

**EXHIBIT A: Red-line version of proposed ordinance**

ORDINANCE NO. \_\_\_\_\_

ORDINANCE OF THE COUNCIL OF THE CITY OF ROSEVILLE AMENDING SECTIONS 19.62.010, 19.62.020, 19.62.030, 19.62.040 OF CHAPTER 19.62 AND AMENDING SECTIONS 19.63.010, 19.63.020, 19.63.030, 19.63.040, 19.63.050, 19.63.060, 19.63.070 OF CHAPTER 19.63 OF TITLE 19 ROSEVILLE MUNICIPAL CODE REGARDING MARIJUANA CULTIVATION, DISPENSARIES, AND USE.

THE CITY OF ROSEVILLE ORDAINS:

SECTION 1. Chapter 19.62 of Title 19 of the Roseville Municipal Code is hereby amended to read as follows:

**CHAPTER 19.62 ~~MEDICAL~~ MARIJUANA DISPENSARIES**

**19.62.010 Findings.**

The City Council adopts this chapter based upon the following findings:

A. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq., and entitled, “The Compassionate Use Act of 1996”).

B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of State criminal prosecution under limited, specified circumstances.

C. The State enacted SB 420 in 2004 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.

D. The State further enacted SB 643, SB 266, and AB 243 in 2015 to further clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations, consistent with State law, for regulating marijuana distribution, cultivation, delivery, and transportation within their cities.

E. In 2016 the voters of the State of California approved Proposition 64 entitled, “The Adult Use of Marijuana Act”, which legalized limited recreational use of marijuana.

F. The federal Controlled Substances Act, makes it unlawful to manufacture, distribute, dispense, or possess marijuana as it is a Schedule 1 controlled substance. Accordingly, marijuana possession and use is illegal under federal law.

#### **19.62.020 Definitions.**

For the purposes of this chapter, the words and phrases shall have the same meanings respectively ascribed to them by this section:

A. “Cannabis,” “marijuana,” “medical cannabis,” and/or “medical marijuana” shall be used interchangeably and means all parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether for medical or non-medical purposes, 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. This includes the separated resin, whether crude or purified, obtained from marijuana

and as defined by California Health and Safety Code Section 11018, as may be amended. This section does not mean “industrial hemp” as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

B. “Delivery” or “deliver” shall mean any transfer of marijuana or marijuana products, whether for compensation or otherwise.

C. “Distribution” means the procurement, sale, transfer, and/or transport of marijuana and/or products made from marijuana.

D. ~~“Medical M~~“marijuana dispensary” or “dispensary” means a facility or location, whether permanent, temporary, or mobile, where marijuana, products made from marijuana, or devices for the use of marijuana are offered, either individually or in any combination, for sale, use, transportation, distribution, and/or delivery, whether for compensation or otherwise, by or to: (1) another dispensary or processing facility; or (2) two or more of the following: a primary caregiver, a qualified patient, ~~or~~ a person with an identification card, or anyone authorized under State law to use marijuana.

E. “Medical Purpose” shall mean use of marijuana by a primary caregiver, qualified patient, and/or person with an identification card for personal medical purposes, as provided by California Health and Safety Code 11362.5 et seq.

F. “Non-Medical Purpose” shall mean use of marijuana by a person other than a primary caregiver, qualified patient, and/or person with an identification card, who is otherwise authorized under local, State or Federal laws to cultivate marijuana, for personal non-medical use.

GE. “Processing facility” means any facility or location, whether permanent, temporary, or mobile, that produces, prepares, propagates, processes, or compounds marijuana or products made from marijuana, directly or indirectly, by any method, for delivery, for compensation or otherwise. Processing facility does not mean any facility or location manufacturing “industrial hemp” as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

HF. “Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

IG. “Person with an identification card” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., as may be amended, California Business and Professions Code Section 19300 et seq., as may be amended, and as may be amended by California Department of Public Health’s “Medical Marijuana Program.”

JH. “Primary caregiver” shall have the same definition as in California Health and Safety Code Section 11362.5 et seq., as may be amended, and California Business and Professions Code Section 19300 et seq., as may be amended.

KI. “Qualified patient” shall have the same definition as in California Health and Safety Code Section 11362.5 et seq., as may be amended.

LJ. “Testing laboratory” means a facility, person, or location that offers or performs tests of ~~medical~~-marijuana or ~~medical~~-marijuana products.

**19.62.030 ~~Medical-M~~marijuana dispensaries, processing facilities, and testing laboratories prohibited.**

It is unlawful and a misdemeanor for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises or location within any zoning district in the City of Roseville, the operation of a ~~medical~~-marijuana dispensary, and/or processing facility, and/or testing laboratory. Nothing in this chapter shall prohibit those activities expressly authorized under California Health and Safety Code Section 11362.1.

**19.62.040 Delivery of marijuana prohibited.**

Delivery of marijuana, products made from marijuana, or devices for the use of marijuana to or from any person, business, or location in the City of Roseville is prohibited. Notwithstanding the foregoing, a primary caregiver may personally deliver medical marijuana, products made from marijuana, or devices for the use of marijuana to a qualified patient or person with an identification card, for whom he or she is the primary caregiver. Nothing in this chapter shall prohibit those activities expressly authorized under California Health and Safety Code Section 11362.1.

