

Attachment A

Amendment No. A-015-2015

1. Repeal Section 9.16.020.100.

2. Add New Chapter 9.52 to read as follows:

CHAPTER 9.52 CANNABIS ACTIVITIES

9.52.010 Purpose, Findings and Definitions

A. Purpose and Findings. The City Council finds that in order to serve the public health, safety, and welfare of the residents and businesses within the City, the declared purpose of this chapter is to prohibit marijuana dispensaries and delivery services from locating and operating in the City as stated in this section.

B. Definitions. As used in this chapter, the following terms, words and phrases have the meanings as defined in this section, unless another meaning is clearly apparent from the context:

“Cannabis” or “Marijuana” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code. “Cannabis” includes, but is not limited to, “medical cannabis” as defined in California Business & Professions Code § 19300.5(ag). “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant, which is incapable of germination. For the purpose of this definition, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

“Cannabis delivery” or “delivery of cannabis” means the transfer of cannabis or cannabis products from a dispensary to any person or entity at a location in the City. “Cannabis delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed, that enables individuals to arrange for or facilitate the transfer by a dispensary of cannabis or cannabis products. “Cannabis delivery includes, but is not limited to, “delivery” as defined in California Business & Professions Code § 19300.5(m).

“Cannabis dispensary,” “marijuana dispensary” or “dispensary” means any association, business, facility, use, establishment, location, cannabis delivery service, cooperative, collective, or provider, whether fixed or mobile, that

possesses, processes, manufactures, distributes, makes available, or otherwise facilitates the distribution of cannabis or cannabis products to any person, including, but not limited to, a qualified patient, a person with an identification card, or a primary caregiver. The term "cannabis dispensary" includes, but is not limited to, a business, facility, use or location that engages "commercial cannabis activity" as defined in California Business & Professions Code § 19300.5(k). The term "cannabis dispensary" shall not include the following facilities, locations or uses to the extent cannabis is dispensed by primary caregivers to qualified patients for medicinal use, as long as such use complies strictly with applicable law including, but not limited to, California Health and Safety Code section 11362.5 and 11362.7: a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; or a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

"Cannabis cultivation" or "cultivation of cannabis" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cannabis cultivation site" means any indoor or outdoor facility or location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

"Cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions and includes, but is not limited to, any "medical cannabis product" or "cannabis product," as defined in California Business & Professions Code § 19300.5(ag), and/or any "edible cannabis product" as defined in California Business & Professions Code § 19300.5(s).

"Identification card" is a document issued by the State Department of Health Services and/or the County of Orange Health Care Agency, which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

"Primary caregiver" is 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.

"Qualified patient" is a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.

C. Use or Activity Prohibited by State Law or Federal Law. Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

9.52.020 Cannabis Dispensaries and Delivery Prohibited

A. Cannabis Dispensaries and Delivery Prohibited. Cannabis dispensaries and cannabis delivery are prohibited in all zoning districts, planned unit development districts, and specific plan areas in the City. It shall be unlawful for any person or entity to own, manage, conduct, or operate any cannabis dispensary or cannabis delivery service or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any cannabis dispensary or cannabis delivery service in the City of Garden Grove.

B. Establishment or Maintenance of Cannabis Dispensaries Declared a Public Nuisance. The establishment, maintenance, or operation of a cannabis dispensary or cannabis delivery service as defined in this chapter within the City limits of the City of Garden Grove is declared to be a public nuisance and enforcement action may be taken and penalties assessed pursuant to Title 1, Chapter 1.04 of the Garden Grove Municipal Code, and/or any other law or ordinance that allows for the abatement of public nuisances.

9.52.030 Cultivation of Cannabis

A. Cannabis Cultivation Prohibited. The cultivation of cannabis and/or the establishment, maintenance or operation of any cannabis cultivation site is prohibited in all zoning districts, planned unit development districts, and specific plan areas in the City.

B. Establishment or Maintenance of Cannabis Cultivation Site Declared a Public Nuisance. The establishment, maintenance, or operation of a cannabis cultivation site as defined in this chapter within the City limits of the City of Garden Grove is declared to be a public nuisance and enforcement action may be taken and penalties assessed pursuant to Title 1, Chapter 1.04 of the Garden Grove Municipal Code, and/or any other law or ordinance that allows for the abatement of public nuisances.

3. Amend Subsection D.7 of Section 9.32.030 of Chapter 9.32 as follows (additions in bold/italics, deletions in strike-through):

7. Interpretation of Use.

a. Applicability.

i. ***Any use not specifically listed as a permitted use, incidental use, or conditional use shall be prohibited; provided, however, that***
~~Whenever~~ a use has not been specifically listed as a permitted use,
incidental use, or conditional use in a particular zone district, but similar uses are found to exist in that zone, the hearing body shall be responsible for interpreting whether or not the use is permitted in that zone district, and under what conditions.

ii. Any use determined to be inconsistent or not similar to other uses shall be required to file an application for an ordinance amendment.

b. Required Finding. That the proposed use is:

i. Similar in scale and operational characteristics to other uses permitted in that zone;

ii. Consistent with the intent of the general plan and the zone district;

iii. Compatible with other permitted uses.