

ORDINANCE NO.

AN ORDINANCE REPEALING ORDINANCE NO. 1.18,
AN INTERIM URGENCY ORDINANCE EXTENDING THE PROHIBITION
OF COMMERCIAL CANNABIS ACTIVITY IN ALL ZONING DISTRICTS
WITHIN THE CITY, EXCLUDING CANNABIS DELIVERY SERVICES FROM
STATE AND LOCALLY LICENSED CANNABIS RETAILERS WITH PHYSICAL
PREMISES LOCATED OUTSIDE OF THE CITY OF MOUNTAIN VIEW
AND PROVIDED DELIVERIES ARE CONDUCTED IN ACCORDANCE WITH
THE LICENSING JURISDICTIONS' RULES FOR CANNABIS DELIVERY FOR
TEN (10) MONTHS AND FIFTEEN (15) DAYS, AND AMENDING ARTICLE V,
DIVISION 2, ARTICLE VI, DIVISIONS 2 AND 3, ARTICLE VII, SECTION 36.22.10,
ARTICLE IX, DIVISION 11, AND ARTICLE XVII, DIVISION 2, AND ADDING
DIVISION 21 TO ARTICLE XIV TO ESTABLISH CANNABIS REGULATIONS

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5, *et seq.*, and entitled "The Compassionate Use Act of 1996"); and

WHEREAS, on October 9, 2015, Assembly Bills 243 and 266 and Senate Bill 643 (collectively, the "Medical Marijuana Regulation and Safety Act" or "MMRSA") were enacted to create a State regulatory and licensing system governing the cultivation, testing, and distribution of medical marijuana; the manufacturing of medical marijuana products; and physician recommendations for medical marijuana; and

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64. Proposition 64, and subsequently SB 94 (the Medicinal and Adult-Use Cannabis Regulation and Safety Act or "MAUCRSA"), have decriminalized recreational cannabis use, cultivation, and distribution under State law and further established a licensing program for medical and nonmedical commercial cultivation, testing, distribution, and manufacturing. Such licenses will not be issued until January 1, 2018; and

WHEREAS, Proposition 64, and subsequently the MAUCRSA, expressly preserve local jurisdictions' ability to adopt and enforce local ordinances to regulate commercial cannabis activity, including local zoning and land use requirements and the ability to completely prohibit commercial cannabis or operation of one or more types of commercial cannabis activity; and

WHEREAS, On September 5, 2018, the Environmental Planning Commission held a duly noticed public hearing and reviewed all staff reports, public testimony, and

environmental review on the zoning text amendments and adopted a resolution recommending City Council approval of the zoning text amendments;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Council Findings. The City Council finds and determines, at a duly noticed public hearing on October 2, 2018, that the following Zoning Text Amendments are consistent with the General Plan of the City of Mountain View based upon the following findings made pursuant to Section 36.52.60 of the City Code:

a. The Zoning Text Amendments are consistent with the General Plan because allowing cannabis businesses furthers the goal of attracting a variety of businesses (Goal LUD-13) and attracts an innovative and emerging business to the city (Policy LUD 14.3);

b. The Zoning Text Amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the City as the adoption of local cannabis regulations is consistent with or more restrictive than those authorized by the adoption of Proposition 64 and state law regarding cannabis. The proposed text amendments require proposed cannabis businesses to be reviewed through a conditional use permit and a public hearing to preserve the health, safety, and welfare of the community;

c. The Zoning Text Amendments are internally consistent with Chapter 36 of the Mountain View City Code;

d. The Zoning Text Amendments are not subject to the California Environmental Quality Act ("CEQA") because the activity will not result in a direct or reasonably foreseeable indirect physical change in environment pursuant to Section 15060(c)(2) of the CEQA Guidelines; and

e. The following Zoning Map Amendment is in conformity with the procedures set forth in Chapter 36, Article XVI, Division 13, of the Mountain View City Code whereby the City may amend the City's Zoning Map.

Section 2. Ordinance No. 1.18, an Interim Urgency Ordinance Extending the Prohibition of Commercial Cannabis Activity in All Zoning Districts within the City, Excluding Cannabis Delivery Services from State and Locally Licensed Cannabis Retailers with Physical Premises Located Outside of the City of Mountain View and Provided Deliveries Are Conducted in Accordance with the Licensing Jurisdictions' Rules for Cannabis Delivery for Ten (10) Months and Fifteen (15) Days, adopted on January 16, 2018, is hereby repealed and of no further force and effect.

Section 3. Chapter 36, Article V, Division 2 of the Mountain View City Code is hereby amended to read as follows:

“DIVISION 2. - LAND USES

SEC. 36.18.05. - Commercial zone land use permit requirements.

The uses of land allowed by this chapter in each commercial zoning district are identified in the following tables as being:

a. Permitted subject to compliance with all applicable provisions of this chapter, including development review and parking requirements, and subject to obtaining any building permit or other permit required by the City Code (“P” uses on the tables). Per Sec. 36.44.45, development review approval is required for changes from one (1) permitted use to another, including changes in property or building use that involve exterior modifications or change the development’s required parking.

b. Allowed subject to approval of a conditional use permit (“CUP”) (Sec. 36.48).

c. Allowed subject to approval of a temporary use permit (“TUP”) (Sec. 36.46).

d. Land uses listed, as specifically defined in this chapter, and on the tables in a particular zoning district(s) shall only be allowed in the specific zoning district(s) in which it is listed. Such uses can only be allowed in other zoning district(s) upon approval of a text amendment as provided by Sec. 36.52.35 (Zoning Amendments). These uses cannot be named as similar uses as determined by the zoning administrator through the conditional use permit process or Sec. 36.58.30 (Procedures for Interpretation).

e. Land uses that are not listed on the tables are not allowed, except where otherwise provided by Sec. 36.06.40 (Determination of Allowable Land Uses) or Sec. 36.06.50 (Exemptions from Zoning Permit Requirements).

