

**ORDINANCE NO. 1811 N.C. (2d)**

**AN ORDINANCE AMENDING CHAPTER 7.100 OF THE  
VALLEJO MUNICIPAL CODE TO REGULATE CANNABIS BUSINESSES  
DURING A PERIOD OF AMORTIZATION**

**WHEREAS**, the Compassionate Use Act adopted by voters in 1996, and the Medical Marijuana Program Act, enacted by the state legislature in 2003, provided California's qualified patients and their primary caregivers with limited immunities to specified criminal prosecutions under state law for purposes including to ensure that qualified patients and their primary caregivers who obtain and use marijuana for medical purposes are not subject to state criminal prosecution; and

**WHEREAS**, in November 2011, City of Vallejo voters passed Measure C, a marijuana business tax-revenue ordinance which provides that payment of a business license tax and its acceptance by the City shall not entitle any person to carry on a marijuana business in a zone or locality in which the conduct of such marijuana business is in violation of any law; and

**WHEREAS**, in 2011, the zoning ordinance of the City of Vallejo did not allow marijuana dispensaries as a use, which rendered any such use an illegal public nuisance per se; and

**WHEREAS**, prior to the initial passage of VMC Chapter 7.100, according to police sightings, neighborhood complaints, and internet information, more than 40 unpermitted marijuana businesses were operating in the City of Vallejo without any land use approval under the Vallejo Municipal Code, and an unknown number of businesses continued to open, close, and reopen in Vallejo with no regulatory authorization from the City; and

**WHEREAS**, in July 2015, Chapter 7.100 was added to the Vallejo Municipal Code to offer immunity from prosecution to certain medical marijuana dispensaries, while also providing that neither permits of any kind, nor fire inspections, nor payment of taxes in any way bestowed a legal right to use land for a medical marijuana dispensary; and

**WHEREAS**, in June 2017, the California State legislature passed a budget trailer bill, Senate Bill 94, that integrated MCRSA with AUMA and created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) (Cal. Bus. & Prof. Code section 26000 et seq.) setting forth a state licensing framework for commercial marijuana activity; and

**WHEREAS**, in August 2017, Chapter 7.100 was amended to authorize issuance of a regulatory permit, without vested rights, to each medical marijuana dispensary that had been issued a letter of limited immunity, even though the land use ordinance did not include cannabis business activity as an allowed land use; and

**WHEREAS**, MAUCRSA sets forth a comprehensive scheme allowing and regulating the sale of cannabis for adult use, and medical marijuana dispensaries could apply for permits to engage in cannabis retail business, either for medical or for adult use; and

**WHEREAS**, MAUCRSA required state licensing agencies to begin issuing state licenses by January 1, 2018; and

**WHEREAS**, the state licensing agencies issued emergency regulations on November 16, 2017, and the Office of Administrative Law issued its final decision on the adoption of the regulations before January 1, 2018, and re-adopted emergency regulations effective June 6, 2018; and

**WHEREAS**, on May 22, 2018, Vallejo amended its zoning ordinance to allow cultivation, distribution, and manufacturing uses in compliance with the state regulatory scheme and local land-use requirements; and

**WHEREAS**, the City Council is, concurrently with this ordinance, amending its zoning ordinance to provide that certain cannabis related land uses are permitted land uses in designated zones within the city of Vallejo as long as local and state regulatory permits are also obtained; and

**WHEREAS**, it is the City Council's desire to end illegal nonconforming land uses for cannabis business retailers who have been issued a local regulatory permit pursuant to Chapter 7.100 of the Vallejo Municipal Code, while at the same time affording these cannabis business retailers a reasonable amortization period in order to either relocate or legalize the land use, as needed, before ending the currently illegal land use; and

**WHEREAS**, during the amortization period, cannabis business retailers should seek to apply for and obtain the required local regulatory permits under VMC Chapter 7.200 and the required land use entitlements under the city's zoning ordinance to ensure the continuance of their cannabis business activity.

