

## ORDINANCE NO. 2017-05

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONROVIA, CALIFORNIA AMENDING TITLE 5 OF THE MONROVIA MUNICIPAL CODE TO PROHIBIT THE ISSUANCE OF A BUSINESS LICENSE FOR ALL COMMERCIAL CANNABIS ACTIVITY EXCEPT FOR LABORATORY TESTING AND RESEARCH AND DEVELOPMENT FACILITIES, AND AMENDING TITLE 17 OF THE MONROVIA MUNICIPAL CODE TO PROHIBIT COMMERCIAL CANNABIS USES EXCEPT FOR LABORATORY TESTING AND RESEARCH AND DEVELOPMENT FACILITIES, AND OUTDOOR CANNABIS CULTIVATION, AND TO REGULATE INDOOR CANNABIS CULTIVATION ON DWELLINGS CONSISTENT WITH STATE LAW, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTIONS 15061(b)(3) AND 15305 OF THE CEQA GUIDELINES**

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

### **SECTION 1. Findings and Purpose.**

A. The City of Monrovia, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. On October 9, 2015 Governor Brown signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643 into law, which were collectively known as the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"). The MCRSA established a State licensing scheme for commercial medical cannabis businesses, while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MCRSA allowed the City to completely prohibit commercial medical cannabis activities.

C. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"). The AUMA added Division 10 (Marijuana) to the California Business & Professions Code, Sections 26000 *et seq.*, which grants State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for non-medical (adult-use) cannabis businesses. A State license may not be issued in any city that prohibits commercial cannabis activity.

D. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medicinal and adult-use cannabis known as the Medicinal and Adult-Use Cannabis Regulation and

Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether commercial cannabis activity can occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the 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, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a business to engage in commercial cannabis activity if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to cannabis businesses beginning January 1, 2018.

E. On September 12, 2017, the Planning Commission of the City of Monrovia held a public hearing on this Ordinance, at which time all persons interested in the Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

F. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 2017-02 recommending that the City Council adopt the Ordinance to prohibit commercial cannabis activity and uses except for laboratory testing and manufacturing facilities, and to regulate indoor cannabis cultivation consistent with State law. The Planning Commission recommended that the Ordinance be revised to allow outdoor cannabis cultivation.

G. On October 17, 2017, the City Council of the City of Monrovia held a public hearing on the Ordinance, at which time all persons interested in the Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

H. The Ordinance is consistent with the General Plan.

I. All legal prerequisites to the adoption of this Ordinance have occurred.

**SECTION 2.** The Ordinance is considered a “project” pursuant to the California Environmental Quality Act (“CEQA”) and the State CEQA Guidelines (14 CCR § 15000 et seq.). The project is considered exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the project to prohibit commercial cannabis activity, except for laboratory testing and research and development facilities, will have a significant effect on the environment since these uses will be located in zones that allow manufacturing uses. The project is also eligible for a class 5 categorical exemption for minor changes in land use limitations with an average slope of less than 20% that do not result in any changes in land use or density. Since the project is prohibiting all commercial cannabis uses, except for laboratory testing and research and development facilities in zones that allow

for manufacturing uses, it will not result in changes in land use or density and will not have a significant environmental impact. The project is therefore exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

**SECTION 3.** The City Council of the City of Monrovia hereby finds and determines that all of the above Recitals are true and correct and incorporates such Recitals into this Ordinance as if fully set forth herein.

**SECTION 4.** The City Council of the City of Monrovia hereby amends Section 5.04.030 (Definitions) of Chapter 5.04 (General Provisions) of Title 5 (Business Taxes, Licenses and Regulations) to delete the definitions of “Delivery,” “Marijuana,” “Medical marijuana product,” “Medical marijuana store, dispensary, or coop,” and “Mobile marijuana dispensary”.

**SECTION 5.** Chapter 5.96 (Marijuana Dispensary, Store, or Co-Op) of Title 5 (Business Taxes, Licenses and Regulations) is hereby amended in its entirety to read as follows:

**“CHAPTER 5.96 CANNABIS REGULATIONS**

- Section 5.96.010 Purpose.**
- Section 5.96.020 Definitions.**
- Section 5.96.030 Prohibited activities.**
- Section 5.96.040 Exceptions.**
- Section 5.96.050 Violation, penalty.**

**5.96.010 Purpose.**

The purpose of this chapter is to expressly prohibit all commercial cannabis activity, except for laboratory testing and research and development facilities, in the city. The city’s prohibition of such activity is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety, and welfare of the city and its community.