LAND USES AND PERMIT REQUIREMENTS BY COMMERCIAL DISTRICT

NOTE 1: Where the last column on the following tables (“See Section”) includes a section number, there are specific regulations and/or a specific definition in the referenced section that apply to the use; however, provisions in other sections may apply as well.

NOTE 2: Changes from one (1) permitted use to another require development review approval.

LAND USE	PERMIT REQUIREMENT BY ZONE				
	CN	CS	CO	CRA	SEE SECTION
MANUFACTURING AND PROCESSING					
Food products		P			36.60.15
Furniture and fixtures		P			
Laundry and dry cleaning plants		P			
Printing and publishing		P			
Recycling – reverse vending machines	CUP	CUP	CUP	CUP	36.60.39
Recycling – small collection facility	CUP	CUP	CUP	CUP	36.60.39
Wholesaling and distribution		P			36.60.49
RECREATION, EDUCATION, PUBLIC ASSEMBLY					
Adult entertainment establishments				CUP	36.28.10
Child day-care facilities	CUP	CUP	CUP	CUP	36.28.20
Churches	CUP		CUP	P	
Community centers	CUP		CUP	CUP	
Indoor recreation and fitness centers	CUP	CUP		P	
Libraries and museums	CUP		CUP	CUP	
Membership organization facilities and meeting halls			CUP	CUP	
Outdoor commercial recreation				CUP	
Pool and billiard rooms				CUP	
Public schools	CUP	CUP	CUP	CUP	
Private schools	CUP		CUP	CUP	
Schools – specialized education and training	CUP	CUP	CUP	CUP	
Studios for dance, art, music, photography, martial arts, etc.	CUP	CUP	CUP	P	
Theaters				CUP	
RESIDENTIAL					
Home occupations				P	36.28.75
Multi-family housing, townhouses, rowhouses or mixed-use commercial/housing				CUP	36.18.50
Residential accessory use structures				P	36.12.35
Efficiency studios				CUP	36.28.40

RETAIL TRADE					
Accessory retail uses	P	P	P	P	36.28.05
Auto, mobile home, trailer and boat sales		P		CUP	36.30.25
Bars and drinking places		CUP		CUP	
Building material stores (not including concrete)		P		CUP	
Cannabis business, storefront retail	CUP			CUP	36.30.55, 36.60.03 and Chapter 9
Certified farmer's markets				CUP	
Drive-in and drive-through sales	CUP	CUP		CUP	36.28.30
Fuel and ice dealers		P		CUP	
Furniture, furnishings and home equipment stores		CUP		P	
Grocery stores	P	CUP		P	
Liquor stores	CUP			P	
Outdoor merchandise and activities		CUP		CUP	36.28.95
Outdoor retail sales, temporary	TUP	TUP	TUP	TUP	36.46
Restaurants serving liquor, with entertainment				CUP	
Restaurants serving liquor, without entertainment	CUP	CUP		P	
Restaurants with or without beer and wine	P	CUP		P	
Restaurants, take-out	P	CUP		P	
Retail stores, general merchandise	P	CUP		P	36.60.39
Second hand stores		CUP		CUP	
Shopping centers	P			CUP	36.60.41
Significant tobacco retailer				CUP	36.30.20 and 36.30.30
Warehouse retail stores		CUP			36.30.40
SERVICES					
Animal service establishments	CUP	CUP	CUP	CUP	36.30.35
Automatic teller machines (ATMs)	P	P	P	P	
Banks and financial services	P		P	P	
Business support services		P		P	36.60.07
Cannabis business, nonstorefront retail		CUP			36.30.55, 36.60.03 and Chapter 9
Cemeteries, columbariums and mortuaries			CUP	P	36.28.15
Commercial parking lots		CUP		CUP	
Contractors equipment: storage, sales or rental		P			
Drive-in and drive-through services	CUP	CUP	CUP	CUP	36.28.30
Hotels and motels				CUP	36.18.50
Plant nursery		P		CUP	
Medical services					
Medical services – <3,000 square feet	P		P	P	36.60.29
Medical services – 3,000 to 20,000 square feet	CUP		P	P	36.60.29
Medical services – >20,000 square feet			CUP	CUP	36.60.29
Medical services – hospitals and extended care			CUP	CUP	36.60.29

Offices					
Offices	CUP	P	P	P	CN District: 36.18.15.B CS District: 36.18.20
Administrative and executive			P	P	
Research and development/light testing and assembly		P		CUP	CS District: 36.18.20 CRA District: 36.18.25
Personal services	P	CUP		P	36.60.35
Public safety and utility facilities	CUP	P	CUP	CUP	
Repair and maintenance – consumer products	P	P		P	36.60.39
Repair and maintenance – vehicle, major work		P			36.30.25, 36.60.39 and Chapter 39
Repair and maintenance – vehicle, minor work		P		CUP	36.30.25, 36.60.39 and Chapter 39
Service stations	CUP	CUP		CUP	36.30.15
Storage, accessory	P	P	P	P	36.60.41
Tow yards		CUP			
Electrical, plumbing and carpenter shops		P			
Warehousing		P			
TRANSPORTATION AND COMMUNICATIONS					
Pipelines and utility lines	P	P	P	P	
Transit stations and terminals		CUP		CUP	
Vehicle storage		P			36.60.47
OTHER USES					
Other uses not named but similar to listed uses as determined by the zoning administrator	CUP	CUP	CUP	CUP	36.18.05.d

KEY TO PERMIT REQUIREMENTS	SYMBOL	SEE SECTION
Permitted use, zoning compliance and Development Review required	P	36.44.45
Conditional use, Conditional Use Permit required	CUP	36.48
Temporary use, Temporary Use Permit required	TUP	36.46
Use not allowed		(Blank)
See Article XVII for definitions of land uses “		

Section 4. Chapter 36, Article VI, Divisions 2 and 3 of the Mountain View City Code are hereby amended as follows:

“DIVISION 2. - LAND USES

SEC. 36.20.05. - Industrial zone land use permit requirements.

