

ORDINANCE NO. 3355

ORDINANCE NO. 3355 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, AMENDING FULLERTON MUNICIPAL CODE CHAPTER 1.10 AND ADDING TITLE 7 (PUBLIC SAFETY AND MORALS), CHAPTER 7.18 (COMMERCIAL CANNABIS ACTIVITIES) TO PROHIBIT COMMERCIAL CANNABIS ACTIVITIES

WHEREAS, pursuant to the City's police power, granted broadly under the the California Constitution Section 7 Article XI, the City Council of the City of Fullerton ("City Council") has the authority to enact and enforce ordinances and regulations to safeguard the public peace, safety and welfare of the City of Fullerton (the "City") and its residents.

WHEREAS, California Business and Professions Code Section 26200 expressly provides that Fullerton may adopt and enforce local ordinances to regulate business and zoning related to commercial cannabis including a complete prohibition on the establishment or operation of commercial cannabis activity within the City of Fullerton.

WHEREAS, Fullerton has suffered negative impacts of commercial marijuana cultivation, processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards and problems associated with mold, fungus and pests.

WHEREAS, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants and creating a risk of burglary, robbery or armed robbery.

WHEREAS, California Assembly Bill (AB) 1684 expanded existing law on October 8, 2023 to allow local agencies to declare unlicensed commercial cannabis activity a public nuisance and immediately impose administrative fines or penalties up to a specified amount for specified violations that exist as a result of unlicensed commercial cannabis activity.

WHEREAS, this proposed amendment would amend Fullerton Municipal Code Chapter 1.10 to incorporate AB 1684 authority and add Chapter 7.18 authorizing immediate heightened fines for commercial cannabis activities and establishes explicit authorization for imposition against property owners and use of the abatement warrant procedure and procedures for summary abatement.

WHEREAS, adopting this ordinance and municipal code amendment does not constitute a project within the meaning of CEQA Guidelines Section 15378 and therefore not subject to CEQA, since it does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. The proposed project does not commit the City to a definite course of action in regard to a project since approving the updated ordinance will allow the City to comply with State law updates regarding imposing fines for commercial cannabis activities, to

establish explicit authorization for the use of the abatement warrant procedure and clarify procedures for summary abatement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON ORDAINS AS FOLLOWS:

SECTION 1. City Council amends and reorders Title 1 General Provisions, Chapter 1.10 Administrative Citations, Section 1.10.020 Definitions as follows:

Section 1.10.020 "Definitions"

A. "Enforcement Officer" means any officer or employee with authority to enforce the Fullerton Municipal Code or applicable State Codes as provided in FMC Section 2.09.080.

B. "Commercial Cannabis Activity" shall have the meaning set forth in Fullerton Municipal Code 7.18.020.

C. "Hearing Officer" means the person appointed by the City Manager, or designee, to serve as the hearing officer for administrative hearings.

D. "Land Use Approval" means any approval required for a particular use of land, including but not limited to permits, licenses, conditional use permits, variances or subdivision maps.

DE "Owner" means the record owner of a parcel according to the latest County equalized property tax assessment roll.

F. "Person" includes a natural person or legal entity and the owners, majority stockholders, corporate officers, trustees and general partners of a legal entity.

G. "Residential dwelling" means a private structure designed and available, pursuant to applicable law, for use and occupancy by one or more individuals. "Residential dwelling" does not include a commercially operated hotel, motel, bed and breakfast inn or a time-share property as defined by Business and Professions Code Section 11212 subdivision (aa).

H. "Responsible Person" means any person who causes or maintains a Fullerton Municipal Code or applicable state code violation, including the person occupying the premises which is the subject or location of a violation, the business owner of such location or the property owner or property owner agent / property manager. Responsible Person also includes the parent or legal guardian of any person under the age of eighteen years. There may be more than one Responsible Person for any one code violation for the purposes of this chapter.

I. "Short-term rental" means a residential dwelling, or any portion of a residential dwelling, rented to a person or persons for 30 consecutive days or less.

J. Unlicensed shall have the meaning set forth in Fullerton Municipal Code 7.18.020.

K. "Water theft" is an action to divert, tamper or reconnect water utility services as defined in Penal Code Section 498.

SECTION 2. Section 1.10.030 "Administrative Citations" of Chapter 1.10 "Administrative Citations" of Title 1 "General Provisions" is amended to read as follows:

A. An Enforcement Officer may issue an administrative citation to any person violating any provision of the Fullerton Municipal Code or applicable state code as provided in this chapter. The Enforcement Officer shall allow a reasonable time after written notice of said violation for a Responsible Person to correct or otherwise remedy the violation prior to imposition of an administrative fine or penalty. Fourteen days shall be a reasonable time if the violation pertains to building, plumbing, electrical or other similar structural or zoning issues that do not create an immediate danger to health or safety. Immediate action may be required if the violation creates an immediate danger to health or safety and/or if the violation exists due to or facilitates unlicensed commercial cannabis activity.

