

ORDINANCE NO. 2965

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC SECTIONS OF ARTICLE XVI, CHAPTER 11 AND CHAPTER 16 OF THE OXNARD CITY CODE REGARDING COMMERCIAL CANNABIS ACTIVITIES BY AMENDING SECTION 11-415(D), SECTION 11-415(H), SECTION 11-415(J), SECTION 11-425, SECTION 11-426(A), SECTION 11-426(B), SECTION 11.433, SECTION 11-448, SECTION 11-449, SECTION 11-450, SECTION 11-451, SECTION 11-452, SECTION 11-453; AND ADDING SECTION 11-454, SECTION 11-455, SECTION 11-456, AND 16-273 (C); ADDING SECTION 11-442 (H), SECTION 11-443 (G), AND SECTION 11-444 (N) PERTAINING TO THE REQUIRED DISCRETIONARY PERMIT PROCESS FOR CANNABIS TESTING LABS, DISTRIBUTORS, AND MANUFACTURING; ADDING SECTION 16-173 REGARDING DEVELOPMENT DESIGN REVIEW PERMIT REQUIREMENTS FOR COMMERCIAL CANNABIS ACTIVITIES IN THE BRP BUSINESS AND RESEARCH PARK ZONE, THE M-L LIMITED MANUFACTURING ZONE, THE M-1 LIGHT MANUFACTURING ZONE, AND THE M-2 HEAVY MANUFACTURING ZONE; AND AMENDING SECTIONS 4.2.1.,B. (AUTO SALES AND SERVICE), 4.2.2,B. (BUSINESS PARK), AND 4.2.4.,B. (COMMERCIAL MANUFACTURING) OF THE ROSE SANTA CLARA CORRIDOR SPECIFIC PLAN SUBJECT TO THE REQUIREMENTS STIPULATED IN ARTICLE XVI OF CHAPTER 11

The City Council of the City of Oxnard does hereby ordain as follows:

Section 1. Section 11-415(d) of the Oxnard City Code is amended to read as follows:

“(d) The applicable Department Head or his/her designee(s) shall review the application for completeness, shall conduct a background check to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:

(1) Has been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code sections 186.11, 470, 484, and 504a, respectively; or

(2) Has committed a felony or misdemeanor involving fraud, deceit, embezzlement; or

(3) Was convicted of a violent felony, a crime of moral turpitude; or

(4) The illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

Discovery of these facts showing that the applicant is dishonest or has been convicted of the requisite crimes are grounds for denial of the permit. Where the applicant’s sentence (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a commercial

cannabis work permit. Furthermore, an applicant shall not be denied a permit if the denial is based solely on any of the following: (i) a conviction for any crime listed in subsection (d) (4) above for which the applicant has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the California Penal Code or (ii) a conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or any other provision of state law allowing for dismissal of a conviction.”

Section 2. Section 11-415(h) of the Oxnard City Code is amended to read as follows:

“(h) The City may immediately revoke the commercial cannabis employee permit should the permit holder be convicted of a crime listed in subsection (c) and (d) above or if facts become known to the City that the permit holder has engaged in activities showing that he or she been convicted of a crime involving dishonesty.”

Section 3. Section 11-415(j) of the Oxnard City Code is amended to read as follows:

“(j) The applicant may appeal the denial or revocation of a commercial cannabis employee permit by filing a notice of appeal with the City Clerk within ten (10) days of the date the applicant received the notice of denial; which appeal shall be conducted as set forth in Sections 11-423 to 11-425.”

Section 4. Section 11-425 of the Oxnard City Code is amended to read as follow:

“Section 11-425. Appeal Hearing.

(a) Upon receipt of the written appeal of a decision rendered by the City Manager regarding application review ranking, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the City.

(b) The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.

(c) At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.

(d) The decision of the City Council shall be final for an appeal of a Planning Commission action. The decision of the Planning Commission shall be final for an appeal of the Community Development Director’s decision.”

Section 5. Section 11-426(a) of the Oxnard City Code is amended to read as follows:

“(a) The City Manager shall adopt a procedure guideline and Review Criteria by which the top applicants in each category of each commercial cannabis business shall be evaluated.”

