation of the delivery-only medical cannabis retailer presents an imminent threat to the public health, safety or welfare, the suspension or revocation becomes effective immediately upon notice thereof. In such a case, if the permittee requests a hearing before the City Manager, or designee, the hearing will be scheduled within seven business days. The permittee will be notified of the time and place of the hearing at least 48 hours before the scheduled date. Notice may be given by any means reasonably calculated to provide actual notice to the permittee including, without limitation, mailed notice or telephonic notice.
  - G. The permittee may present written and/or oral testimony and evidence at the hearing and will be provided 30 minutes for a presentation. Formal rules of evidence and procedure applicable in a court of law do not apply. The City Manager, or designee, may, in his or her sole discretion, provide the permittee additional time to present evidence, testimony and argument.
  - H. The City Manager, or designee, will issue a written decision within 10 business days of the hearing. If the suspension or revocation was made immediately

effective, the City Manager’s written decision will be issued within five business days of the hearing. The City Manager’s, or designee’s, decision is the City’s final decision.

- I. Effect of Revocation. If a delivery-only medical cannabis retailer permit is revoked, the former permittee is presumptively disqualified to apply for a new permit for a period of two years from the effective date of the revocation. This presumption may be overcome upon a showing of good cause as to why a permit should be issued following a revocation. Any such showing must be made to the City Manager’s, or designee’s, satisfaction.

**SECTION 5.** MPMC § 21.02.015 is added to the Monterey Park Municipal Code to read as follows:

“21.02.015 Consistency with State and Federal Law.

Unless otherwise specifically permitted by Title 21 of this Code, and notwithstanding any other provision to the contrary, no new use is permitted unless it is permitted by both State and Federal law.”

**SECTION 6.** MPMC § 21.04.557 is deleted.

**SECTION 7.** MPMC § 21.04.571 deleted.

**SECTION 8.** Chapter 21.27 is added to the Monterey Park Municipal Code to read as follows:

“Chapter 21.27

**CANNABIS-RELATED USES**

**21.27.010 Purpose.**

The purpose of this chapter is to establish land use restrictions for delivery-only medical cannabis retailers. Nothing in this chapter is intended to authorize any activity that is contrary to California law.

**21.27.020 Definitions.**

Unless otherwise provided herein, the terms used in this chapter have the same meaning as set forth in Chapter 6.36.

**21.27.030 Conditional Use Permit Required.**

Except as otherwise provided by applicable law, it is unlawful for any person to maintain a cannabis-related use on any property in the City unless a valid conditional use permit authorizes the cannabis-related use on the subject property.

**21.27.040 Location Restrictions.**

- A. Delivery-only medical cannabis retailers are conditionally permitted in the C-S (Commercial Services) zone and are prohibited in all other zones.
- B. No conditional use permit may be issued for a cannabis-related business located on a parcel that is within 600 feet of any other parcel containing a “sensitive use,” including, without limitation, schools, religious facilities, parks, licensed child daycare facilities, youth centers or licensed drug or alcohol rehabilitation facilities. For purposes of this section, “school” includes a pre-school, transitional kindergarten, K-12 school, whether public or private.
- C. Within 1,000 feet of any other parcel upon which a delivery-only medical cannabis retailer is operating.
- D. A delivery-only medical cannabis retailer permit may be renewed for a cannabis-related business located on a parcel that is within the distance limitations in this section if:
  - 1. The sensitive use located to the area after the subject delivery-only medical cannabis retailer permit was first issued;
  - 2. The subject delivery-only medical cannabis retailer permit has not lapsed for any period of time; and
  - 3. The cannabis-related business was in continuous operation.
- E. For purposes of this section, a temporary interruption of business activity due to fire, natural disaster or other force majeure is excused provided reasonable steps are taken by the permittee to resume business operations expeditiously. The prior, temporary suspension of the delivery-only medical cannabis retailer permit does not render a permit ineligible for renewal under this section provided the applicant otherwise qualifies for renewal pursuant to Chapter 6.36.
- F. The delivery-only medical cannabis retailer will utilize fewer than the minimum off-street parking spaces established by this Code.