The uses of land allowed by this chapter in each industrial zoning district are identified in the following tables as being:

a. Permitted subject to compliance with all applicable provisions of this chapter, including development review and parking requirements, and subject to obtaining any building permit or other permit required by the City Code (“P” uses on the tables). Per Sec. 36.44.45, development review approval is required for changes from one (1) permitted use to another, including changes in property or building use that involve exterior modifications or change the development’s required parking.

b. Allowed subject to approval of a conditional use permit (“CUP”) (Sec. 36.48).

c. Allowed subject to approval of a temporary use permit (“TUP”) (Sec. 36.46).

d. Land uses listed, as specifically defined in this chapter, and on the tables in a particular zoning district(s) shall only be allowed in the specific zoning district(s) in which it is listed. Such uses can only be allowed in other zoning district(s) upon approval of a text amendment as provided by Sec. 36.52.35 (Zoning Amendments). These uses cannot be named as similar uses as determined by the zoning administrator through the conditional use permit process or Sec. 36.58.30 (Procedures for Interpretation).

e. Land uses that are not listed on the tables are not allowed, except where otherwise provided by Sec. 36.06.40 (Determination of Allowable Land Uses) or 36.06.50 (Exemptions from Zoning Permit Requirements).

LAND USES AND PERMIT REQUIREMENTS BY INDUSTRIAL DISTRICT

NOTE 1: Where the last column on the following tables (“See Section”) includes a section number, there are specific regulations in the referenced section that apply to the use and/or a specific definition of the use; however, provisions in other sections may apply as well.

NOTE 2: Changes from one (1) permitted use to another require development review approval.

LAND USE	PERMIT REQUIREMENTS BY ZONE		
	ML	MM	SEE SECTION
MANUFACTURING AND PROCESSING			
Assembly or packaging of previously prepared materials (i.e., cloth, plastic, paper, leather, precious or semiprecious metals/stones)	P		
Experimental, film or testing laboratories	P		
Food products	P		36.60.15
General manufacturing, including processing and assembly		P	
Industrial controls, motors, and generators		P	
Instruments for measurement, testing, analysis and control		P	
Manufacture of electric and electronic instruments and devices (i.e., television, radio and phonographic equipment)	P	P	
Optical instruments and lenses		P	
Pharmaceuticals	P		
Photographic equipment and supplies		P	
Primary production of wood, metal or chemical products from raw materials or any use listed as a conditional use in the ML district	P		
Printing, publishing and lithography	P		
Processing of products, assembly or creation of machinery, apparatus and supplies for the generation, storage, transmission and use of electrical energy and related industries		P	
Semiconductor fabrication		P	
Telephone apparatus		P	
Wholesaling and distribution	P	P	36.60.49, ML District: 36.20.15.a.2
RECREATION, EDUCATION AND PUBLIC ASSEMBLY			
Educational, public or quasi-public	CUP	CUP	MM District: 36.20.20.a.2
Child-care center	CUP	CUP	36.28.20, 36.20.10.g
Churches	CUP	CUP	36.20.10.e
Membership organization facilities and meeting halls, public halls	CUP	CUP	
Recreational, public or quasi-public	CUP	CUP	MM District: 36.20.20.a.2
RETAIL TRADE			
Cannabis business, storefront retail		CUP	36.20.10.h, 36.30.55, 36.60.03 and Chapter 9
Drive-in and drive-through services	CUP	CUP	36.28.30, 36.20.10.f
Restaurants without beer and wine	P	CUP	36.20.10.b, ML District: 36.20.15.a.1

Restaurants serving liquor, without live entertainment	P	CUP	36.20.10.b
Restaurants serving liquor, with live entertainment, dancing	CUP	CUP	36.20.10.b
Retail stores, general merchandise	CUP	CUP	36.60.39 and 36.20.10.c
Warehouse retail	CUP	CUP	36.20.10.d and 36.30.40
TRANSPORTATION AND COMMUNICATION			
Public and quasi-public utility and services	CUP	P	
Service station	CUP	CUP	36.30.15
SERVICES			
Animal service establishments		CUP	36.30.35
Auto wrecking yard		CUP	36.60.23
Business support services		CUP	36.60.07
Cannabis business, nonstorefront retail	CUP	CUP	36.30.55, 36.60.03 and Chapter 9
Concrete mixing and asphalt mixing yards		CUP	
Data centers	P	P	ML District: 36.20.15.a.2
Junk yard, auto wrecking yard, tow yard		CUP	36.60.23
Office			36.60.33, MM District: 36.20.20.a.1
Administrative and executive	P	CUP	
Financial	P	CUP	
Research and development	P	CUP	MM District: 36.20.20.a.3
Personal storage facility		P	36.60.35
Repair and maintenance – vehicle, minor repair		CUP	36.30.25, 36.60.39 and Chapter 39
Repair and maintenance – vehicle, major repair		CUP	36.30.25, 36.60.39 and Chapter 39
Storage		P	
Warehousing	P	P	ML District: 36.20.15.a.2
OTHER USES			
Crop, tree farming, livestock	P	P	36.20.10.a
Emergency shelters	P		36.28.60
Railroad yards, freight stations, trucking and motor freight stations		P	
Other uses not named but similar to listed uses as determined by the zoning administrator	CUP	CUP	

KEY TO PERMIT REQUIREMENTS	SYMBOL	SEE SECTION
Permitted use, zoning compliance and Development Review required	P	36.44.45
Conditional use, Conditional Use Permit required	CUP	36.48
Temporary use, Temporary Use Permit required	TUP	36.46
Use not allowed		(Blank)
See Section 36.60.03 for definitions of land uses		

DIVISION 3. - STANDARDS FOR SPECIFIC LAND USES

SEC. 36.20.10. - General.