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

SECTION 1. Vallejo Municipal Code Chapter 7.100 is hereby repealed and replaced with a new Chapter 7.100 to read as follows:

**7.100.010 Purpose and Intent.**

It is the purpose and intent of this chapter to limit the proliferation of unregulated cannabis businesses and exercise local police power and authority to the full extent allowed by the California Constitution and Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017. This ordinance is not intended to conflict with federal or state law. Nothing in this ordinance purports to permit activities that are otherwise illegal under federal, state, or local law. As amended on December 11, 2018, this ordinance establishes a period of amortization during which cannabis businesses who have obtained a local regulatory permit under this chapter, and who have obtained the required state license(s) may continue to operate. The amortization period begins on the effective date of this ordinance and ends on January 1, 2022. This chapter, and any local regulatory permits issued pursuant to it, shall cease to have any effect after January 1, 2022.

## **7.100.020 Definitions.**

Unless a different definition is set forth below or in Chapter 16.06 of the Vallejo Municipal Code, whenever cannabis industry-related words or phrases appear in this chapter, they shall be given a meaning that is consistent with the definitions contained in Cal. Bus. & Prof. Code section 26001.

“Amortization period” is the period of time after which all non-conforming cannabis businesses must cease. For purposes of this ordinance, the amortization period begins upon the effective date of this ordinance and ends on January 1, 2022.

“Applicant” is an owner who is applying for the local regulatory permit issued under this chapter or Chapter 7.200.

“Cannabis” has the same meaning as marijuana in section 5.05.100 of the Vallejo Municipal Code. Cannabis includes *Cannabis indica*, and *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 business” is a store or location engaged in cannabis business activity.

“Cannabis business retailer” is a store or business engaged in authorized retail sales of cannabis.

“Cannabis business activity” is commercial cannabis activity including retail sales, delivery, distribution, storage, dispensing, selling, manufacturing, infusing, packaging, re-packaging, labeling, re-labeling, cultivating, delivering and distributing cannabis, cannabis concentrate, cannabis products and cannabis accessories as licensed and permitted in accordance with the Vallejo Municipal Code, its zoning ordinances, and as further regulated by the State of California pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate. A cannabis concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

“Cannabis products” has the same meaning as in Section 11018.1 of the California Health and Safety Code.

“Local regulatory permit” is the regulatory permit issued by the City of Vallejo to permit specific kinds of cannabis business activity in accordance with this chapter.

“Manager” means a person hired by or accountable to the cannabis business who is responsible for its establishment, organization, registration, supervision, or including but not limited to persons who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the cannabis business.

“Nonconforming cannabis business(es)” are those cannabis businesses who have not obtained their land use entitlement under the city’s zoning ordinance or are not in full compliance with the Vallejo Municipal Code and the State of California’s Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

“Owner” means any of the following:

1. A natural person with a majority ownership interest in the business entity.
2. The chief executive officer of a nonprofit or other entity.

“Property” as used in this chapter means the location at which the cannabis business activity occurs.

**7.100.030 Unregulated cannabis business activity prohibited, unlawful to make false statements.**

A. It is prohibited to engage in cannabis business activity without paying the applicable tax, obtaining the required local permits and the required state licenses.

B. The use of any building, structure, location, premises or land to conduct cannabis business activity without the proper license(s) and local regulatory permit(s) required under this code and under state law shall be deemed to be unregulated cannabis business activity and is prohibited.

C. It is unlawful for any person knowingly to make any false, misleading or inaccurate statement or representation in any form, record, filing or documentation required to be maintained, filed or provided to the City under this chapter or any applicable section of the Vallejo Municipal Code.

**7.100.040 No vested or nonconforming rights.**

The local regulatory permit authorizing the cannabis retail business shall not create, confer, or convey any vested or nonconforming right or benefit or land use entitlement running with the land.

**7.100.050 Local regulatory permit authorizing cannabis business activity.**

A. Only those persons who received a limited immunity authorization letter from the City of Vallejo on or before August 22, 2017, are eligible to receive a local regulatory permit under this chapter.