**21.27.050 Distance Measurements.**

The distance between parcels will be the horizontal distance measured in a straight line from any property line of the sensitive use to the closest property line of the parcel on which the cannabis-related business is to be located, without regard to any intervening structures.

**21.27.060 Operations Plan Required.**

In addition to any other conditions of approval deemed necessary and appropriate by the approving authority, an operations plan, including a detailed cash management plan is required as a condition of approval for any delivery-only medical cannabis retailer. If the operations and/or cash management plan include confidential and/or proprietary information the City will respect the confidentiality of the information submitted by the applicant. The required content of the operations plan is set forth in Chapter 6.36.”

**SECTION 9.** Table 21.10(A) of MPMC § 21.10.030 is amended to add delivery-only medical cannabis retailers as a conditionally permitted use in the C-S zone as follows (no other changes to Table 21.10(A) are intended):

**“Table 21.10(A)**

	*	*	*				
Delivery-only medicinal cannabis retailer	X	X	X	X	C	X	

\* \* \*\*”

**SECTION 10. *Environmental Review.*** The City reviewed the environmental impacts of this proposed Ordinance pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.* “CEQA”) and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, *et seq.*, the “CEQA Guidelines”). No additional environmental review is required for this Ordinance pursuant to CEQA Guidelines § 15060(c)(2), § 15378(b)(5) § 15301 § 15303 and § 15061(b)(3). The proposed Ordinance is exempt from CEQA because it is a zoning text amendment which permits delivery of medicinal cannabis in the City’s commercial zone, which will not have a direct or reasonably foreseeable indirect physical change in the environment and does not qualify as a “project” under CEQA because it will not make physical changes to the environment. The proposed Ordinance is also exempt pursuant to CEQA Guidelines § 15301 and 15303 for activities that involve negligible or no expansion of use for existing facilities and for the conversion of existing small structure for another use. Finally, the proposed Ordinance is exempt from CEQA under the common sense exemption that it will not affect the environment.

**SECTION 11. *Zoning Amendment.*** Pursuant to MPMC § 21.38.050, the City Council finds as follows:

- A. The MPMC amendments in this Ordinance are consistent with the goals, policies and objectives of the General Plan.
  - 1. The Ordinance is consistent with Policy 14.1 (Second-Hand Smoke Exposure — Outdoor Public Areas) of the Healthy Community Element of

the General Plan as it does not affect MPMC § 6.20 (Smoking Prohibited) which prohibits publicly smoking cannabis in many areas of the City.

2. The Ordinance is consistent with Goal 1 (Commercial districts that allow a variety of retail, service, and entertainment uses and that accommodate flexibility over time) of the Land Use and Urban Design Element of the General Plan as it permits delivery-only medicinal cannabis retailers to operate in the C-S Zone with a conditional use permit, fulfilling Policy 1.1's (Flexibility) goal of providing flexibility regarding allowed uses in the City and Policy 1.3 (Economic Development) by encouraging businesses to locate in the City.
  3. The Ordinance is consistent with Goal 2 (Dynamic mix of businesses, uses, and employment that sustain a strong local economy and contributes to a fiscally sustainable tax base) of the Land Use and Urban Design Element of the General Plan and Policy 2.1 (Flexibility) and Policy 2.2 (Business Growth) by providing clear development and operational standards for delivery-only medicinal cannabis retailers to operate in and thrive economically.
  4. The Ordinance is consistent with Goal 1 (Fiscal Balance) of the Economic Development Element of the General Plan, which has its goals of preserving, retaining, and building the City's tax base. This Ordinance is consistent with Goal 1 and will meet Policy 1.2 as it will encourage the growth and relocation of industries that generate local tax and employment benefits to the City.
  5. The Ordinance is consistent with Goal 2 (Business Attraction and Retention) of the Economic Development Element of the General Plan as this Ordinance will help attract new businesses to the City without the need for incentives.
- B. This Ordinance will not adversely affect surrounding properties. This Ordinance adopts reasonable regulations that will ensure that non-storefront medicinal cannabis facilities in the C-S (Commercial Services) zone do not adversely affect surrounding properties.
- C. This Ordinance promotes public health, safety, and general welfare and serves the goals and purposes of the MPMC's zoning regulations. This Ordinance implements State law governing medicinal cannabis delivery facilities in the City to bring the MPMC into compliance with State law. Reasonable regulations are proposed to promote public health, safety, and general welfare in the City.

