

ORDINANCE NO. 1280

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIMI VALLEY APPROVING CITY-INITIATED SIMI VALLEY MUNICIPAL CODE TEXT AMENDMENT Z-S-733 TO ESTABLISH CITYWIDE STANDARDS TO PROHIBIT OUTDOOR CULTIVATION OF PERSONAL MARIJUANA PLANTS; PROHIBIT THE DELIVERIES OF MARIJUANA TO RESIDENCES; PROHIBIT ALL COMMERCIAL NONMEDICAL MARIJUANA USES, OPERATIONS, AND ACTIVITIES; AND PROHIBIT SMOKING AND INGESTING OF MARIJUANA IN PUBLIC PLACES; AND A DETERMINATION THAT THE ACTIONS ARE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

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

SECTION 1. Authority. This Ordinance is adopted in accordance with the provisions as set forth below:

A. California Constitution, Article 11, Section 7 authorizes the City Council to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. Pursuant to California Government Codes §36934, §36937, §65850, and §65852 City Council may adopt an ordinance to establish land use standards to protect the public health, safety, or welfare. The City Council finds it necessary to adopt this Ordinance to establish explicit land use standards related to prohibiting several cannabis activities to protect the public health, safety, and welfare. The City has initiated a Municipal Code Amendment due to changes to California Statewide laws relating to marijuana (cannabis) promulgated by the voter-enacted Proposition 64's Control, Regulate, and Tax Adult Marijuana Use Act in November 2016 and the State-enacted Senate Bill SB 94's Medicinal and Adult-Use Cannabis Regulation, and Safety Act in June 2017. Adopting the Ordinance to amend the Municipal Code to contain explicit standards is necessary because the current City's interim moratorium banning the outdoor cultivation of personal cannabis plants at residences, all commercial nonmedicinal cannabis activities, and the consumption of cannabis in public places will expire in December 2017 and the State of California Bureau of Cannabis will begin licensing commercial cannabis activities in January 2018 and based upon the recitals and findings set forth below.

SECTION 2. Authority to Regulate Cannabis Activities. A city or county local government has authority to adopt an ordinance to regulate cannabis activities in its jurisdiction that contain explicit standards to:

- (1) Reasonably a regulate resident's cultivation of cannabis plants inside their private residence or accessory structure their residence (Health and Safety Code §11362.2(b)(1));

- (2) Completely prohibit a resident’s cultivation of cannabis plants outdoors on the grounds of their private residence (Health and Safety Code §11362.2(b)(2));
- (3) Regulate or prohibit the location, operation, or establishment of any medicinal cannabis cooperative or collective [Health and Safety Code §11362.83(a)];
- (4) Further restrict the location of any medicinal cannabis cooperative, collective, operator, establishment, or provider who possesses, cultivates or distributes medicinal cannabis to not be within 600-foot or greater radius from any private or public school (Health and Safety Code §11362.768(b));
- (5) Regulate or completely prohibit the location, establishment, operation or activity of one or more commercial nonmedicinal cannabis or medicinal cannabis for profit or nonprofit land uses, operations, and activities, including any cannabis or medicinal cannabis businesses, microbusinesses, collectives, cooperatives, specialty cottages, nurseries, indoor or outdoor cultivation facilities, manufacturing facilities, storage or warehouse facilities, testing laboratories, transportation facilities or other similar uses (Business and Professions Code §26200(a)(1)(f)); and,
- (6) Prohibit smoking and ingesting (consumption) of cannabis in public places or within 1,000 feet of a school, day care center, or youth center while children are present (Business and Professions Code §26200(g) and Health and Safety Code §11362.3).
- (7) In addition, Section 26055(f) of the Business and Professions Code requires that city and county local governments provide the State’s Bureau of Cannabis Control (the “BCC”) a copy of any ordinance with any new or modified regulation related to any commercial nonmedicinal cannabis activity. The BCC must notify the City upon their receipt of any application by a licensee for a State license issued to conduct any for profit or nonprofit commercial nonmedicinal cannabis activity in Simi Valley, upon which the BCC intends commence issuing licenses in January 2018. The City Council adopted this Ordinance approving Municipal Code Amendment Z-S-733 herein to ban all for profit and nonprofit commercial nonmedicinal cannabis uses, operations, and activities.

SECTION 3. Findings. The City Council of the City of Simi Valley finds, determines, and declares the following in support of the enactment of this Ordinance.

