

ORDINANCE NO. 22-929

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARTESIA AMENDING ARTICLE 44 OF CHAPTER 2 OF TITLE 9 OF THE ARTESIA MUNICIPAL CODE ESTABLISHING THAT RETAIL COMMERCIAL CANNABIS MAY BE A PERMITTED USE SUBJECT TO THE REVIEW AND APPROVAL OF VARIOUS ENTITLEMENTS WITHIN PORTIONS OF THE COMMERCIAL GENERAL AND COMMERCIAL PLANNED DEVELOPMENT ZONES, AS WELL AS IN PORTIONS OF THE ARTESIA BOULEVARD SPECIFIC PLAN, ARTESIA BOULEVARD CORRIDOR SPECIFIC PLAN, AND SOUTH STREET SPECIFIC PLAN AREAS WHICH ARE SOUTH OF CALIFORNIA STATE ROUTE 91 (ARTESIA FREEWAY)

THE CITY COUNCIL OF THE CITY OF ARTESIA FIND AND DECLARES:

WHEREAS, pursuant to the authority granted to the City of Artesia ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City's police power; and,

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and,

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and,

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act"); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, in November 2020, Artesia voters approved Measure Q, a ballot measure that would allow for certain taxes to be collected from the cultivation and sale of cannabis in Artesia if the City Council were to lift the current prohibitions on medical and commercial cannabis activities in the City; and

WHEREAS, the City has been working on a draft regulatory ordinance that would regulate and provide the permitting process for commercial cannabis sales and businesses within the City; and

WHEREAS, the proposed Ordinance would amend Article 44 of Chapter 2 of Title 9 of the Municipal Code establishing that retail commercial cannabis may be a permitted use subject to the review and approval of various entitlements within portions of the Commercial General and Commercial Planned Development zones, as well as in portions of the Artesia Boulevard Specific Plan, Artesia Boulevard Corridor Specific Plan, and South Street Specific Plan areas which are south of California State Route 91 (Artesia Freeway); and,

WHEREAS, the Planning Commission of the City of Artesia conducted a properly noticed public hearing on August 30, 2022 at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and,

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance; and,

WHEREAS, the City Council conducted a properly noticed public hearing on September 12, 2022 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

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

SECTION 1. Recitals. The City Council hereby finds that the foregoing recitals are true and correct and incorporated herein as substantive findings of this Ordinance.

SECTION 2. CEQA. The City Council finds that this Ordinance not subject to the California Environmental Quality Act ("CEQA") pursuant to sections 15060(c)(2) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA. The businesses authorized under this zone text amendment are similar to already existing permitted general uses such as retail, with the only difference being the product sold or consumed (i.e. cannabis). The Ordinance does not change the zoning for any properties, meaning that they do not create negative environmental impacts or result in physical changes to the environment. City staff shall cause a Notice of Exemption to be filed as authorized by CEQA and the State CEQA Guidelines.

SECTION 3. Findings. Government Code section 65860 requires a city's zoning ordinance to be consistent with the general plan. Based on all evidence in the record, the City Council finds as follows:

The City's General Plan is the long-range planning document, providing the vision for the future development of the City. The zoning code amendments are consistent with the General Plan in accordance with Government Code section 65860. The following General Plan guiding principles and implementing policies are applicable to this zone text amendment to regulate cannabis-related activities:

- A. The amendments are consistent with Community Policy LU 1.2 and Economic Development Policy Action ED 1.2.3, because the proposed amendments are intended to facilitate the opportunity for the development of expanded commercial uses and employment growth. Nothing in the proposed amendments would create an inconsistency with the goals, policies and objectives of the 2030 General Plan.

- B. The proposed zone text amendments will not adversely affect surrounding properties because the proposed changes are consistent with identified zone uses and will be regulated through a rigorous permit process.
- C. The proposed amendments also promote public health, safety, and general welfare and serve the goals and purposes of the General Plan by diversifying the economic base, expanding economic opportunity and enhancing fiscal sustainability.

SECTION 4. Amendment. Article 44 (Commercial Marijuana Use and Cultivation) of Chapter 2 (Zoning) of Title 9 (Planning and Zoning) of the Artesia Municipal Code is hereby repealed and replaced in its entirety as follows:

"Article 44. Commercial Marijuana Use and Cultivation

Section 9-2.4401 - Definitions

The definitions for cannabis uses in this Chapter shall be as defined in Sections 3-5.504 and 3-2.801 of the Municipal Code.