The following land uses have specific regulations pertaining to operations and development standards applicable to both the ML and MM zoning districts:

a. **Crop, tree farming, livestock.** Crop and tree farming and livestock of the cow, horse, sheep or goat species is permitted in the ML and MM districts, where at least ninety (90) percent of the acreage required by Chapter 5 of the City Code is open and unimproved, and subject to the provisions of that chapter.

b. **Restaurants with or without liquor or live entertainment.** Restaurants and other establishments providing entertainment, or permitting dancing or serving liquor for consumption on the premises which will not impair the present or potential use of adjacent or nearby properties are conditionally permitted in the ML and MM districts.

c. **Retail commercial.** Appropriate retail commercial and service uses are conditionally permitted in the ML and MM districts, such as cafés or service stations necessary to serve those districts.

d. **Warehouse retail.** Warehouse retail stores which meet the following criteria are conditionally permitted in the ML and MM Districts:

1. The building and site design shall complement the surrounding industrial development. It shall be comparable to the architectural and design quality expected of new buildings in the area, including quality of materials, building design, building orientation, site design, landscaping and buffering. The building shall reflect the retail aspect of the use by incorporating storefront features such as facade ornamentation and special detailing which identify the entryway and provide pedestrian-level interest to the facade.

2. Warehouse retail uses shall comply with the basic site development regulations of the ML or MM district, regarding area and yard requirements, landscaping, screening, etc., unless otherwise described in this section. The zoning administrator shall evaluate sign needs and determine the size, height, lighting, shape, color, number and location of signs based on the CRA standards in Sec. 36.36.55.

3. Warehouse retail buildings and facilities shall be screened or buffered, as appropriate, to ensure compatibility with adjacent land uses. Particular attention shall be given to screening or providing buffers for parking, loading and storage areas, trash containers, auto service areas, areas with high noise levels, and other features that are visible or can be heard from off-site.

4. When evaluating applications for warehouse retail uses near residential areas, particular attention shall be given to the potential traffic, noise, visual and other effects of warehouse retail uses on the residential uses.

5. Retail commercial parking requirements, including number and design standards, shall apply unless the zoning administrator grants exceptions or imposes special requirements based on the nature of this use. The zoning administrator shall specifically consider the impacts of the use and parking of shopping carts on the parking lot design.

6. The zoning administrator may approve shared parking with an adjoining industrial use if compatible hours of operation can be proven and deed restrictions, long-term parking agreements or other legally binding instruments are recorded.

7. Because of high on-site pedestrian and auto activity, the design shall include clearly defined building entrances, specially designated areas to accommodate customer pickup, and pedestrian walks from the parking areas to the building.

8. The use shall be allowed in P (planned community) districts that reference the ML or MM district, provided that the applicable precise plan specifically lists warehouse retail as a conditional or provisional use.

9. The use shall be located only on streets where there is adequate traffic capacity.

e. **Churches.** Churches and religious uses where it is demonstrated that they are convenient and in close proximity to residential neighborhoods are conditionally permitted in the ML and MM districts.

f. **Drive-up or drive-in services.** Any use which has as a part of its design or function drive-up or drive-in services are conditionally permitted in the ML and MM districts, where special attention has been given to mitigate problems of noise, air pollution, excessive pavement, congestion, litter, unsightliness and access to the disabled.

g. **Child-care centers and highly sensitive uses.** No new child-care facility(ies) or highly sensitive use(s) shall be permitted in the ML or MM districts with the following exception where both subsection 1(a) and 1(b) can be met:

1. A child-care facility may be permitted if it meets all of the following requirements:

(a) Operation. The child-care facility is owned, operated and located on a company's site and exclusively serves parents employed in the company.

(b) Adjacent Uses. The child-care facility is located at least one thousand (1,000) feet from the boundaries with adjacent properties zoned for industrial use or the adjacent property owner(s) agree(s) in writing to prohibit the use of extremely hazardous material on their property and notify any tenants of this restriction.

(c) Conditional Use Permit. The child-care facility received conditional use permit approval as provided in city code Sec. 36.48. The conditional use permit shall be in effect only while the same company occupies the site.

2. Specific district requirement for the ML district only: The portion of the ML district along Polaris Avenue and Wright Avenue may be considered for highly sensitive uses subject to a conditional use permit as provided in Sec. 36.48, except that all ML properties in the vicinity must receive public notice of the hearing in addition to standard noticing requirements.

h. **Cannabis business, storefront retail:** Storefront retail businesses shall only be permitted in the MM zoning district within existing shopping centers."

Section 5. Chapter 36, Article VII, Section 36.22.10. of the Mountain View City Code is hereby amended as follows:

"SEC. 36.22.10. - Permitted uses.

Any use permitted in any other zoning district may be permitted in a P district, either alone or in combination with other uses, after it has first been determined that the area to be so zoned requires the special consideration herein mentioned.

All cannabis businesses are prohibited.”

Section 6. Chapter 36, Article IX, Division 11 of the Mountain View City Code is hereby amended as follows:

“DIVISION 11. - HOME OCCUPATIONS

SEC. 36.28.75. - Home occupations.

SEC. 36.28.80. - Purpose and application.

Purpose. The following provisions allow for home occupations that are secondary to, and compatible with surrounding residential uses.

Application. Business licenses are required for home occupations, which are permitted as accessory uses in all residential zoning districts. A statement of compliance with the following operating standards shall be signed prior to issuance of the business license.