**SECTION 12.** *Validity of Previous Code Sections.* If the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the MPMC or other regulation

**ORDINANCE NO.**

**PAGE 18 of 19**

by this Ordinance will be rendered void and cause such MPMC provision or other regulation to remain in full force and effect for all purposes.

**SECTION 13. *Reliance on Record.*** Each and every one of the findings and determinations in this Ordinance are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 14. *Limitations.*** The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are limitations on the City's ability to solve what are in effect regional, state, and National problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

**SECTION 15. *Preservation.*** Repeal or amendment of any previous Code Sections does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 16. *Severability.*** If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provision or application and, to this end, the provisions of this Ordinance are severable.

**SECTION 17. *Summaries of Information.*** All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

**SECTION 18. *Electronic Signatures.*** This Ordinance may be executed with electronic signatures in accordance with Government Code §16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

**SECTION 19.** The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of Monterey Park's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within 10 days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 20.** This Ordinance will take effect on the 30<sup>th</sup> day following its final passage and adoption.

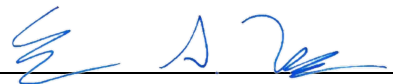
PASSED, APPROVED, AND ADOPTED December \_\_\_\_, 2023.

\_\_\_\_\_  
Jose Sanchez, Mayor

ATTEST:

\_\_\_\_\_  
Maychelle Yee, City Clerk

APPROVED AS TO FORM:  
KARL H. BERGER, CITY ATTORNEY

By:   
\_\_\_\_\_  
Ephraim Margolin, Deputy City Attorney



# ATTACHMENT 4

Notice of Exemption

# Notice of Exemption

From: City of Monterey Park Planning  
320 W. Newmark Avenue  
Monterey Park, CA 91754

To:

Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

Los Angeles, County Clerk  
Environmental Filings  
12400 Imperial Highway #1201  
Norwalk, CA 90650  
Attn: Business Filings and Registration

**Project Title:** Zone Code Amendment (ZCA-23-05)  
**Project Location - Specific:** City wide; and Commercial Services zone  
**Project Location - City:** Monterey Park  
**Project Location - County:** Los Angeles

### Description of Project:

An ordinance amending Monterey Park Municipal Code Chapters 6.35 and 9.102, and adding new chapters 6.36 and 21.27 to implement California law governing medical cannabis.

**Name of Public Agency Approving Project:** City of Monterey Park  
**Name of Person or Agency Carrying Out Project:** City of Monterey Park

### Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: 15060(c)(2), 15378(b)(5), 15301, 15303, and 15061(b)(3)
- Statutory Exemptions. State code number: \_\_\_\_\_

### Reasons why project is exempt:

No additional environmental review is required for this Ordinance pursuant to CEQA Guidelines §§ 15060(c)(2), 15378(b)(5), 15301, 15303, and 15061(b)(3). The proposed Ordinance is exempt from CEQA because it is a zoning text amendment which permits delivery of medicinal cannabis in the City's commercial zone, which will not have a direct or reasonably foreseeable indirect physical change in the environment and does not qualify as a "project" under CEQA because it will not make physical changes to the environment. The proposed Ordinance is also exempt pursuant to CEQA Guidelines § 15301 and 15303 for activities that involve negligible or no expansion of use for existing facilities and for the conversion of existing small structure for another use. Finally, the proposed Ordinance is exempt from CEQA under the common sense exemption that it will not affect the environment.

Lead Agency Contact Person: Jessica Serrano Telephone (626) 307-1302

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project?  Yes  No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: Director of Community & Economic Development

- Signed by Lead Agency Date received for filing at OPR: \_\_\_\_\_
- Signed by Applicant