**5.96.020 Definitions.**

For purposes of this chapter, the following words and phrases have the same meanings as set forth below.

A. “Cannabis” means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” includes cannabis that is used for medicinal, adult-

use, or other purposes. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “Cannabis” also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

B. “Commercial cannabis activity” means the cultivation, possession, manufacture, distribution, processing, storing, packaging, labeling, transportation, delivery or sale (as those terms are defined in California Business and Professions Code section 26001, as the same may be amended from time to time) of cannabis and cannabis product for medicinal, adult-use, or any other purpose and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses. “Commercial cannabis activity” does not include (1) the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient (as that term is defined in California Health and Safety Code section 11362.7) for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person; or (2) the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver (as that term is defined in California Health and Safety Code section 11362.7), exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765.

C. “Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform.

D. “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

E. “Laboratory testing facility” shall have the same meaning as “Testing Laboratory” as defined in Business and Professions Code section 26001, as the same is amended from time to time, and also means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products and that is both accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state, and is a licensee.

F. “Licensee” means a person who holds a State license for research and development or laboratory testing of cannabis or cannabis products issued by the Bureau of Cannabis Control, or other State licensing authority that issues licenses to cannabis businesses, if applicable.

G. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the Business and Professions Code, as the same may be amended from time to time.

H. "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

I. "Research and Development" shall mean an establishment primarily engaged in the research of an industrial or scientific nature that is a licensee, excluding medical testing and analysis. Typical uses shall include electronics research laboratories, space research and development firms and pharmaceutical research laboratories.

#### **5.96.030 Prohibited activities.**

A. Commercial cannabis activity, whether or not for profit, is prohibited in the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city.

B. Except as otherwise set forth in this Section, Subsection A above shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time. Except as otherwise set forth in this Section, the city shall not issue a business license for any activity for which a State license is required under the MAUCRSA, or any other provision of State law that permits the licensing of cannabis businesses. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.

C. No person shall conduct or perform any delivery of any cannabis or cannabis products, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city. This subsection shall also not prohibit a State licensed distributor from transporting cannabis and cannabis products to and from Laboratory Testing Facilities and Research and Development Facilities.

#### **5.96.040 Exceptions.**

A. The city may issue a business license to a cannabis laboratory testing facility or a research and development facility that meets all the requirements set forth in Section 17.44.104.

B. Nothing in this chapter shall prohibit a person 21 years of age or older from engaging in any activities authorized under California Health and Safety Code section 11362.1.

C. Nothing in this chapter shall prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant Business and Professions Code section 26054(c) and (d), as the same may be amended from time to time, or any other provision of the MAUCRSA.

**5.96.050 Violation, penalty.**

In addition to any other enforcement permitted by this chapter or Chapter 1.16 of the Monrovia Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity 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 1.16 of the Monrovia Municipal Code, this Chapter 5.96 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 1.16 of the Monrovia Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern."

**SECTION 6.** The City Council of the City of Monrovia hereby amends Section 17.44.104 of Chapter 17.44 (Special Uses) of Title 17 (Zoning) in its entirety to read as follows:

**“SECTION 17.44.104 COMMERCIAL CANNABIS USES AND CULTIVATION**

A. Purpose. The purpose of this section is to expressly prohibit the establishment of commercial cannabis uses and cannabis cultivation in the city, to the extent not preempted by State law. Nothing in this chapter shall preempt or make inapplicable any provision of State or Federal law. The city council finds that the prohibitions on commercial cannabis uses, outdoor cannabis cultivation, and indoor cultivation of cannabis except under limited circumstances consistent with State law are necessary for the preservation and protection of the public health, safety, and welfare of the city and its community. The city council's prohibition of such uses is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety, and welfare of the city and its community.

B. Definitions. For purposes of this chapter, the following words and phrases have the same meanings as set forth below.

1) “Cannabis” means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified,

obtained from cannabis. “Cannabis” includes cannabis that is used for medicinal, adult-use, or other purposes. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. “Cannabis” also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

2) “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not, limited to concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

3) “Commercial cannabis activity” means the cultivation, possession, manufacture, distribution, processing, storing, packaging, labeling, transportation, delivery or sale (as those terms are defined in California Business and Professions Code section 26001, as the same may be amended from time to time) of cannabis and cannabis product for medicinal, adult-use, or any other purpose and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses. “Commercial cannabis activity” does not include (1) the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient (as that term is defined in California Health and Safety Code section 11362.7) for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person; or (2) the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver (as that term is defined in California Health and Safety Code section 11362.7), exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765.