SEC. 36.28.85. - Operating standards.

Home occupations, including cottage food operations (unless expressly exempt otherwise), shall comply with all of the following operating standards:

- a. The home occupation is clearly secondary to the full-time use of the structure as a residence;
- b. The use does not require a modification not customarily found in a dwelling, nor shall the use be visible from the street or from neighboring properties;
- c. There is no window display, advertising sign or other identification of the home occupation on the premises;
- d. The home occupation, excluding cottage food operations, shall be confined completely to one (1) room within the dwelling, or to the garage, or other accessory structure. Cottage food operations are limited to the registered or permitted area by the County of Santa Clara Department of Environmental Health. No use may eliminate any required parking;
- e. Only one (1) vehicle with a capacity no greater than three-quarter (3/4) ton may be used by the occupant directly or indirectly in connection with a home occupation;

f. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of flammable, explosive or hazardous materials unless specifically approved by the fire department, in compliance with Chapter 24 of the City Code;

g. Excluding cottage food operations, no use shall create noise, dust, light, vibration, odor, gas, fumes, toxic/hazardous materials, smoke, glare, electrical interference, or other hazards or nuisances. Cottage food operations shall not create noise beyond the property line and may only create odors, fumes, smoke or secondary effects consistent with the registered or permitted operation; and

h. The home occupation shall not generate more than five (5) additional pedestrian or vehicular trips in excess of that customarily associated with the zoning district in which it is located, and nor more than two (2) deliveries per day.

SEC. 36.28.90. - Prohibited home occupation uses.

The following uses are found to be not incidental to or compatible with residential activities, and are therefore prohibited as home occupations:

- a. Adult entertainment establishments;
- b. Dance or night clubs;
- c. Medical services (not including chiropractors and counselors/psychotherapists);
- d. Mini storage;
- e. Storage of equipment, materials, and other accessories for the construction and service trades;
- f. Vehicle repair (body or mechanical), upholstery, automobile detailing and painting;
- g. Welding and machining;
- h. On-site dining for cottage food operations;
- i. Cannabis businesses; and
- j. Any other use determined by the zoning administrator not to be incidental to or compatible with residential activities."

Section 7. Chapter 36, Article XVII, Division 2 of the Mountain View City Code is hereby amended to add definitions as follows:

“ARTICLE XVII. - DEFINITIONS

DIVISION 2. - DEFINITIONS

SEC. 36.60.09. - Definitions - “C.”

Camp car. A vehicle with or without motive power that is designed or used for human habitation.

Camper. A structure intended for human habitation that is designed to be carried in the cargo space of a separate motor vehicle when in use.

Cannabis. 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 cannabis as defined by Business and Professions Code Sec. 26001, Subdivision (f), Health and Safety Code Sec. 11018, and by other state law.

Cannabis business. The activity of any natural or legal person, business or collective in the city relating to cannabis, including, but not limited to, transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery and sales (including both wholesale and retail sales) of cannabis, cannabis products, or any accessories for the use of cannabis or cannabis products, whether or not carried on for gain or profit, whether for medical or recreational use, and whether or not such business is licensed by the state. A cannabis business does not include any business the only relationship of which to cannabis or cannabis products is the production or sale of cannabis accessories.

Cannabis business, delivery. The transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a cannabis business.

Cannabis business, nonstorefront retail. A cannabis business that closed to the public and conducts sales exclusively by delivery. Also referred to as “nonstorefront retail” or “nonstorefront retail cannabis business.”

Cannabis business, owner. An owner is any person having more than a ten percent (10%) interest, legal or equitable, or otherwise, in a cannabis business.

Cannabis business, premises. Each building, or the portion of any building, where the cannabis business is located, including any site.

Cannabis business, storefront retail. A cannabis business that is open to the public to sell cannabis and cannabis products directly to customers. The primary use of the storefront retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also referred to as “storefront retail” or “storefront retail cannabis business.”

Cannabis business, transport. All activity involved in the movement of cannabis from one (1) location to another, including, but not limited to, loading, shipping and receiving. Transport does not include delivery to a qualified patient, caregiver or individual cannabis user age twenty-one (21) or older.

Cannabis business, qualified cannabis business list. A list of cannabis business applications eligible to submit planning applications at the discretion of the zoning administrator and pursuant to Sec. 36.30.85. Applications are placed on the list in the order chosen by the cannabis business application selection lottery. The list shall be maintained by the zoning administrator and effective until such time as the maximum number of cannabis businesses permitted by Sec. 36.30.55.b. has received occupancy in the application period determined by the zoning administrator.

Cemeteries, columbariums and mortuaries. Internment establishments engaged in subdividing property into cemetery lots and offering burial plots or air space for sale. Includes animal cemeteries; cemetery, mausoleum, crematorium and columbarium operations; and full-service funeral parlors, whether accessory to or separate from a cemetery or columbarium.

Child-care centers. A commercial or nonprofit facility that provides care and supervision of minor children for periods of less than twenty-four (24) hours. This includes infant centers, preschools, sick-child centers and school-age child-care facilities but does not include small- and large-family child-care homes. Child-care centers may be operated in conjunction with a school or church facility or as an independent land use.

Child-care facilities. A facility that provides care and supervision of minor children for periods of less than twenty-four (24) hours. Child-care facilities include small-family child-care homes, large-family child-care homes and child-care centers. Child-care facilities are required to be licensed by the California State Department of Social Services.

a. **Small-family child-care home.** A child-care facility located in a residence where an occupant of the residence provides care and supervision for up to six (6) children for periods of less than twenty-four (24) hours per day. Children under the age of ten (10) years who reside at the residence are counted in the six (6) children maximum for small-family child-care homes.

b. **Large-family child-care home.** A child-care facility located in a residence where an occupant of the residence provides care and supervision of seven (7) to fourteen (14) children for periods of less than twenty-four (24) hours. Children under the age of ten (10) years who reside in the residence are included in the number of children served by the large-family child-care home.