A. Adoption of this Ordinance and the approval of City-initiated Municipal Code Text Amendment (Z-S-733) are exempt from review under the California Environmental Quality Act (CEQA - California Public Resources Code §21000 et seq.) and CEQA regulations (Title 14, California Code of Regulations §15000 et seq.) because this Municipal Code Text Amendment is covered by the general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment (§15061(b)(3)), and adoption of a Municipal Code Text Amendment does not create a significant effect on the environment because it would limit land uses and associated impacts by prohibiting the adult outdoor cultivation of cannabis plants at residences, delivery of cannabis from commercial delivery services to residences, commercial nonmedicinal cannabis uses, operations, and activities, prohibit smoking and ingesting of cannabis in public places, and Industrial Hemp uses, operations, and activities located within all zoning districts within the City of Simi Valley.

B. The U.S. Congress enacted the Controlled Substances Act (United States Code, Title 21, Chapter 13, Section 801 et seq.), which, among other things, makes it illegal to use, possess, import, manufacture, distribute, or cultivate cannabis. Also, the use, possession, and cultivation of cannabis are unlawful and subject to federal prosecution without regard to a claimed medicinal and adult personal or recreational need.

C. On November 5, 1996, California voters passed Proposition 215, “The Compassionate Use Act of 1996” (codified in California Health and Safety Code §11362.5), which allows medicinal cannabis use by qualified patients upon a physician’s recommendation. The intent of this Act was to enable seriously ill Californians to legally possess, use, and cultivate cannabis for medicinal use under California law once a physician has deemed the use beneficial to a patient’s health. In addition, the California Legislature adopted Senate Bill SB 420 in 2003 (codified in Health and Safety Codes §11362.7 – §11362.83), which permits qualified patients and their primary caregivers to possess not more than eight ounces of dried cannabis per qualified patient and not more than six mature or 12 immature cannabis plants per qualified patient unless a medicinal doctor authorizes an additional amount consistent with the patient’s needs.

D. Neither the California Compassionate Use Act of 1996 or the Medical Marijuana Program (SB 420) require or impose an affirmative duty or mandate upon a local government to allow, authorize, or sanction the establishment of facilities that cultivate or process medicinal cannabis within its jurisdiction.

E. Assembly Bill 1300 was adopted in 2011 (codified as Health and Safety Code §11362.83) to clarify that city and county local governments may adopt and enforce local ordinances that regulate or prohibit the location, operation, or establishment of medicinal cannabis cooperatives or collectives.

F. On June 6, 2005, the United States Supreme Court issued its decision in the case of *Gonzales vs. Raich* which held that Congress, under the Commerce Clause of the United States Constitution, has the authority, and under the Federal Controlled Substances Act (21USC Section 841) the power to prosecute the local cultivation and use of cannabis, even if such use is in compliance with California law.

G. The City Council adopted Ordinance No. 1106, which became effective on January 18, 2007, to amend the Simi Valley Municipal Code (SVMC) to prohibit medicinal marijuana dispensaries within all zoning districts in the City of Simi Valley. Adoption of this Ordinance maintains current explicit standards banning fixed or mobile medicinal cannabis dispensaries consistent with Ordinance No. 1106 and an explicit standard to also ban fixed or mobile cannabis dispensaries to protect the public health, safety and welfare.

H. In May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc., et al.*, holding that city local governments have the authority to prohibit or ban medicinal cannabis land uses.

I. The California Medical Marijuana Regulation and Safety Act, which became effective on January 1, 2016, contains provisions that create a State regulatory structure and licensing system for the commercial medicinal cultivation, manufacture, retail sale, transport, distribution, transportation, delivery, and testing of medicinal cannabis. Under this Act, no person shall engage in said commercial medicinal activities without a State license or permit or other authorization from their local City or County government (dual-licensing requirement). This Act also recognizes a range of medicinal cannabis activities referred to as “commercial cannabis activities,” including medicinal cannabis cultivation businesses, product manufacturers, distributors, transporters, testing laboratories, and dispensaries.

J. While the California Medical Marijuana Regulation and Safety Act expressly authorizes a city or county local government to regulate or prohibit medicinal cannabis facilities and land uses in their jurisdictions, the Act provides that the State will be the sole licensing authority if the local government does not enact ordinances and/or urgent ordinances that expressly regulate or prohibit medicinal cannabis facilities and land uses. On February 3, 2016, Assembly Bill 21 was signed by the Governor to amend the Act’s language that local government retained the right to prohibit cultivation without exception to instead state “Exemption from the requirements of the section does not limit or prevent a city, county, or city and county from exercising its police authority under Section 7 of Article XI of the California Constitution” (codified in Health and Safety Code §11362.777(g)).