4) “Commercial cannabis uses” means any use of property for commercial cannabis activity.

5) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

6) “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.

7) “Dwelling” shall have the same meaning as defined in Section 17.04.080. “Dwelling” also means a “private residence” as defined by California Health and Safety Code section 11362.2(b)(5) as the same may be amended from time to time.

8) “Fully enclosed and secure structure” means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

9) “Indoors” means within a fully enclosed and secure structure.

10) “Licensee” means a person who holds a State license for research and development or laboratory testing of cannabis or cannabis products issued by the Bureau of Cannabis Control or other State licensing authority that licenses cannabis businesses, if applicable.

11) “Outdoors” means any location that is not within a fully enclosed and secure structure.

12) “Person” means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

13) “Research and Development” shall mean an establishment primarily engaged in the research of an industrial or scientific nature that is a licensee, excluding medical testing and analysis. Typical uses shall include electronics research laboratories, space research and development firms and pharmaceutical research laboratories.

#### C. Prohibited Uses.

1) Commercial cannabis uses are expressly prohibited in all 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.

2) Outdoor cannabis cultivation is expressly prohibited in all 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 to be used for cultivating cannabis outdoors.

3) Indoor cannabis cultivation, including cultivation by a primary caregiver or qualified patient (as those terms are defined in California Health and Safety Code section 11362.7, as the same is amended from time to time) is prohibited except in strict compliance with subsection F below.

#### D. Exceptions.

1) Nothing in this chapter shall prohibit a person 21 years of age or older from engaging in any activities authorized under California Health and Safety Code section 11362.1.



2) Nothing in this chapter shall prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant Business and Professions Code section 26054(c) and (d), as the same may be amended from time to time, or any other provision of the MAUCRSA.

3) Laboratory Testing Facilities and Research and Development Facilities that meet the requirements set forth in Section E below are permitted to operate in the city.

E. Laboratory Testing and Research and Development Facilities.

Laboratory Testing Facilities and Research and Development Facilities shall only be permitted provided the facilities are:

1) Located in the M (Manufacturing), O/RD/LM (Office/Research and Development/Light Manufacturing) or BE (Business Enterprise) zones.

2) Not engaged in any other “commercial cannabis activity” as defined herein, except for the possession, storing, packaging, distribution, or labeling of cannabis or cannabis product.

Cannabis and cannabis products may be lawfully transported by a State licensed distributor to and from Laboratory Testing Facilities and Research and Development Facilities.

F. Indoor cannabis cultivation.

Cannabis cultivation shall only occur indoors in a dwelling, or inside an accessory structure located upon the grounds of dwelling, in strict conformance with the following standards:

1) Only a person who is at least 21 years old may cultivate cannabis, and the cannabis cultivation areas shall not be accessible to persons under 21 years of age.

2) Cannabis cultivation is permitted only within fully enclosed and secure structures.

3) Cannabis cultivation shall be limited to six plants total, regardless of how many persons over the age of 21 reside at the dwelling.

4) The use of CO2 and Ozone generators for cannabis cultivation or processing is prohibited.

5) The use of compressed gases, including but not limited to carbon dioxide and butane, for cultivation or processing is prohibited.

6) Cannabis cultivation shall not be visible from the public right of way or any privately owned place open to the public.

7) The dwelling shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress.

8) Any structure used for the cultivation of cannabis shall not become a public nuisance to surrounding properties or the public. A public nuisance may be deemed to exist if the cultivation produces odors which are detectable to people of normal sensitivity residing or present on adjacent or nearby property or on a public right of way. No person shall cultivate cannabis in any manner that causes any of the following conditions: light, glare, heat, odor, noise, mold or vibration that is or whose effect is either detrimental to public health, safety, or welfare or that interferes with the reasonable enjoyment of life or property.

9) A portable fully functional fire extinguisher, that complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the residence.

10) Cultivation of cannabis shall not displace required off street parking.

11) All electrical equipment used in the cultivation of cannabis (e.g. lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired.