Churches. Religious organization facilities operated for worship or promotion of religious activities, including churches and religious Sunday-type schools; and accessory uses on the same site, such as living quarters for ministers and staff, and child day-care facilities where authorized by the same type of land use permit required for the church itself. Other establishments maintained by religious organizations, such as full-time educational institutions, hospitals and other potentially related operations (such as a recreational camp), are classified according to their respective activities.

City council. The city council of the City of Mountain View, California.

Commercial coach. A vehicle, other than motor vehicle, designed or used for human habitation, or human occupancy for industrial, professional or commercial purposes, for carrying persons and property on its own structure, and for being drawn by a motor vehicle.

Commission or planning commission. The environmental planning commission of the City of Mountain View, California.

Community center. Multi-purpose meeting, banquet and recreational facilities typically consisting of one (1) or more meeting or multi-purpose rooms, kitchen and/or outdoor barbecue facilities, that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.

Community development director. The director of the community development department of the City of Mountain View.

Community service organization. Any organization, group, society, corporation, institution or other entity, organized solely for religious, charitable, educational, scientific or literary purposes, no part of the net earning of which benefits any private stockholder or individual.

Construction contractors (contractors yard). Storage yard operated by, or on behalf of, a contractor licensed by the State of California for storage of large equipment, vehicles or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and buildings or structures for uses such as offices and repair facilities.

Convalescent hospital. See "Medical services – extended care."

Cottage food operation. An operation as defined in Health and Safety Code § 113758, and as may be amended, which maintains a valid business license with the City of Mountain View and is registered and/or permitted by the County of Santa Clara Department of Environmental Health.

Court. An open unoccupied space, other than a yard, on the same lot with a building or group of buildings.

Crop and tree farming. The use of land for horticultural uses.

SEC. 36.60.27. - Definitions - "L."

Laundries and dry cleaning plants. Service establishments primarily engaged in high-volume laundry (serving multiple locations) and garment services, including: power laundries (family and commercial); garment pressing and dry cleaning; linen supply; diaper service; industrial laundries; carpet and upholstery cleaners. Does not include coin-operated laundries or dry cleaners (which includes self-contained facilities with dry-cleaning equipment serving the specific location only) which are classified in "Personal services."

Lot. A parcel of land used or capable of being used under the regulations of this chapter, lawfully created as such in accordance with the subdivision laws or ordinances in effect at the time of its creation.

Lot area. The computed area contained within the lot lines, said area to be exclusive of street rights-of-way, but including portions held in fee title in the same ownership which may have easements for such purposes as utilities or flood control channels. The area of new public streets dedicated as part of a project shall be included in the calculation of lot area as part of a planned unit development or planned community, or as determined by the subdivision committee or city council.

Lot, corner. A lot abutting upon two (2) or more streets at their intersection, or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees within the lot lines.

Lot, coverage. That percentage of the total lot area covered by structures as herein defined.

Lot, depth. The mean horizontal distance between the front and the rear lot lines.

Lot, key. A lot to the rear of a corner lot, the front of which is substantially a continuation of the side property line of the corner lot.

Lot line, front. The front lot line on a corner lot shall be the line with the shortest frontage unless, at the time of development, the longer frontage is designated by the owner to be the front. When a lot runs through from one (1) street to another, both lot lines shall be construed to be front lot lines, and the lot may have no rear lot line.

Lot lines. The property lines bounding the lot.

Lot width. The mean horizontal distance between the side lot lines measured within the lot boundaries or the mean distance between the side lot lines within the buildable area.

Lottery. A procedure in which an object is used to randomly select applications in the cannabis screening application process. All eligible applications shall be represented by equivalent tokens. The zoning administrator shall select tokens at random until all tokens have been selected.

Low-income and very low-income household. "Low-income" means any household whose income is fifty (50) to eighty (80) percent of the median household income for Santa Clara county, and as adjusted for family size. "Very low-income" means any household whose income is less than fifty (50) percent of the median income for the Santa Clara county, and as adjusted for family size. Housing affordable to low-income and very low-income persons is where the total monthly housing cost does not exceed thirty (30) percent of the gross household income."

Section 8. Article IX, Division 11 of the Mountain View City Code is hereby amended to establish cannabis regulations as follows:

“ARTICLE IX. - STANDARDS FOR SPECIFIC LAND USES

DIVISION 11. - HOME OCCUPATIONS

SEC. 36.28.75. - Home occupations.

SEC. 36.28.80. - Purpose and application.

Purpose. The following provisions allow for home occupations that are secondary to, and compatible with surrounding residential uses.

Application. Business licenses are required for home occupations, which are permitted as accessory uses in all residential zoning districts. A statement of compliance with the following operating standards shall be signed prior to issuance of the business license.

SEC. 36.28.85. - Operating standards.

Home occupations, including cottage food operations (unless expressly exempt otherwise), shall comply with all of the following operating standards:

- a. The home occupation is clearly secondary to the full-time use of the structure as a residence;
- b. The use does not require a modification not customarily found in a dwelling, nor shall the use be visible from the street or from neighboring properties;
- c. There is no window display, advertising sign or other identification of the home occupation on the premises;
- d. The home occupation, excluding cottage food operations, shall be confined completely to one (1) room within the dwelling, or to the garage, or other accessory structure. Cottage food operations are limited to the registered or permitted area by the County of Santa Clara Department of Environmental Health. No use may eliminate any required parking;
- e. Only one (1) vehicle with a capacity no greater than three-quarter ($\frac{3}{4}$) ton may be used by the occupant directly or indirectly in connection with a home occupation;

f. Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises. The use shall not employ the storage of flammable, explosive or hazardous materials unless specifically approved by the fire department, in compliance with Chapter 24 of the City Code;

g. Excluding cottage food operations, no use shall create noise, dust, light, vibration, odor, gas, fumes, toxic/hazardous materials, smoke, glare, electrical interference, or other hazards or nuisances. Cottage food operations shall not create noise beyond the property line and may only create odors, fumes, smoke or secondary effects consistent with the registered or permitted operation; and

h. The home occupation shall not generate more than five (5) additional pedestrian or vehicular trips in excess of that customarily associated with the zoning district in which it is located, and nor more than two (2) deliveries per day.