K. The City Council adopted Ordinance No. 1255, which became effective on April 14, 2016, to amend the SVMC land use regulations to expressly prohibit all medicinal cannabis cultivation, processing, distribution, deliveries, collectives, and cooperatives within all zoning districts in the City of Simi Valley. Adoption of this Ordinance maintains current explicit standards banning all for profit and not-for-profit commercial medicinal cannabis uses, operations, and activities, collectives, consistent with Ordinance No. 1255 and explicit standard to also ban all other outdoor cultivation of cannabis at residences, profit or all nonprofit commercial medicinal cannabis uses, operations, and activities, and consumption of cannabis in public places to protect the public health, safety, and welfare.

L. The California voters enacted Proposition 64, "The Control, Regulate and Tax Adult Use of Marijuana Act," which became effective on November 9, 2016. This establishes a State regulatory structure, licensing system, and enforcement provision for commercial nonmedicinal cannabis cultivation, processing, manufacture, distribution, testing, and sale. The Act also contains provisions that:

- (1) Allow adult persons 21 years of age and older to possess, transport, purchase, obtain, or give away to persons 21 years old or older without compensation non-concentrated cannabis of not more than 28.5 grams (ounce) and 8 grams of concentrated cannabis. Also, smoking or ingesting of cannabis or cannabis products is allowed for adults. Further, adults are allowed to possess, transport, purchase, obtain, or give away cannabis accessories to persons 21 years old or older (Health and Safety Code §11362.1);
- (2) Allow adult persons 21 years or older to plant, cultivate, harvest, dry, and possess up to six live personal cannabis plants inside their single private residence or the inside the residence's accessory structure that is fully enclosed and secured, or upon the grounds of that private residence that is fully enclosed and secured, at any one time. As defined, a residence includes a house, an apartment unit, a mobile home, or similar dwelling. Also, a city may reasonably regulate the cultivation, harvesting, drying, or processing of personal cannabis plants inside a private residence and inside the residence's accessory structure and to completely prohibit the outdoor cultivation of cannabis plants on the grounds of the residence, up to and until a "determination by the California Attorney General that nonmedicinal use of cannabis is lawful in the State of California under federal laws" (Health and Safety Code §11362.2);
- (3) Prohibit the sale of commercial nonmedicinal cannabis by businesses that also sell alcohol or tobacco (Business and Professions Code §26054);
- (4) Permit cities to completely regulate or prohibit the establishment and operation of any business licensed under a new State licensing system, including commercial nonmedicinal cannabis cultivation, processing, manufacturing, testing, labeling, storing, distributing, sale, microbusinesses (Business and Professions Code §26200(a)(1)(f)). The State agencies are required to promulgate rules and regulations to begin issuing licenses in January 2018;
- (5) Permits cities to regulate or prohibit smoking or ingesting of cannabis or cannabis products in any public place, such as a business or microbusiness (Business and Professions Code §26000(g) and Health and Safety Code §11362.3); and

- (6) Prevents cities from prohibiting the transportation of cannabis on public roads between State licensees (Business and Professions Code §26080(b)).

M. Under the SVMC, medicinal cannabis dispensaries, cultivation, processing, distribution, collectives, cooperatives, dispensaries are expressly prohibited. While the SVMC's "permissive zoning" land use regulations prohibit commercial nonmedicinal cannabis uses, operations, and activities; therefore, it is necessary to amend the SVMC to expressly regulate or prohibit such uses, operations, activities throughout the City.

N. Without sufficient regulations that are expressly enforceable pursuant to an urgency ordinance and/or ordinance, the City Council finds that there is a current and immediate threat to protect the public health, safety, and welfare from ambiguous regulations, including the following harmful impacts:

- (1) Cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors. Also, the strong smell of cannabis creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery, or armed robbery;
- (2) The potential for burglary or robbery is high because cannabis plants are valuable. The U.S. Drug Enforcement Administration reports that each cannabis plant under various planting conditions may yield an average between one-half to two pounds in its lifetime. Prices for domestically produced high-grade cannabis sold illegally within Northern California can reach \$2,000 to \$5,000 per pound;
- (3) The indoor residential cultivation of cannabis has potential adverse effects to the health and safety of the occupants, including damage to the structural integrity of a building from increased moisture and mold, risk of fire and electrocution from high intensity light fixtures, and chemical contamination from the use of pesticides and fertilizers;
- (4) There is potential for exposure to or increased usage by school-aged children from non-secured areas used for either indoor or outdoor residential cultivation of any cannabis;
- (5) The manufacturing of cannabis and Industrial Hemp products involve the use of chemicals and solvents, and as a result, the manufacturing of hash oil concentrate, often added to edibles, drinks and liquids, carries a significant risk of explosion due to the distillation process to extract tetrahydrocannabinol;

- (6) Several California cities have reported negative impacts of cannabis cultivation, processing, and distribution activities, including offensive odors, illegal sales and distribution of cannabis, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and
- (7) The California Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

Based on the above, there is an immediate threat to protect the public health, safety, and welfare of City residents arising from the risks attributed with the cultivation, processing, manufacturing, testing, labeling, storing, distributing, sale, transportation, delivering, collectives, cooperatives, and dispensaries of nonmedicinal cannabis, whether for profit or not-for-profit. Further, the County of Ventura District Attorney cited in a letter dated November 10, 2016, concern on the negative impact of legalized cannabis in California and the negative impact the cannabis industry brings to communities where they operate. In this letter, the District Attorney encouraged the City of Simi Valley to adopt coordinated and uniform standards to prohibit the operation of commercial cannabis enterprises in the community. A similar letter was sent to other cities in the County of Ventura.

O. On December 5, 2016, the City Council in accordance with Government Code §65858 adopted Urgency Ordinance No. 1264 to establish a 45-day moratorium prohibiting all adult personal outdoor cultivation of cannabis plants at residences, recreational cannabis uses, operations, and activities, and smoking and ingesting of cannabis in public places within the City to protect the public health, safety, and welfare. The City Council on January 9, 2017, adopted Urgency Ordinance No. 1266 for 10 months 15 days the moratorium in accordance with Government Code §65858 and issued a report addressing the measures taken to regulate the above uses, public safety, public welfare, and other related standards.

P. Senate Bill SB 94, the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), became effective on June 27, 2017, and made significant changes to California's cannabis regulatory structure. A notable change is that State governing regulatory agency will now be the Bureau of Cannabis Control. Other changes include the repeal of the Marijuana Control, Regulation, and Safety Act (MCRSA) and incorporation of several MCRSA provisions with the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA). Also, the terms were changed from marijuana to cannabis and from medical to medicinal. More significantly, the MAUCRSA effectively creates a new hybrid regulatory State licensing structure with possibly more applicant/operator-friendly standards than the MCRSA. Although the MAUCRSA was enacted to deal with some inconsistencies between the MCRSA and the AUMA, it does impact local government control in certain ways with new and/or different State regulations.

Q. On October 18, 2017, the Planning Commission recommended to the City Council approval of Municipal Code Amendment Z-S-733, and a determination that the actions are exempt from the Municipal Code Amendment, to amend the Simi Valley Municipal Code to establish regulations that expressly prohibit the outdoor cultivation of all personal cannabis at residences; allow the deliveries of cannabis by State-licensed delivery services located outside of the City to residences; prohibit mobile nonmedicinal cannabis dispensaries; prohibit all profit or nonprofit nonmedicinal commercial nonmedicinal uses, operations, and activities; prohibit smoking and ingesting of cannabis in public places; and, prohibit Industrial Hemp facilities in Simi Valley.

SECTION 4. The findings, for adoption of this Ordinance, for approval of Municipal Code Amendment Z-S-733 contained in the Planning Commission staff report and supplemental staff reports dated October 18, 2017, and the City Council Staff Report dated October 30, 2017, incorporated by herein by reference, and the recitals and findings set forth above, are hereby adopted.

SECTION 5. Municipal Code Text Amendment Z-S-733 to amend Title 9 and 5 of the Simi Valley Municipal Code, as specified in Exhibit A attached hereto, or as amended by the City Council, is hereby adopted.

SECTION 6. Incompatible Provisions. To the extent any provision of this ordinance is incompatible with or at variance with any prior adopted ordinance or resolution, the provision of this Ordinance shall take precedence.