SECTION 2. Chapter 19.63 of Title 19 of the Roseville Municipal Code is hereby added to read as follows:

## Chapter 19.63 MARIJUANA CULTIVATION AND USE

### 19.63.010 Purpose and applicability.

The city council adopts this chapter based on the following:

A. Purpose. The purpose and intent of this chapter is to regulate the cultivation of marijuana in a manner that protects the health, safety and welfare of the community. This chapter is not intended to interfere with a patient's right to medical marijuana, as provided for in California Health and Safety Code Section 11362 and California Business and Professions Code Section 19300 et seq., as may be amended, nor does it criminalize ~~medical~~ marijuana possession or cultivation by specifically defined classifications of persons, pursuant to State law. This chapter is not intended to give any person independent legal authority to grow marijuana; it is intended simply to impose zoning restrictions on the cultivation of marijuana when it is authorized by California State law ~~for medical or other purposes~~.

B. Applicability. No part of this chapter shall be deemed to conflict with Federal law as contained in the Controlled Substances Act, ~~21 U.S.C. Section 800 et seq.~~, nor to otherwise permit any activity that is prohibited under that Act or any other local, State or Federal law, statute, rule or regulation. The cultivation of marijuana in the City of Roseville is controlled by the provisions of this chapter of the municipal code, State law, and Federal law.

### 19.63.020 Definitions.

For the purposes of this chapter, the words and phrases shall have the same meanings respectively ascribed to them by this section:

A. “Authorized grower” means a person with an identification card, primary caregiver, ~~or~~ qualified patient, or a person who is authorized by Federal or State law to grow marijuana for personal ~~medical~~ use in compliance with local, State or Federal laws authorizing such marijuana cultivation.

B. “Accessory structure” shall mean a fully enclosed and secured structure detached from a private residence on the same parcel and incidental to that private residence. It is the intent of this section to ensure that all accessory structures comply with Section 19.22.030 of this code.

CB. “Cannabis,” “marijuana,” “medical cannabis,” and/or “medical marijuana” shall be used interchangeably and means all parts of the plant Cannabis sativa linnaeus, Cannabis indica, or Cannabis ruderalis, whether for medical or non-medical purposes, including marijuana as defined by California Health and Safety Code Section 11018, as may be amended. This section does not mean “industrial hemp” as defined by California Food and Agricultural Code Section 81000, as may be amended, or California Health and Safety Code Section 11018.5, as may be amended.

DC. “Cultivation” or “cultivate” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana plants.

ED. “Enforcement officer” means the chief of police, City of Roseville code enforcement officer, or any designee of either of them.

FE. “Fully enclosed and secure structure” means a space within a building parcel that complies with the California Building Code, as adopted in the City of Roseville, or if exempt from the permit requirements of the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof; a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments; is secure against

unauthorized entry; and is accessible through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily penetrated or breached, such as two-inch by four-inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products, do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical, and Fire Codes as adopted in the City of Roseville.

GF. “Immature marijuana plant” means a marijuana plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

HG. “Indoors” means within a fully enclosed and secure structure as that structure is defined in subsection FE.

GH. “Mature marijuana plant” means a marijuana plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

H. “Medical Purpose” shall mean cultivation of marijuana by a primary caregiver, qualified patient, and/or person with an identification card for personal medical purposes, as provided by California Health and Safety Code 11362.5 et seq.

I. “Non-Medical Purpose” shall mean cultivation of marijuana by a person other than a primary caregiver, qualified patient, and/or person with an identification card, who is otherwise authorized under local, State or Federal laws to cultivate marijuana, for personal non-medical use.

J.—“Outdoor” means any location within the City of Roseville that is not within a fully enclosed and secure structure.

KJ. “Parcel” means property assigned a separate parcel number by the Placer County assessor.

LK.—“Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character.

ML. “Person with an identification card” shall have the same definition as California Health and Safety Code Section 11362.5 et seq., as may be amended, California Business and Professions Code Section 19300 et seq., as may be amended, and as may be amended by California Department of Public Health’s “Medical Marijuana Program”.

NM. “Primary caregiver” shall have the same definition as in California Health and Safety Code Section 11362.5 et seq., as may be amended, and California Business and Professions Code Section 19300 et seq., as may be amended.

O. “Private residence” means a house, apartment unit, mobile home, or other similar dwelling unit.

P. “Public place” shall mean any place or area open to the public, including but not limited to public streets, sidewalks, right-of-ways, parks, public parking facilities, any public transit services, and/or property or programs owned or operated by the City.

QN.—“Qualified patient” shall have the same definition as in California Health and Safety Code Sections 11362.5 et seq., as may be amended.

### **19.63.030 Outdoor cultivation.**

It is hereby declared to be unlawful, a public nuisance, and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel, property, and/or private residence, within any zoning district in the City of Roseville to cause or allow such parcel, property, and/or private residence premises to be used for the outdoor cultivation of marijuana plants.