SEC. 36.28.90. - Prohibited home occupation uses.

The following uses are found to be not incidental to or compatible with residential activities, and are therefore prohibited as home occupations:

- a. Adult entertainment establishments;
- b. Dance or night clubs;
- c. Medical services (not including chiropractors and counselors/psychotherapists);
- d. Mini storage;
- e. Storage of equipment, materials, and other accessories for the construction and service trades;
- f. Vehicle repair (body or mechanical), upholstery, automobile detailing and painting;
- g. Welding and machining;
- h. On-site dining for cottage food operations;

- i. Cannabis businesses; and
- j. Any other use determined by the zoning administrator not to be incidental to or compatible with residential activities.”

Section 9. Article IX, Division 21 of the Mountain View City Code is hereby added to establish cannabis regulations as follows:

“DIVISION 21. - CANNABIS

SEC. 36.30.50. - Personal cannabis use, possession and cultivation.

Personal cannabis use, possession and cultivation are permitted subject to the California Health and Safety Code Sec. 11362, the city code and all applicable state law.

SEC. 36.30.55. - Cannabis businesses.

a. **Required permits.** Cannabis businesses shall not operate without approval of a valid conditional use permit, police department registration and state license.

b. **Maximum number.** A maximum of four (4) cannabis businesses consisting of two (2) storefront retail and two (2) nonstorefront retail cannabis businesses shall be allowed within the city at any given time.

c. **No vested rights.** No person(s) shall have any vested rights to any permit, right or interest under this Article, regardless of whether such person(s) cultivated, sold, distributed or otherwise engaged in acts related to the use of cannabis prior to adoption of this division.

SEC. 36.30.60. - Cannabis businesses – General provisions.

Cannabis businesses shall be prohibited in all zoning districts except as explicitly permitted in designated zoning districts with approval of a conditional use permit in accordance with Sec. 36.48 of this chapter.

a. **Allowable activity.** Only those types of cannabis businesses explicitly set forth in this section shall be allowed within the city:

1. Cannabis business, storefront retail;
2. Cannabis business, nonstorefront retail; and

3. Deliveries from facilities possessing valid state licenses, all required local permits from their respective jurisdiction, and registration pursuant to Chapter 9 of the city code.

b. **Accessory use.** Cannabis businesses shall not be permitted as an accessory use to or in conjunction with any other use.

c. **Proximity to schools, child-care centers, and child-care facilities.** A cannabis business shall not be permitted within six hundred feet (600') of a school (public and private) or two hundred fifty feet (250') of a child-care center or facility. The distance shall be measured in a straight line from the closest property line of the parcel or property containing the cannabis business to the closest property line of the parcel or property containing the school, child-care center or facility. If a cannabis business is separated from a school (public or private) by U.S. Route 101, State Route 85 or State Route 237, or Central Expressway, the permitted distance shall be a minimum of two hundred fifty feet (250') from the school site.

d. **Owner.** An owner or operator of a cannabis business shall be prohibited from owning or operating more than one (1) cannabis business within the city.

e. **Concentration of businesses.** Not more than one (1) cannabis business may be conducted on a parcel or property.

SEC. 36.30.65. Cannabis business – General regulations.

All cannabis businesses shall comply with all of the following conditions:

a. **Deliveries.** Cannabis and cannabis products shall only be delivered to lawful customers and in compliance with the California Business and Professions Code Sec. 26070 and 26090, the city code and all applicable state law.

b. **Expansion.** A cannabis business shall not be enlarged in size without review and approval of an amendment to the conditional use permit by the zoning administrator.

c. **Hours of operation.** Cannabis businesses may only occur between the hours of 7:00 a.m. and 10:00 p.m. The zoning administrator may further restrict days and hours of operation of a business as a condition of a conditional use permit.

d. **Sensitive uses.** The cannabis business shall not adversely impact any existing uses in its vicinity, especially adjacent residential and sensitive uses.

e. **Noise and odor.** The cannabis business shall not create adverse air quality, noise or odor impacts. The building shall be properly ventilated and the exhaust air filtered to neutralize the odor from cannabis so that the odor cannot be detected by a person with a normal sense of smell at the exterior of the building or on any adjoining property. No operable windows or exhaust vents shall be located on the building facade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones.

f. **Lighting.** Outdoor lighting shall provide appropriate visibility. All exterior lighting shall be motion-sensored between dusk and dawn and shall not create light pollution on adjacent properties.

g. **Windows.** Exterior mounted devices are prohibited, including security bars, grates, grills, barricades and similar devices.

h. **Loading area and circulation.** A secure loading area for transport and delivery of goods shall be provided. All circulation plans for the loading, transport and delivery of goods shall be contained on-site and not cause significant off-site impacts.

i. **Security.** A security plan compliant with Chapter 9 of the city code shall be provided.

j. **Operation.** Operation of a cannabis business shall not result in illegal redistribution or sale of cannabis, or the use or distribution in any manner which violates state or local regulations.

k. **Transfer of ownership.** A conditional use permit may be transferred to a new owner per Sec. 36.48.30 contingent upon approval of all other required permits, licenses and registration and in compliance with the city code.

l. **State license.** The cannabis business shall, at all times during operation, maintain a valid state license for the use permitted by the approved conditional use permit.

m. **Police department registration.** The cannabis business shall, at all times during operation, maintain valid police department registration for the use permitted by the approved conditional use permit pursuant to Chapter 9 of the city code.