Section 9-2.4402 - Allowable Zones for Commercial Cannabis

(a) Subject to Chapters 2 and 5 of Title 3, commercial cannabis uses with a valid City permit shall be allowed to locate and operate in the Commercial General and Commercial Planned Development zones, as well as in the Artesia Boulevard Specific Plan, Artesia Boulevard Corridor Specific Plan, and South Street Specific Plan which are south of California State Route 91 (Artesia Freeway). All commercial cannabis uses are expressly prohibited in all other zones, including overlay zones, and all specific plan areas in the City. No person shall establish, operate, maintain, conduct or allow commercial cannabis uses anywhere within the City except as provided herein. The City shall not approve any application for a building permit, conditional use permit, variance or any other entitlement authorizing the establishment, operation, maintenance, development or construction of any commercial cannabis use except as provided herein or as provided in Chapter 2 of Title 3.

(b) Cannabis cultivation outdoors is expressly prohibited in all zones, including overlay zones, and all specific plan areas in the City. No person owning, renting, leasing, occupying or having charge or possession of any parcel shall cause or allow such parcel, or any portion of such parcel, to be used for cultivating marijuana outdoors.

(c) Cannabis cultivation indoors is expressly prohibited all zones, including overlay zones, and all specific plan areas in the City, except as set forth in Section 5.21.04.

Section 9-2.4403 – Enforcement; Penalties

In addition to any other enforcement permitted by Chapter 2 of Title 1 of this Code, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person that violates this chapter. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Chapter 2 of Title 1 of this Code, this article does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 et seq., or Section 11362.1 et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Chapter 2 of Title 1 of this Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern."

SECTION 5. Amendment. Section 9-2.414 is amended to delete the stricken text as follows.

9-2.414 "M" Words and Phrases.

~~(e) Marijuana delivery shall mean the transfer of marijuana, cannabis, or marijuana or cannabis products, including also the use of any technology platform that enables, arranges for, or facilitates the transfer of marijuana, cannabis, or marijuana or cannabis products.~~

~~(h) Medical marijuana dispensary shall mean the use of a building, structure or land that in any way involves growing, distributing or making available to persons, with or without financial payment or consideration, marijuana for medical purposes as described in California Health and Safety Code Section 11362.5. This term shall not include any State licensed health care facility that may lawfully be established and operate as such within a zone or zones of the City.~~

~~(m) Mobile marijuana dispensary shall mean the use of a motor vehicle that in any way involves growing, distributing, delivering or making available to persons, with or without financial payment or consideration, marijuana, cannabis, or marijuana or cannabis products, including marijuana for medical purposes as described in California Health and Safety Code Section 11362.5. This term shall not include any State licensed health care facility that may lawfully be established and operate as such within a zone or zones of the City.~~

SECTION 6. Effective Date. This Ordinance shall become effective 30 days after the Council adopts this Ordinance and Ordinance No. 22-930. This Ordinance shall not become effective unless and until Ordinance No. 22-930 becomes effective.

SECTION 7. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance, and, to that end, the provisions hereof are severable. The City Council of the City of Artesia declares that it would have adopted all the provisions of this Ordinance that remain valid if any provisions of this ordinance are declared invalid.

SECTION 8. Adoption, Certification, and Publication. The City Clerk of the City of Artesia shall certify the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and/or posted in the manner required by law.

SECTION 9. Record of Proceedings. The documents and materials associated with this ordinance that constitute the record of proceedings on which these findings are based are located at 18747 Clarkdale Avenue, Artesia, California, 90701. The Acting City Clerk is the custodian of the record of proceedings.

PASSED, APPROVED AND ADOPTED by the City Council of the Artesia, California, at a regular meeting of the City Council held on the 10th day of October 2022 by the following vote:



MELISSA RAMOSO, MAYOR

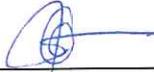
ATTEST:



JENNIFER ALDERETE, ACTING CITY CLERK

I, Jennifer Alderete, Acting City Clerk of the City of Artesia, do hereby certify that the foregoing Ordinance was adopted at the Regular City Council Meeting held on the 10th day of October 2022, by the following roll call vote:

AYES:	COUNCIL MEMBERS:	TREVINO, TAJ, LIMA, MANALO, RAMOSO
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE



JENNIFER ALDERETE, ACTING CITY CLERK