Section 6. Section 11-426(b) of the Oxnard City Code is amended to read as follows:

“(b) At least ten (10) days prior to the public hearing, notice of the public hearing shall be sent to all property owners located within six hundred (600) feet of the proposed business locations of each of the finalists to be considered by the Planning Commission or Community Development Director depending upon the cannabis permit being sought.”

Section 7. Section 11-433 is amended to read as follows:

“Section 11-433. Location and Design of Cannabis Businesses.

Cannabis businesses permitted to engage in Manufacturing, Testing, or Distribution of cannabis and cannabis products are subject to the following zoning and locational requirements:

(a) All cannabis manufacturing, testing, and distribution businesses have been conceptually identified on land use maps, with actual siting subject to land use siting criteria and buffer requirements stipulated in this Article. Manufacturing, testing, and distribution facilities are conceptually permitted on property must be located on property zoned Limited Manufacturing (ML), Light Manufacturing (M1), Heavy Industrial (M2), and Business and Research Park (BRP), as well as Auto Sales and Service, Business Park, and Commercial Manufacturing zones within the Rose Santa Clara Corridor Specific Plan. Manufacturing, Testing, and/or Distribution facilities may also be located in the following Specific Plan areas subject to relevant Specific Plan requirements, and input from the Business Park Association (if operational): Northeast Community Specific Plan, Sakioka Farms, Camino Real Business Park, McInnes Ranch Business Park Specific Plan, and Northfield Seagate Business Park Specific Plan.

(b) [Reserved]

(c) Compliance with any Specific Plan requirements, including a letter of support from the specific plan management company or association.

(d) The property on which any commercial cannabis business is located must also meet all of the following distance requirements:

(1) It shall be no closer than six hundred (600) feet of any of the following:

(A) Any school providing instruction in kindergarten or any grades 1 through 12, whether public, private, or charter, including pre-school, transitional kindergarten, and K-12.

(B) A commercial daycare center licensed by the City or County that is in existence at the time the license is issued, unless the State licensing authority or the City specifies a different radius.

(C) A youth center that is in existence at the time the license is issued, unless the State licensing authority or the City specifies a different radius.

(2) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the identified use to the closest property line of the lot on which the cannabis use is located without regard to intervening structures.

(e) Each proposed cannabis manufacturing, testing, and distribution use shall:

(1) Conform with the City's General Plan, any applicable specific plans, master plans, and design requirements.

(2) Comply with all applicable zoning, and specific plan requirements, and related development standards.

(3) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.

(4) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.

(5) Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.

(6) Be provided with adequate electricity, sewerage, disposal, water, fire protection (sprinkler and alarm; retrofit when determined necessary by the Fire Marshal) and storm drainage facilities for the intended purpose.”

Section 8. Subsection (h) is added to Section 11-442 to read as follows:

“(h) Approval of Testing Labs shall be through approval of a Development Design Review (DDR) Permit to be issued by the Community Development Director of the City of Oxnard.”

Section 9. Subsection (g) is added to Section 11-443 to read as follows:

“(g) Approving of distributor shall be through the approval of a Development Design Review (DDR) Permit to be issued by the Community Development Director of the City of Oxnard.”

Section 10. Subsection (n) is added to Section 11-444 to read as follows:

“(n) Approval of manufacturing facilities shall be through approval of a Development Design Review (DDR) Permit to be issued by the Community Development Director of the City of Oxnard.”

Section 11. Section 11-448 is amended to read as follows:

“Section 11-448. Promulgation of Regulations, Standards and Other Legal Duties.

(a) In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Article.

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- (b) Regulations shall be published on the City’s website.
- (c) Regulations promulgated by the City Manager shall become effective upon date of publication. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his/her designee.
- (d) Testing Labs, Distribution facilities and Special Events shall be subject to state law and shall be subject to additional regulations as determined from time to time as more regulations are developed pursuant to this section and any subsequent State of California legislation regarding the same.”

Section 12. Section 11-449 is amended to read as follows:

“Section 11-449. Community Relations.

- (a) Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within six hundred (600) feet of the commercial cannabis business.
- (b) During the first year of operation pursuant to this Article, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Article shall attend quarterly meetings with the City Manager or his/her designee(s), and other interested parties as deemed appropriate by the City Manager or his/her designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of this Article. After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).
- c. Commercial cannabis businesses to which a permit is issued pursuant to this Article shall describe benefits that the cannabis business would provide to the local community, such as community contributions, volunteer services and/or economic incentives.”