B. Local regulatory permits are subject to revocation pursuant to section 7.100.090. Permits are valid upon issuance and for the remainder of the fiscal year and must be renewed annually on or by June 30 for the next fiscal year (e.g., for applications submitted by June 30, 2019, the permit shall be valid until June 30, 2020). However, for Chapter 7.100 permit applications submitted by June 30, 2021, the permit will expire on December 31, 2021.

C. Effective January 1, 2022, all Chapter 7.100 cannabis regulatory permits authorizing the cannabis business activity shall expire and will no longer have any effect.

D. Effective January 1, 2022, nonconforming cannabis business owners must terminate their nonconforming use.

E. Subject to an amortization period that begins as of the effective date of this ordinance, and concludes on January 1, 2022, cannabis business owners may continue to operate as long as they continue to hold a valid, unexpired regulatory permit issued under this section, and continue to comply with applicable state law and adhere to the following requirements made hereby specifically applicable to such Chapter 7.100 cannabis regulatory permit holders:

1. Adhere to all applicable standards and criteria for cannabis retailers under sections 16.82.060(U)(3) and 16.82.060(V)(3).
2. Adhere to all accessory use standards under section 16.58.040(H) for those cannabis business owners engaged in accessory cannabis manufacturing and/or distribution.

F. Cannabis business owners who currently hold a local regulatory permit issued under this chapter must do the following in order to retain their ability to conduct authorized cannabis business activity beyond January 1, 2022:

1. Apply for and obtain the required land use entitlements as set forth in Title 16 of the Vallejo Municipal Code. Owners must apply no later than January 1, 2021, in order to ensure processing in a timely manner.
2. Apply for and obtain the applicable permits as required in Chapter 7.200 of the Vallejo Municipal Code. Owners must apply no later than January 1, 2021, in order to ensure processing in a timely manner.
3. Apply for and obtain the applicable licenses and permits from the State of California.

G. Cannabis business owners who do not obtain all required permits by January 1, 2022, will lose their ability to engage in authorized cannabis business activity in compliance with this chapter.

H. All cannabis business owners who hold a local regulatory permit under this chapter must fulfill the following requirements continuously, and include in their annual application to renew the tax certificate, a request to renew the local regulatory permit issued under this chapter. This local regulatory permit must be obtained initially and thereafter renewed every year together with the annual tax certificate renewal. Renewal applications must be submitted at least 60 days before the end of the fiscal year. A cannabis business retailer who submits a renewal application late (less than 60 days before the end of the fiscal year) will be required to submit a new application and pay a new application fee. Cannabis business owners must include information showing compliance with each requirement below in their initial application as well as each renewal. Cannabis business owners must include the following information indicating compliance with the following:

1. Maintain on file, and present if requested, a tax certificate issued by the City to the dispensary before April 23, 2013.

2. Maintain on file, and present if requested, evidence that the medical marijuana dispensary operated prior to April 23, 2013.
3. Maintain on file, and present if requested, evidence demonstrating the medical marijuana dispensary paid quarterly taxes from the date of opening until the City ceased accepting tax in February 2015.
4. Together with its renewal application, and within two weeks of any changes, update the City with any changes to the address of the property where the medical marijuana dispensary is operating.
5. Together with its renewal application, and within two weeks of any changes, update the City with any changes made to the name, address, telephone number, title and function(s) of each manager. For each manager, a fully legible copy of one (1) valid government-issued form of photo identification, such as a driver license shall be submitted.
6. Together with its renewal application, and within two weeks of any changes, update the City with any changes to the criminal status of any of its managers in the event any of them is charged with or has been convicted within the previous ten (10) years of a crime of moral turpitude (such as theft, fraud, or assault), or a crime involving the sale or distribution of any controlled substance.
7. Together with its renewal application, and within two weeks of any changes, submit a summary criminal history (“LiveScan”) for each manager prepared not more than two (2) weeks prior to the date of submission and demonstrating that there are no pending charges or convictions for any crime (including, without limitation, theft, fraud, or assault) within the previous ten (10) years, and that the manager is not currently on parole or probation for the sale or distribution of a controlled substance.
8. Together with its renewal application, and within two weeks of any changes, update the City with any changes to the incorporation status of the cannabis business retailer, including the original and any changes to its filed articles of incorporation with the Secretary of State, any amendments, statements of information, by-laws, charter and constitution.
9. A seller’s permit from the California Department of Tax and Fee Administration.
10. The name and address of the applicant’s current agent for service of process.
11. A statement dated and signed by each manager, under penalty of perjury, he or she has read, understands and shall ensure compliance with all operating conditions as referenced in subsection E above and all the requirements in this subsection.
12. A statement of whether edible cannabis is prepared onsite and, if so, evidence of approval from the applicable regulatory agency pursuant to state law.