G. Enforcement. In addition to any other enforcement permitted by Chapter 1.16 of the Monrovia Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity 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 1.16 of the Monrovia Municipal Code, this Section 17.44.104 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 1.16 of the Monrovia Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.”

**SECTION 7. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any 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 adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 8.** Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

**SECTION 9.** This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against this Ordinance or amendment at least until the day of such publication.

**SECTION 10.** The Community Development Director shall send a copy of this Ordinance to the Bureau of Cannabis Control.

**INTRODUCED** this 17<sup>th</sup> day of October, 2017

**PASSED, APPROVED, AND ADOPTED** this 7th day of November, 2017.

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Tom Adams, Mayor  
City of Monrovia

ATTEST:

APPROVED AS TO FORM:

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Alice D. Atkins, CMC, City Clerk  
City of Monrovia

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Craig A. Steele, City Attorney  
City of Monrovia

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of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to cannabis businesses beginning January 1, 2018.

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I. All legal prerequisites to the adoption of this Ordinance have occurred.

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<b>Section 5.96.040</b>	<b>Exceptions.</b>
<b>Section 5.96.050</b>	<b>Violation, penalty.</b>

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For purposes of this chapter, the following words and phrases have the same meanings as set forth below.

A. "Cannabis" means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" includes cannabis that is used for medicinal, adult-use, or other purposes. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

B. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, packaging, labeling, transportation, delivery or sale (as those terms are defined in California Business and Professions Code section 26001, as the same may be amended from time to time) of cannabis and cannabis product for medicinal, adult-use, or any other purpose and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses. "Commercial cannabis activity" does not include (1) the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient (as that term is defined in California Health and Safety Code section 11362.7) for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person; or (2) the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver (as that term is defined in California Health and Safety Code section 11362.7), exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765.

C. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform.

D. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

E. "Laboratory testing facility" shall have the same meaning as "Testing Laboratory" as defined in Business and Professions Code section 26001, as the same is amended from time to time, and also means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products and that is both accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state, and is a licensee.

F. "Licensee" means a person who holds a State license for research and development or laboratory testing of cannabis or cannabis products issued by the Bureau of Cannabis Control, or other State licensing authority that issues licenses to cannabis businesses, if applicable.

G. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the Business and Professions Code, as the same may be amended from time to time.

H. "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

I. "Research and Development" shall mean an establishment primarily engaged in the research of an industrial or scientific nature that is a licensee, excluding medical testing and analysis. Typical uses shall include electronics research laboratories, space research and development firms and pharmaceutical research laboratories.

**5.96.030 Prohibited activities.**

A. Commercial cannabis activity, whether or not for profit, is prohibited in the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city.

B. Except as otherwise set forth in this Section, Subsection A above shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time. Except as otherwise set forth in this Section, the city shall not issue a business license for any activity for which a State license is required under the MAUCRSA, or any other provision of State law that permits the licensing of cannabis businesses. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.

C. No person shall conduct or perform any delivery of any cannabis or cannabis products, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city. This subsection shall also not prohibit a State licensed distributor from transporting cannabis and cannabis products to and from Laboratory Testing Facilities and Research and Development Facilities.

**5.96.040 Exceptions.**

A. The city may issue a business license to a cannabis laboratory testing facility or a research and development facility that meets all the requirements set forth in Section 17.44.104.

B. Nothing in this chapter shall prohibit a person 21 years of age or older from engaging in any activities authorized under California Health and Safety Code section 11362.1.

C. Nothing in this chapter shall prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant Business and Professions Code section 26054(c) and (d), as the same may be amended from time to time, or any other provision of the MAUCRSA.

**5.96.050 Violation, penalty.**

In addition to any other enforcement permitted by this chapter or Chapter 1.16 of the Monrovia Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity 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 1.16 of the Monrovia Municipal Code, this Chapter 5.96 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 1.16 of the Monrovia Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern."

**SECTION 6.** The City Council of the City of Monrovia hereby amends Section 17.44.104 of Chapter 17.44 (Special Uses) of Title 17 (Zoning) in its entirety to read as follows:

**"SECTION 17.44.104 COMMERCIAL CANNABIS USES AND CULTIVATION**

A. Purpose. The purpose of this section is to expressly prohibit the establishment of commercial cannabis uses and cannabis cultivation in the city, to the extent not preempted by State law. Nothing in this chapter shall preempt or make inapplicable any provision of State or Federal law. The city council finds that the prohibitions on commercial cannabis uses, outdoor cannabis cultivation, and indoor cultivation of cannabis except under limited circumstances consistent with State law are necessary for the preservation and protection of the public health, safety, and welfare of the city and its community. The city council's prohibition of such uses is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety, and welfare of the city and its community.