Section 13. Section 11-450 is amended to read as follows:

“Section 11-450. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Article shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Oxnard, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder’s presence.”

Section 14. Section 11-451 is amended to read as follows:

“Section 11-451. Inspection and Enforcement.

(a) The City Manager, or his/her designee(s) charged with enforcing the provisions of the City of Oxnard Code, or any provision thereof, may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this Article or under applicable provisions of State law.

(b) It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Article or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Article or under state or local law.

(c) The City Manager, or his/her designee(s) charged with enforcing the provisions of this Article may enter the location of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Oxnard shall be logged, recorded, and maintained in accordance with established procedures by the City of Oxnard City Manager or these regulations.”

Section 15. Section 11-452 is amended to read as follows:

“Section 11-452. Compliance with State Regulations.

It is the stated intent of this Article to regulate commercial cannabis activity in the City of Oxnard in compliance with all provisions MAUCRSA and any subsequent state legislation.”

Section 16. Section 11-453 is amended to read as follows:

“Section 11-453. Violations declared a public nuisance.

Each and every violation of the provisions of this Article is hereby deemed unlawful and a public nuisance.”

Section 17. Section 11-454 is added to read as follows:

“Section 11-454. Each violation a separate offense.

Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Oxnard. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, any permit issued pursuant to this Article being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Oxnard may also pursue any and all remedies and actions available and applicable under state and local laws for

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any violations committed by the commercial cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the City, pending a hearing before the City Manager, or his/her designee(s).”

Section 18. Section 11-455 is added to read as follows:

“Section 11-455. Criminal Penalties.

Each and every violation of the provisions of this Article may in the discretion of the District Attorney or City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the County jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.”

Section 19. Section 11-456 is added to read as follows:

“Section 11-456. Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.”

Section 20. Section 16-173 is hereby added to read as follows:

“16-173 Development Design Review Permit Required for Specific Commercial Cannabis Activities

A. A commercial cannabis business for manufacturing, testing and/or distribution of cannabis may be permitted in the BRP Business and Research Park Zone, the M-L Limited Manufacturing Zone, the M-1 Light Manufacturing Zone and the M-2 Heavy Manufacturing Zone, provided that the owner has first obtained a commercial cannabis business permit pursuant to Article XVI, Chapter 11 of the Oxnard City Code and a Development Design Review (DDR) Permit.

B. [Reserved].

C. Commercial cannabis businesses not specifically authorized by this Section are prohibited in the industrial zoning districts.”

Section 21. Subsection (c) is added Section 16-273 to read as follows:

“C. A commercial cannabis business for manufacturing, testing and/or distribution of cannabis may be permitted in the Planned Development (Additive) Zone, provided that the owner has first obtained a commercial cannabis business permit pursuant to Article XVI, Chapter 11 of the Oxnard City Code and a Development Design Review (DDR) Permit.

Section 22. Section 4.2.1., B. (Auto Sales and Service) of the Rose Santa Clara Corridor Specific Plan is hereby amended to read as follows:

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“5. Commercial Cannabis uses, subject to the requirement of Oxnard City Code, Chapter 11, Article XVI.”

Section 23. Section 4.2.2., B. (Business Park) of the Rose Santa Clara Corridor Specific Plan is hereby amended to read as follows:

“5. Commercial Cannabis uses, subject to the requirement of Oxnard City Code, Chapter 11, Article XVI.”

Section 24. Section 4.2.4., B. (Commercial Manufacturing) of the Rose Santa Clara Corridor Specific Plan is hereby amended to read as follows:

5. Commercial Cannabis uses, subject to the requirement of Oxnard City Code, Chapter 11, Article XVI.”

Section 25. If any section, subsection, phrase, or clause of this Ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

Section 26. Within 15 days after passage, the City Clerk shall cause a summary of this ordinance to be published one time in a newspaper of general circulation published and circulated in the City. Ordinance No. _____ was first read on _____, 2019, and finally adopted on A _____, 2019, to become effective thirty (30) days thereafter.

Section 27. This ordinance shall become effective thirty (30) days after it is finally adopted. The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of Oxnard, State of California, held on the _____ day of _____, _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Tim Flynn, Mayor

ATTEST:

APPROVED AS TO FORM:

Michelle Ascencion, City Clerk

Stephen M. Fischer, City Attorney