SECTION 7. Severability. If any provision of this ordinance is declared invalid by a court of competent jurisdiction, adjudicated to a final determination, the City Council finds that said voided part is severable, that the City Council would have adopted the remainder of this Ordinance without the severed and voided part, and that the remainder of this ordinance shall remain in full force and effect.

SECTION 8. The City Clerk shall cause this ordinance or a summary hereof to be published in a newspaper of general circulation, published in the County of Ventura and circulated in the City, and if applicable, to be posted, in accordance with Section 36933 of the California Government Code; shall certify to the adoption of this ordinance and shall cause a certified copy of this ordinance, together with proof of publication, to be filed in the Office of the Clerk of this City.

SECTION 9. This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED and ADOPTED this 13th day of November 2017.

Attest:

/s/
Ky Spangler, Deputy Director/City Clerk

/s/
Robert O. Huber, Mayor of the City of
Simi Valley, California

Approved as to Form:

Approved as to Content:

/s/
Lonnie J. Eldridge, City Attorney

/s/
Eric J. Levitt, City Manager

/s/
Peter Lyons, Director
Department of Environmental Services

EXHIBIT A

SIMI VALLEY MUNICIPAL CODE TEXT AMENDMENT (Z-S-733)
(underline for new text and strike-out for deleted)

1. Amend SVMC Section 9-24.030.B and Table 2-2 as follows:

9-24.030 – Residential and Open Space District Land Uses and Permit Requirements

B. **Specific Plan (SP) Land Use Designations and Zoning Districts:** Allowable land uses within Specific Plans shall be determined by the applicable specific plan, except that Medical Marijuana Cultivation, Processing, Distribution, and Delivery commercial nonmedicinal and medicinal cannabis uses, operations, and activities, including cultivation, dispensaries, distribution, deliveries, manufacturing, processing, microbusinesses, storing, laboratory testing, packaging, labeling, and transportation facilities are prohibited uses in the City (refer to Chapter 5-41 for Medical Marijuana Dispensaries Nonmedicinal and Medicinal Cannabis Standards).

| TABLE 2-2 Allowed Uses and Permit Requirements for Residential and Open Space Zoning Districts | | PERMIT REQUIRED BY DISTRICT | | | | | | | | | Specific Use Regulations |
|--|-----|-----------------------------|-----|-----|-----|-----|------|-----|-----|-----|-----------------------------|
| | | OS | RE | RVL | RL | RM | Rmod | RH | RVH | MH | |
| AGRICULTURE, RESOURCE, MEDICAL MARIJUANA <u>NONMEDICINAL AND MEDICINAL CANNABIS,</u> & OPEN SPACE USES | | | | | | | | | | | |
| <u>Nonmedicinal or medicinal cannabis collectives and cooperatives</u> | = | = | = | = | = | = | = | = | = | = | |
| <u>Nonmedicinal or medicinal personal cannabis at residences (indoors only)</u> | P | P | P | P | P | P | P | P | P | P | 5-41 |
| <u>Commercial nonmedicinal or medicinal cannabis, or industrial hemp uses, operations, and activities</u> | = | = | = | = | = | = | = | = | = | = | |
| <u>Commercial nonmedicinal or medicinal cannabis dispensaries</u> | = | = | = | = | = | = | = | = | = | = | 5-41 |
| <u>Crop production, horticulture, orchards & vineyards, <u>except industrial hemp</u></u> | P | P | P | P | P | P | P | P | P | P | 5-41 |
| Farm animal ⁽⁴⁾ | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | 9-44.060 ⁽³⁾ |
| Medical marijuana cultivation, processing, distribution, delivery, or dispensaries | — | — | — | — | — | — | — | — | — | — | 5-41 |
| Medical marijuana collectives cooperatives | — | — | — | — | — | — | — | — | — | — | 5-41 |
| Oil and gas exploration and extraction | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | |
| Produce stands | P | P | P | P | P | P | P | P | P | P | |
| Quarries, surface mining, mining | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | 9-44.190 |

Notes:

- (1) See Article 8 for land use definitions. ~~Medical marijuana uses~~ All commercial nonmedicinal or medicinal cannabis, and industrial hemp uses, operations, and activities, including collectives and cooperatives are prohibited (refer to Chapter 5-41 for ~~medical marijuana dispensaries~~ Medicinal and Medicinal Cannabis Standards).
- (2) A Planned Development Permit (Section 9-52.050) is also required for all new development.
- (3) Administrative Conditional Use Permit required.
- (4) CUP not required for farm animals in A, L or H Overlay Zones.
- (5) Wireless Telecommunications Facilities shall not be subject to the CUP requirement for Telecommunications Facilities, as set forth in the above Table, and instead shall be subject to the permit requirements of Chapter 35 of Title 5 of the Simi Valley Municipal Code.