B. Definitions. For purposes of this chapter, the following words and phrases have the same meanings as set forth below.

1) "Cannabis" means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" includes cannabis that is used for medicinal, adult-use, or other purposes. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of



the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

2) "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not, limited to concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

3) "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, packaging, labeling, transportation, delivery or sale (as those terms are defined in California Business and Professions Code section 26001, as the same may be amended from time to time) of cannabis and cannabis product for medicinal, adult-use, or any other purpose and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses. "Commercial cannabis activity" does not include (1) the cultivation, possession, storage, manufacturing, or transportation of cannabis by a qualified patient (as that term is defined in California Health and Safety Code section 11362.7) for his or her personal medical use so long as the qualified patient does not provide, donate, sell or distribute cannabis to any other person; or (2) the cultivation, possession, storage, manufacturing, transportation, donation or provision of cannabis by a primary caregiver (as that term is defined in California Health and Safety Code section 11362.7), exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765.

4) "Commercial cannabis uses" means any use of property for commercial cannabis activity.

5) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

6) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

7) "Dwelling" shall have the same meaning as defined in Section 17.04.080. "Dwelling" also means a "private residence" as defined by California Health and Safety Code section 11362.2(b)(5) as the same may be amended from time to time.

8) "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors.

9) "Indoors" means within a fully enclosed and secure structure.

10) "Licensee" means a person who holds a State license for research and development or laboratory testing of cannabis or cannabis products issued by the Bureau of Cannabis Control or other State licensing authority that licenses cannabis businesses, if applicable.

11) "Outdoors" means any location that is not within a fully enclosed and secure structure.

12) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, collective, cooperative, club, society, organization, non-profit, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

13) "Research and Development" shall mean an establishment primarily engaged in the research of an industrial or scientific nature that is a licensee, excluding medical testing and analysis. Typical uses shall include electronics research laboratories, space research and development firms and pharmaceutical research laboratories.

C. Prohibited Uses.

1) Commercial cannabis uses are expressly prohibited in all 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.

2) Outdoor cannabis cultivation is expressly prohibited in all 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 to be used for cultivating cannabis outdoors.

3) Indoor cannabis cultivation, including cultivation by a primary caregiver or qualified patient (as those terms are defined in California Health and Safety Code section 11362.7, as the same is amended from time to time) is prohibited except in strict compliance with subsection F below.

D. Exceptions.

1) Nothing in this chapter shall prohibit a person 21 years of age or older from engaging in any activities authorized under California Health and Safety Code section 11362.1.

2) Nothing in this chapter shall prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant Business and Professions Code section 26054(c) and (d), as the same may be amended from time to time, or any other provision of the MAUCRSA.

3) Laboratory Testing Facilities and Research and Development Facilities that meet the requirements set forth in Section E below are permitted to operate in the city.

E. Laboratory Testing and Research and Development Facilities.

Laboratory Testing Facilities and Research and Development Facilities shall only be permitted provided the facilities are:

1) Located in the M (Manufacturing), O/RD/LM (Office/Research and Development/Light Manufacturing) or BE (Business Enterprise) zones.

2) Not engaged in any other "commercial cannabis activity" as defined herein, except for the possession, storing, packaging, distribution, or labeling of cannabis or cannabis product.

Cannabis and cannabis products may be lawfully transported by a State licensed distributor to and from Laboratory Testing Facilities and Research and Development Facilities.