**19.63.040 Cultivation of marijuana—Regulations for residential zones.**

A. When authorized by State law, an authorized grower shall be allowed to cultivate marijuana indoors in a private residence or accessory structure in residential zones, subject to the following regulations:

1. The private residence or accessory structure does not exceed the maximum allowed cultivation. For purposes of this section the “maximum allowed cultivation” shall be:

a. No more than six (6) marijuana plants per private residence or accessory structure, regardless of whether they are mature marijuana plants or immature marijuana plants, when the marijuana cultivation is for a non-medical purpose; or

b. No more than 50 square feet and 10 feet in height per private residence or accessory structure, when the marijuana cultivation area is for a medical purpose.

~~—The marijuana cultivation area shall not exceed 50 square feet and not exceed 10 feet in height per residence.~~

2. Marijuana cultivation lighting shall not exceed 1,200 watts total.

3. The use of gas products (CO<sub>2</sub>, butane, etc.), including “volatile solvents” as defined by California Health and Safety Code Section 11362.3(d), for marijuana cultivation or processing is prohibited.

4. From a public right-of-way, there shall be no exterior evidence of marijuana cultivation either within or outside the ~~residence~~ private residence or accessory structure.

~~5. The residence where the marijuana cultivation occurs shall be the primary residence of the authorized grower.~~

~~56.~~ The authorized grower shall not participate in marijuana cultivation in any other ~~residential~~ location within the City of Roseville.

~~67.~~ The ~~residence~~ private residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be primarily or exclusively for marijuana cultivation.

~~78.~~ The marijuana cultivation area shall be in compliance with the current edition of the California Building Code ~~Section 1203.4 Natural ventilation or Section 402.3 Mechanical ventilation (or its equivalent(s))~~, as adopted by the City of Roseville.

~~89.~~ The building official for the City of Roseville may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.

~~910.~~ The marijuana cultivation area shall not adversely affect the health or safety of the occupants of other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and shall not be maintained so as to constitute a hazard due to use or storage of materials, processes, products or wastes.

B. Any proposed marijuana cultivation by an authorized grower for a medical purpose that does not meet the grow area standard of subsection (A)(1) shall require the prior written determination of the City Manager for the City of Roseville, or designee, of the need for additional cultivation area.

1. Documentation, such as a physician's recommendation or verification of more than one authorized grower living in the residence, shall be submitted with the request showing why the cultivation area standard is not feasible.

2. The request for determination shall include written permission from the record property owner and no determination and authorization for additional area of marijuana cultivation shall issue without the written permission of the record property owner.

3. An approved marijuana cultivation area that exceeds 50 square feet shall conform to the following standards:

a. It shall be in compliance with subsections (A)(1) through (10).

b. The marijuana cultivation area shall not exceed an additional 49 square feet for a total of 99 square feet per residence and shall not exceed 10 feet in height per residence.

4. Any written determination of the need for additional cultivation area shall be issued for a period not exceeding one year, but may be renewed upon review of a subsequent submittal of the required documentation.

**19.63.050 Indoor cultivation of marijuana restricted to authorized grower.**

It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel, property,

and/or private residence, within the City of Roseville to cause or allow such parcel, property, and/or private residence to be used for the cultivation of marijuana, unless the person is authorized by State law to grow marijuana, and such authorized grower is complying with all requirements of this chapter.

### **19.63.060 Public nuisance prohibited.**

It is hereby declared to be unlawful and a public nuisance for any person ~~owning, leasing, occupying, or having charge or possession of any parcel within the City of Roseville~~ to create a public nuisance in the course of cultivating and/or using marijuana or marijuana products plants ~~or any part thereof~~ in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces:

A. Odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public.

B. Repeated responses to the parcel, property, and/or private residence, from law enforcement officers.

C. A repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.

D. Any other impacts on the neighborhood or public generally which are disruptive of normal activity in the area, including but not limited to smoking or ingesting marijuana or marijuana products in any public place, smoking marijuana or marijuana products in a location

where smoking tobacco is prohibited, or any other prohibited activities outlined in California Health and Safety Code Section 11362.3(a), as may be amended from time to time.

**19.63.070 Violation.**

Cultivation of marijuana on any parcel, property, and/or private residence, within the City that does not comply with this chapter constitutes a violation of this zoning ordinance and is subject to the penalties and enforcement as provided in Section 19.63.080 of this chapter and Chapter 19.90 of this title.

SECTION 3. This ordinance shall be effective at the expiration of thirty (30) days from the date of adoption.

SECTION 4. The City Clerk is hereby directed to cause this ordinance to be published in full at least once within fourteen (14) days after it is adopted in a newspaper of general circulation in the City, or shall within fourteen (14) days after its adoption cause this ordinance to be posted in full in at least three (3) public places in the City and enter in the Ordinance Book a certificate stating the time and place of said publication by posting.

PASSED AND ADOPTED by the Council of the City of Roseville this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by the following vote on roll call:

AYES COUNCILMEMBERS:

NOES COUNCILMEMBERS:

ABSENT COUNCILMEMBERS:

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MAYOR

ATTEST:

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City Clerk