2. Amend SVMC Section 9-26.030.C and Table 2-5 as follows:

9-26.030 – Commercial, Industrial, Business Park Overlay, and Mixed-Use Overlay District Land Uses and Permit Requirements

C. **Specific Plan (SP) Land Use Designations and Zoning Districts:** Allowable land uses within Specific Plans shall be determined by the applicable specific plan, except that ~~Medical Marijuana Cultivation, Processing, Distribution, and Deliveries~~ commercial nonmedicinal and medicinal cannabis uses, operations, and activities, including cultivation, dispensaries, distribution, deliveries, manufacturing, processing, microbusinesses, storing, laboratory testing, packaging, labeling, and transportation facilities or uses are prohibited in the City (refer to Chapter 5-41 for ~~Medical Marijuana Dispensaries~~ Nonmedicinal and Medicinal Cannabis Standards).

| TABLE 2-5 Allowed Uses and Permit Requirements for Commercial and Industrial Zoning Districts, and Mixed-Use and Business Park Overlay Districts | | | | | | | P Permitted Use ⁽²⁾ CUP Conditional Use Permit required HP Home Occupation Permit required — Use not allowed | | | | | |
|---|-----------------------------|-----|-----|-----|-----|-----|--|-------------------|-----|-----|--------------------------------|----------|
| LAND USE ⁽¹⁾ | PERMIT REQUIRED BY DISTRICT | | | | | | | | | | Specific Use Regulations | |
| | MU ⁽⁹⁾ | CO | CN | CR | CC | CPD | CI | BP ⁽⁹⁾ | LI | GI | | |
| AGRICULTURE, RESOURCE, MEDICAL MARIJUANA NONMEDICINAL AND MEDICINAL CANNABIS, & OPEN SPACE USES | | | | | | | | | | | | |
| <u>Agricultural services, except industrial hemp</u> | — | — | — | — | — | P | — | — | — | — | — | 5-41 |
| <u>Nonmedicinal or medicinal cannabis collectives and cooperatives</u> | = | = | = | = | = | = | = | = | = | = | = | |
| <u>Commercial nonmedicinal or medicinal cannabis, or industrial hemp uses, operations, and activities</u> | = | = | = | = | = | = | = | = | = | = | = | |
| <u>Commercial nonmedicinal or medicinal cannabis dispensaries</u> | = | = | = | = | = | = | = | = | = | = | = | 5-41 |
| <u>Crop production, horticulture, orchards and vineyards, except industrial hemp</u> | — | P | P | P | P | P | P | P | P | P | P | |
| <u>Farm animals - Accessory to nonconforming dwelling</u> | — | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | 9-44.060 |
| <u>Medical marijuana cultivation, processing, distribution, delivery, or dispensaries</u> | — | — | — | — | — | — | — | — | — | — | — | 5-41 |

| TABLE 2-5 Allowed Uses and Permit Requirements for Commercial and Industrial Zoning Districts, and Mixed-Use and Business Park Overlay Districts | | | | | | | P Permitted Use ⁽²⁾ CUP Conditional Use Permit required HP Home Occupation Permit required — Use not allowed | | | | | |
|---|-----------------------------|-----|----|-----|-----|-----|--|-------------------|-----|-----|--------------------------------|-----------------|
| LAND USE ⁽¹⁾ | PERMIT REQUIRED BY DISTRICT | | | | | | | | | | Specific Use Regulations | |
| | MU ⁽⁹⁾ | CO | CN | CR | CC | CPD | CI | BP ⁽⁹⁾ | LI | GI | | |
| AGRICULTURE, RESOURCE, MEDICAL MARIJUANA NONMEDICINAL AND MEDICINAL CANNABIS, & OPEN SPACE USES | | | | | | | | | | | | |
| Medical marijuana collectives cooperatives | — | — | — | — | — | — | — | — | — | — | — | 5-41 |
| Oil and gas exploration and extraction | CUP | CUP | — | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | |
| Quarries, surface mines, mining | CUP | CUP | — | CUP | CUP | CUP | CUP | CUP | CUP | CUP | CUP | 9-44.160 |

Notes:

- (1) See Article 8 for land use definitions. ~~Medical marijuana uses~~All commercial nonmedicinal or medicinal cannabis, and industrial hemp uses, operations, and activities, including collectives and cooperatives are prohibited (refer to Chapter 5-41 for ~~medical marijuana dispensaries~~ Nonmedicinal and Medicinal Cannabis Standards).
- (2) A Planned Development Permit (Section 9-52.050) is also required prior to any construction.
- (3) See Section 9-10.070(B) for industrial district land use limitations.
- (4) May require a CUP depending on location (see Section 9-44.040).
- (5) Allowed if located within the Sexually Oriented Business Overlay District, with the approval of a sexually oriented business site plan review application and a zoning clearance. Refer to Section 5-41.04 for ~~Medical Marijuana~~Nonmedicinal and Medicinal Cannabis Standards.
- (6) Administrative Conditional Use Permit.
- (7) Wireless Telecommunications Facilities shall not be subject to the CUP requirement for Telecommunications Facilities, as set forth in the above Table, and instead shall be subject to the permit requirements of Chapter 35 of Title 5 of the Simi Valley Municipal Code.
- (8) Must be located on a property that does not abut a primary or secondary arterial street as defined by Appendix D of the General Plan.
- (9) Overlay District.

3. *Amend SVMC Section 9-80.020 (Definitions of Specialized Terms and Phrases) as follows:*

~~Medical Marijuana~~Cannabis Cultivation, Processing, Distribution, Delivery, or Dispensaries. Land uses, operations, or activities primarily engaged in the ~~distribution or furnishing of medical marijuana~~cannabis or medicinal cannabis in the City of Simi Valley as follows:

- 1. **~~Marijuana~~Nonmedicinal or Medicinal Cannabis.** AnyCannabis includes any or all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin or separated 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, including ~~marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana~~the separated resin, whether crude or purified obtained from cannabis. The term "~~marijuana~~"cannabis" herein shall alsoinclude "medical marijuana" as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the ~~s~~State of California or subject to the provisions of

California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act). For the purpose of this subsection, marijuana and cannabis shall have the same meaning.

2. ~~**Marijuana Cultivation.** The growing, planting, harvesting, drying, curing, grading, trimming, or processing of marijuana, either indoors or outdoors. Cultivation is prohibited by any and all groups, individuals, collectives, corporations partnerships, and any and all other business organizations or methods in all zoning districts, including without limitation prohibiting cultivation otherwise permitted for a qualified patient and their primary caregiver in accordance with California Health and Safety Code Sections 11362.5 et seq.~~
3. ~~**Marijuana Processing.** Any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.~~
4. ~~**Marijuana Dispensary or Marijuana Dispensaries.** See Chapter 5-41.~~
2. **Commercial Nonmedicinal or Medicinal Cannabis Uses, Operations, and Activities.** Includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or medicinal cannabis and their products, including Industrial Hemp retailers, microbusinesses, and any other uses, operations, and activities, whether for profit, wholesale, or not-for-profit, or any other type of business or enterprise (including microbusinesses) and all such uses, businesses or enterprises that the City may prohibit according to State law, and all of which are hereby prohibited in the City.
3. **Commercial Nonmedicinal or Medicinal Cannabis Dispensaries.** See Chapter 5-41.
54. **Marijuana Nonmedicinal or Medicinal Cannabis Deliveries.** Commercial Any delivery of marijuana to and from locations within any cannabis or medicinal cannabis or their products from any delivery services, for and not-for-profit, are prohibited. No person shall conduct or perform any delivery of any cannabis or medicinal cannabis or their products, which delivery originates or terminates within the City, except transportation to and from a qualified patient's residence by a qualified patient and/or their primary caregiver only for the qualified patients' medicinal use pursuant to California Business and Professions Code Section 4931926033.

5. **Industrial Hemp.** Has same meaning as “Industrial Hemp” in California Health and Safety Code Section 11018.5 and Food and Agriculture Section 81000 as of the effective date of this ordinance. It includes a fiber or oilseed crop, or both, that is limited to types of the plant *Cannabis sativa* L. having no more than three-tenths of one percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin produced therefrom.
6. **Medical Marijuana Nonmedicinal or Medicinal Cannabis Collective or Cooperative.** Any profit or nonprofit group that is collectively or cooperatively cultivating and distributing marijuana for medicinal purposes is a prohibited land use in the City of Simi Valley. This collective or cooperative is also any profit or nonprofit group, including these groups that ~~is~~ are organized in the manner in accordance with State law and as set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the State of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).
4. *Amend SVMC Section 5-41 (Medical Dispensaries) as follows:*

Chapter 5-41 – MEDICAL MARIJUANA DISPENSARIES NONMEDICINAL AND MEDICINAL CANNABIS STANDARDS

5-41.01 – Definitions.