SEC. 36.30.70. - Cannabis business – Storefront retail.

Storefront retail cannabis businesses are allowed with approval of a conditional use permit with consideration of the following and all other provisions of the city code:

a. **Transparency.** Building storefronts must maintain a minimum seventy-five percent (75%) transparent storefront along the front facade.

b. **Display of goods and advertising.** Cannabis and cannabis products shall not be advertised or displayed in a location where they can be viewed from outside the building in which the goods are located. All signage shall comply with Article XII of the zoning code.

c. **Parking.** Storefront retail cannabis businesses shall be considered “retail stores” for purpose of provision of off-street parking and shall comply with Article X of the zoning code or the standards of the applicable precise plan.

d. **Appearance.** The cannabis business shall appear compatible in design to other retail uses in the vicinity.

e. **Physician.** A cannabis business shall not have a physician on-site to evaluate patients and/or provide recommendations for the use of medical cannabis.

f. **Fences and walls.** Fences and walls are not permitted along the front or street side property lines. Fences along interior property lines shall not exceed seven feet (7') in height and are subject to development review. Defensive materials such as barbed wire are prohibited.

SEC. 36.30.80. - Cannabis business – Nonstorefront retail.

Nonstorefront retail cannabis businesses are allowed with approval of a conditional use permit in designated zoning districts with consideration of the following and all other provisions of the city code:

a. **Display of goods and advertising.** Cannabis and cannabis products shall not be advertised or displayed at the premises. All signage shall comply with Article XII of the zoning code.

b. **Parking.** Storefront retail cannabis businesses shall be considered “warehousing” for purpose of provision of off-street parking and shall comply with Article X of the zoning code or the standards of the applicable precise plan.

c. **Appearance.** The cannabis business shall appear compatible in design to other warehouse uses in the vicinity.

d. **Fences and walls.** Fences and walls are not permitted within the front setback. Fences outside of the front setback shall not exceed seven feet (7') in height and are subject to development review. Defensive materials such as barbed wire are prohibited.

e. **Operation.** At no time shall a customer visit the cannabis business.

SEC. 36.30.85. - Cannabis business – Conditional use permits.

a. Cannabis business use permit application procedures – Initial applications.

1. Cannabis business screening application.

i. Upon the effective date of this Division, the zoning administrator shall determine the sixty (60) day period during which any person or entity interested in operating a cannabis business pursuant to this article and Chapter 9 of the city code must submit a complete application per the cannabis business screening application checklist to the zoning administrator.

ii. Each application must be submitted by an applicant for a specific business at a specific property.

iii. No applicant, entity or business shall submit more than one (1) application.

iv. No more than one (1) application may be submitted per property or parcel.

v. Property owners of the application site shall provide written notice of consent for the applicant to submit an application for the cannabis business.

vi. It shall be the applicant's responsibility to provide all the information and materials to complete the cannabis business screening application. The zoning administrator will not consider any incomplete or late applications. The filing date of the cannabis business screening application shall be the date when the zoning administrator receives the last submission of information or materials required by the cannabis business screening application checklist.

vii. The zoning administrator shall review and qualify or deny each application submitted based on the criteria set forth in Sec. 36.30.60, Sec. 9.94 through 9.95 and any other criteria set forth by the zoning administrator.

viii. The zoning administrator shall notify all applicants in writing of his/her determination to qualify or deny their cannabis business screening application. If approved, the applicant may proceed to the application selection lottery.

2. Application selection lottery.

i. Within sixty (60) days of the cannabis business screening application period, the zoning administrator shall hold a random independent ranking process (“lottery”) at a noticed and regularly scheduled zoning administrator public hearing.

ii. All eligible applications shall be represented by matching tokens in the lottery. The tokens shall be selected at random. The zoning administrator shall select tokens at random until all tokens have been selected.

iii. Applications shall be placed on the qualified cannabis business list in the order chosen by the lottery.

iv. The zoning administrator shall notify all applicants in writing of their rank on the qualified cannabis business list following the lottery.

3. Planning application.

i. After the lottery has taken place, the first four (4) applications on the qualified cannabis business list shall be authorized to submit planning applications. The number of applications authorized to be reviewed during any given time period shall not exceed the maximum number of cannabis businesses in Sec. 36.30.55.b.

ii. Applicants authorized to submit a planning application must submit an application within sixty (60) days of written notification of authorization. The applicant shall submit required information per the cannabis business planning permit submittal checklist.

iii. Where the zoning administrator denies a planning application or an application is withdrawn prior to consideration by the zoning administrator, the next application on the qualified cannabis business list shall be authorized to submit a planning application until such time as all applications have been reviewed or until the maximum number of cannabis businesses have obtained planning permits per Sec. 36.30.55.b, whichever occurs first.

iv. The zoning administrator shall review the planning application for compliance with the city code pursuant to the processes and authority established in Article XVI of this chapter.

v. Planning applications shall be reviewed for compliance with Chapter 9 of the city code.

b. Cannabis business use permit application procedures – Future applications.

1. At the time the zoning administrator is made aware fewer cannabis businesses are operating than the maximum number permitted by Sec. 36.30.55.b, the zoning administrator shall determine application periods consistent with Sec. 36.30.85.a.

2. If during the cannabis business screening application period, the number of applications received do not exceed that which could be permitted pursuant to Sec. 36.30.55.b., an application selection lottery shall not be held and applicants shall be permitted to proceed through the review process.”

Section 10. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 11. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 12. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

CB/3/ORD
891-10-02-18o-1