F. Indoor cannabis cultivation.

Cannabis cultivation shall only occur indoors in a dwelling, or inside an accessory structure located upon the grounds of dwelling, in strict conformance with the following standards:

- 1) Only a person who is at least 21 years old may cultivate cannabis, and the cannabis cultivation areas shall not be accessible to persons under 21 years of age.
- 2) Cannabis cultivation is permitted only within fully enclosed and secure structures.
- 3) Cannabis cultivation shall be limited to six plants total, regardless of how many persons over the age of 21 reside at the dwelling.
- 4) The use of CO2 and Ozone generators for cannabis cultivation or processing is prohibited.
- 5) The use of compressed gases, including but not limited to carbon dioxide and butane, for cultivation or processing is prohibited.
- 6) Cannabis cultivation shall not be visible from the public right of way or any privately owned place open to the public.
- 7) The dwelling shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress.
- 8) Any structure used for the cultivation of cannabis shall not become a public nuisance to surrounding properties or the public. A public nuisance may be deemed to exist if the cultivation produces odors which are detectable to people of normal sensitivity residing or present on adjacent or nearby property or on a public right of way. No person shall cultivate cannabis in any manner that causes any of the following conditions: light, glare, heat, odor, noise, mold or vibration that is or whose effect is either detrimental to public health, safety, or welfare or that interferes with the reasonable enjoyment of life or property.
- 9) A portable fully functional fire extinguisher, that complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the residence.
- 10) Cultivation of cannabis shall not displace required off street parking.
- 11) All electrical equipment used in the cultivation of cannabis (e.g. lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired.

G. Enforcement. In addition to any other enforcement permitted by Chapter 1.16 of the Monrovia Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity 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 1.16 of the Monrovia Municipal Code, this Section 17.44.104 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 1.16 of the Monrovia Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.”

**SECTION 7. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any 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 adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

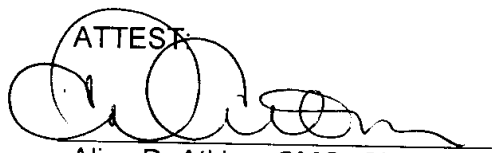
**SECTION 8. Restatement of Existing Law.** Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

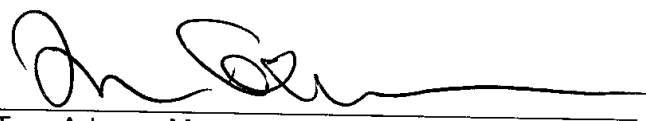
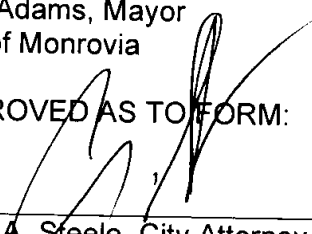
**SECTION 9.** This Ordinance shall take effect thirty (30) days after its final passage and adoption. A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the City Council meeting at which this proposed Ordinance is to be adopted. Within fifteen (15) days after adoption of this Ordinance, the City Clerk is instructed to publish a summary of this Ordinance with the names of those City Council members voting for and against this Ordinance and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of the adopted Ordinance along with the names of those City Council members voting for and against this Ordinance or amendment at least until the day of such publication.

**SECTION 10.** The Community Development Director shall send a copy of this Ordinance to the Bureau of Cannabis Control.

**INTRODUCED** this 17<sup>th</sup> day of October, 2017

**PASSED, APPROVED, AND ADOPTED** this 7th day of November, 2017.

ATTEST  
  
\_\_\_\_\_  
Alice D. Atkins, CMC, City Clerk  
City of Monrovia

  
\_\_\_\_\_  
Tom Adams, Mayor  
City of Monrovia  
  
APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Craig A. Steele, City Attorney  
City of Monrovia

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) §  
CITY OF MONROVIA )

I, ALICE D. ATKINS, CMC, City Clerk of the City of Monrovia, California, do hereby certify that the foregoing is a full, true and correct copy of Ordinance No. 2017-05; It has been published pursuant to law; was duly adopted and passed at a regular meeting of the Monrovia City Council on the 7th day of November, 2017, by the following vote:

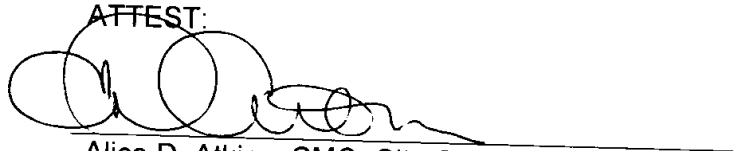
**AYES:** Councilmembers, Blackburn, Shevlin, Spicer, Mayor Pro Tem Crudgington, Mayor Adams

**NOES:**

**ABSTAIN:**

**ABSENT:**

ATTEST:

A handwritten signature in black ink, consisting of several large, overlapping loops and a trailing line, positioned above a horizontal line.

Alice D. Atkins, CMC, City Clerk  
City of Monrovia