“Accessory structures” used for the cultivation of cannabis or medicinal cannabis must be a greenhouse, shed, workshop, guest house, accessory dwelling unit, or other similar building structure that are incidental to the private residence. They must be enclosed by walls on all sides, a roof, and one or more doors with locks. Any window on an accessory structure must be opaque, obscured, or positioned to preclude any visibility of the structure’s interior marijuana cultivation area from any public place. Accessory structures must comply with any applicable requirements of the Simi Valley Municipal Code and California Building Code.

“Cannabis Distribution or Dispensary” means any facility or location, whether fixed or mobile, where any cannabis or cannabis product is made available to or distributed by or distributed for profit or not-for-profit to one or more adults 21 years of age and over who do not possess any physician recommendation; and has the same meaning as the “distribution” definition in California Business and Professions Code Section 26001.

~~A "medical marijuana dispensary"~~ "Medicinal Cannabis Dispensary" means any facility or location, whether fixed or mobile, where ~~medical marijuana~~ any medicinal cannabis or medicinal cannabis product is made available to or distributed by or distributed for profit or not-for-profit to one or more of the following: a primary caregiver, a qualified patient, or a patient with an identification card; and has the same meaning as the "distribution" definition in California Business and Profession Code Section 26001. All three (3) of these terms, primary caregiver, qualified patient, or patient with an identification card, are identified in strict accordance with California Health and Safety Code Section 11362.5 et seq. A ~~medical marijuana~~medicinal cannabis dispensary shall not include the following uses, as long as the location of such uses is otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a healthcare facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as such use complies strictly with applicable law, including, but not limited to, Health and Safety Code Section 11362.5 et seq.

"Residence" means a house, an apartment unit, a mobile home, or other similar private dwelling. To the extent allowed by law, a private "residence" shall mean a fully enclosed and secured house, apartment unit, mobile home, or other similar dwelling. To the extent allowed by law, a private residence must be currently, presently, and lawfully utilized as the primary dwelling of one or more persons.

"Public place" means any area to which the public is invited or in which the public is permitted, regardless of any fee or age requirement or whether publicly or privately owned, and includes any public place for which marijuana smoking or ingesting is prohibited by State law.

5-41.02 – Medicinal cannabis cultivation by a primary caregiver, qualified patient, or patient with an identification card at a residence.

A primary caregiver, qualified patient, or patient with an identification is permitted to cultivate medicinal cannabis plants inside or indoors at his or her secured residence or a secured accessory structure on the property of the residence in zoning districts, specific plan designations, or zoning overlay districts throughout the City in strict accordance with California Health and Safety Code Section 11362.5 et seq. No medicinal cannabis plants shall be visible from any public place or adjacent properties. All outdoor cultivation of medicinal cannabis plants is prohibited in the City.

~~5-41.03—Criminal penalties.~~

~~A violation of this chapter is a misdemeanor.~~

~~5-41.04 – Civil injunction.~~

~~The violation of any provision in this chapter shall be and is declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for interim injunctive relief.~~

5-41.03 – Personal cannabis cultivation by adults 21 years of age or over at a residence.

Adults 21 years of age or older are permitted to cultivate a maximum of six personal cannabis plants inside or indoors at their secured residence or a secured accessory structure on the property within the City in strict accordance with California Health and Safety Code Sections 11362.1 through 11362.3. No personal cannabis plants shall be visible from any public place or adjacent properties. All adult outdoor cultivation of personal cannabis plants is prohibited in the City.

~~5-41.0204 – Medical marijuana Cannabis Distribution or Dispensary or Medicinal Cannabis Dispensary as a prohibited use.~~

~~A medical marijuana Cannabis Distribution or Dispensary or medicinal cannabis dispensary, as defined in Section 5-41.01 is prohibited in all zones throughout the City of Simi Valley.~~

5-41.05 – Smoking, vaporizing, or ingesting of any cannabis or medicinal cannabis or their products is prohibited as a use or activity in any public place. This section is declarative of State law and does not impose any additional restrictions or penalties beyond that in State law.