**7.100.060 Additional cannabis business regulations.**

- A. All transactions shall designate Vallejo as the point of sale and be completed through a single, fully integrated point of sale software system acceptable to the finance director.
- B. Inspections by a representative of the City may be conducted anytime during the business's regular business hours, to the full extent allowed by state and federal law.
- C. Cannabis business owners and cannabis laboratory owners may only engage in cannabis business activity, apply for local and state licenses, advertise, and operate a cannabis laboratory, as applicable under one business name. The name of the business and the name of the owner must both be included as such on their local permit(s) and on their state license(s).
- D. No person who is currently charged with or has been convicted within the previous ten (10) years of a crime of moral turpitude (such as theft, fraud, or assault), or a crime involving the sale or distribution of any controlled substance, shall be engaged directly or indirectly in the management of the cannabis business, nor shall any such person manage or handle the receipts and expenses of the cannabis business or cannabis laboratory.
- E. Each cannabis business retailer must post in a public place, a prohibited activity checklist signed by each manager acknowledging responsibility for and compliance with all applicable requirements of sections 16.82.060, 16.58,040 and 16.64 provided that additional conditions may be imposed by the City as necessary to preserve the public health, safety, and welfare.
- F. No cannabis business activity of any kind other than as described in the corresponding local regulatory permit and its application may be conducted on the cannabis business site.
- G. A cannabis business owner may only operate one cannabis retail business on one site. Multiple retail sites owned by the same owner are prohibited.

**7.100.070 Delivery.**

- A. Each authorized cannabis business is authorized to deliver cannabis.
- B. Deliveries originating outside of Vallejo shall comply with all local and state law requirements, including obtaining a Vallejo business license and paying Vallejo business license tax.
- C. Every person making a delivery of cannabis in Vallejo shall carry a copy of the local and state license authorizing delivery and shall submit a copy of such licenses to the city manager prior to engaging in deliveries.

**7.100.080 Location.**

- A. Cannabis businesses shall not be located within a six hundred (600) foot radius of a school providing instruction in kindergarten or any grades 1 through 12, daycare center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line

from the property line of the school to the closest property line of the lot on which the property is located without regard to intervening structures.

B. Any cannabis business who is conducting cannabis business activity and who has obtained a local regulatory permit and is otherwise compliant with the provisions of this chapter, but whose cannabis business activity is located on property that does not comply with subsection A and California Health & Safety Code section 26054(b), or is located in a zone that prohibits the cannabis business activity must relocate to a location that both: 1) complies with state law and 2) complies with the city's zoning ordinance by January 1, 2022. During the period of amortization, these businesses will not be required to relocate as long as they remain in compliance with this chapter.

C. Any person who has received a local regulatory permit must conduct all medical and adult-use retail sales operations at one site.

#### **7.100.090 Revocation of Permit.**

A. The city manager may revoke a permit issued under this chapter for any of the following reasons:

1. Failure or inability to comply with the provisions of Chapter 7.100.
2. Failure to obtain or maintain required state license(s).
3. Failure to provide information required by the City.
4. Failure to obtain or maintain the required land use entitlements under Title 16 of the Vallejo Municipal Code.
5. Charge or conviction of a criminal offense (within 10 years) involving a crime of moral turpitude (such as theft, fraud, or assault), or crimes involving the sale or distribution of any controlled substance by the owner or any manager of the cannabis business.
6. Failure to submit local regulatory permit renewals under this chapter, or the application(s) pursuant to Chapter 7.200 and land use applications as required under Title 16 by January 1, 2021.

B. No revocation shall occur unless the city manager has issued a written warning sent by U.S. mail to the cannabis business and the cannabis business has failed to comply within 30 calendar days of mailing.

#### **7.100.100 Appeal.**

A. Any person aggrieved by the decision of the city manager to revoke the permit may appeal the city manager's written decision to a hearing officer selected by the City. The hearing officer shall render a decision affirming or reversing the decision of the city manager. The hearing officer may direct the reconsideration of the matter in the light of his or her decision but the decision shall not limit or control in any way the discretion vested by law in the city.



B. Any person aggrieved by the decision of the hearing officer may seek judicial review of the decision by filing a petition with a court of competent jurisdiction pursuant to California Code of Civil Procedure sections 1094.5 and 1094.6.

**7.100.110 Transfer or Relocation.**

Cannabis business owners in possession of a Chapter 7.100 permit may not relocate or transfer their permit, except that they may seek and obtain a local regulatory permit in accordance with Chapter 7.200 and all applicable requirements of the city's zoning ordinance. Permits obtained in accordance with Chapter 7.200 are transferable as set forth therein. However, any attempt to transfer the Chapter 7.100 permit shall void the permit.

**7.100.120 Maintenance of Records.**

A. A cannabis business owner shall maintain the following accurate and truthful records on the Property:

1. The full legal entity name of the cannabis business as recorded with the California Secretary of State, the name and address of its agent named for service of process, and the address of the property where the cannabis business activity is conducted.
2. The full name, all residential and business address(es), and telephone number(s) of each cannabis business owner(s) and manager(s), date of joining, date of birth, and the exact nature of the participation in the ownership of and the management of the cannabis business.
3. The current address of all sites at which cannabis is cultivated for the cannabis business.
4. A written accounting of all cash and in-kind contributions, reimbursements, and compensation provided by or to the cannabis business owners, managers and members to or from the cannabis business, and all expenditures and costs incurred by the cannabis business.
5. An inventory record documenting the dates and amounts of cannabis sold, stored delivered or distributed on or from the property.
6. These records shall be maintained by the cannabis business for a period of five (5) years and shall be made available by the manager to the City upon request.

**7.100.130 Inspection Authority.**

City representatives may enter and inspect the property where cannabis business activity takes place between the hours of nine o'clock (9:00) a.m. and seven o'clock (7:00) p.m., or at any reasonable time to ensure compliance and enforcement of the provisions of this chapter. It is unlawful for any Property owner, landlord, lessee, member or manager or any other person having any responsibility over the operation of the cannabis business to refuse to allow, impede, obstruct or interfere with an inspection.

**7.100.140 Public Nuisance.**

Any cannabis business that is not in compliance with this chapter is an illegal public nuisance.

**7.100.150 Enforcement.**

A. Any person violating any provision of this chapter or misrepresenting any material fact in demonstrating compliance with requirements of this chapter shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.

B. A building, structure or location that is being used to conduct unregulated cannabis business activity is deemed to be a public nuisance.

C. Any cannabis business owner, landlord, lessor, lessee, owner, manager, employee or person who violates this chapter shall be subject to prosecution. Violations of this chapter may be abated through injunctive relief, revocation of the applicable permit(s), disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity.

SECTION 2. Severability.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed and adopted this ordinance, and each and all provisions hereof, irrespective of the fact one or more provisions may be declared invalid.

SECTION 3. Effective Date.

First read at a regular meeting of the Council of the City of Vallejo held on the 11th day of December 2018 and finally passed and adopted at a regular meeting of the Council of the City of Vallejo held on the 18th day of December 2018 by the following vote:

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

  
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BOB SAMPAYAN, MAYOR

ATTEST:

  
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DAWN G. ABRAHAMSON, CITY CLERK