1. The City may immediately impose administrative fines or penalties for building, plumbing, electrical or other similar structural, health and safety, or zoning requirement violations that exist or facilitate unlicensed commercial cannabis activity. However, the City will give a reasonable time for violation correction or remedy prior to imposing administrative fines or penalties if all the following are true:

- a. A tenant possesses the property that is the subject of the violation.
- b. The property owner or agent can provide evidence that the rental or lease agreement prohibits the commercial cannabis activity.
- c. The rental property owner or agent did not know the tenant was engaging in unlicensed commercial cannabis activity for which a license is required and no complaint, property inspection or other information caused the rental property owner or agent to have actual notice of the unlicensed commercial cannabis activity.

B. Every person who applies for and receives any type of Land Use Approval shall comply with all conditions imposed upon the issuance of said Land Use Approval. Violation of any condition of such Land Use Approval may receive an administrative fine or penalty as provided under the provisions of this chapter.

C. The fine limits set forth by resolution for Short-term Rentals apply only to infractions that pose a threat to public health or public safety. The fines described in this subdivision shall not apply to a first-time offense of failure to register or pay a business license fee.

D. The City will consider each day a code violation exists a separate violation and subject to a separate fine. An Administrative Citation may charge a violation for one or more days on which a violation exists and for a violation of one or more code sections.

E. The City shall issue an Administrative Citation on a form approved by the City Manager and contain the following information:

1. Name of the Responsible Person;
2. Date, time and address or definite identification of the location where the City observed the violation(s);
3. The code section(s) violated and a description of the violation(s);
4. The specific actions required to correct the violation(s);
5. The amount of the fine for the violation(s);
6. A description of the fine payment process, including a specified timeframe and the place to pay the fine;
7. Notification of the right to appeal, including the timeframe for the recipient of the citation to contest the Administrative Citation and the process to request a Hearing and/or the process to submit a Request for Hearing with Advance Deposit Hardship Waiver to contest the Administrative Citation;

8. Notification of the right to submit a Hardship Waiver to request a reduction of the fine amount for a Responsible person issued a second or multiple additional fine(s) for violations of the same ordinance in the same year pursuant to Section [1.10.060\(E\)](#);

9. The name and signature of the Enforcement Officer; and

10. Citation issuance date.

SECTION 3. Title 7 “Public Safety and Morals” is amended to add Chapter 7.18 “Commercial Cannabis Activities” as follows:

7.18 COMMERCIAL CANNABIS ACTIVITIES

7.18.010 Intent and purpose.

- A. The City Council finds that enforcing prohibitions on unlicensed commercial cannabis activity is necessary for the preservation and protection of the public health, safety, and welfare for the City and its community. The City Council’s prohibition of such activities is within the authority conferred upon the City Council pursuant to sections 5 and 7 of Article XI of the California Constitution and the provisions of Division 10 of the Business and Professions Code, to adopt ordinances that prohibit unlicensed commercial cannabis activity.
- B. The City Council finds that this chapter: (1) expresses its intent to prohibit unlicensed commercial cannabis activity in the City consistent with the existing zoning code; (2) exercises its local authority to enact and enforce local business regulations and ordinances, including those regarding unlicensed commercial cannabis activities; and (3) exercises its police power to enact and enforce regulations for the public benefit, safety, and welfare of the City and its community.

7.18.020 Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. “Cannabis” shall have the meaning set forth in California Health and Safety Code 11018.
- B. “Commercial cannabis activity” shall have the meaning set forth in California Business and Professions Code 26001.
- C. “Delivery” shall have the meaning set forth in California Business and Professions Code 26001.
- D. “Dispensing” means any activity involving the retail sale of cannabis or cannabis products.

- E. "Distribution" shall have the meaning set forth in California Business and Professions Code 26001.
- F. "License" shall have the meaning set forth in Business and Professions Code 26001.
- G. "Manufacturing" shall have the meaning set forth in California Business and Professions Code 26001.
- H. "Processing" means any method used to prepare cannabis 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 cannabis related products and concentrates.
- I. "Sell," "sale," and "to sell shall have the meaning set forth in California Business and Professions Code 26001.
- J. Unlicensed shall mean the failure to acquire or lack of a License required by Division 10 (commencing with Section 26000) of the Business and Professions Code for commercial cannabis activity.

7.18.030 Commercial Cannabis Activities Prohibited.

Except where the City is preempted by Federal or State law from establishing a prohibition:

A. No person shall establish, operate, conduct, permit, allow, or facilitate any commercial cannabis activity in the city. Commercial cannabis activity is expressly prohibited in the city of Fullerton.

B. No city license or permit, whether administrative or discretionary, shall be approved or issued for activities that relate in any way to commercial cannabis activities.

7.18.040 Owner and Agent Liability.

A. It shall be unlawful for any record owner of property as shown on the county's latest equalized property tax assessment roll or owners agent in control of a property to permit or fail to prevent unlicensed commercial cannabis activity on the property.

B. There is a rebuttable presumption that the record owner, or owner's agent in control of a property, have notice of unlicensed commercial cannabis activity occurring on the property.

C. This section shall not apply to an owner or owner's agent in control of a property who has terminated or has commenced legal proceedings to terminate the unlicensed commercial cannabis activity before any other person contacts the city to report the unlicensed commercial cannabis activity.

7.18.050 Violations.

- A. Public nuisance. Unlicensed commercial cannabis activity, violation of the provisions of this chapter, and violations of the zoning restrictions on marijuana related use and/or activity are hereby deemed unlawful and a public nuisance. As a nuisance per se, violations shall be subject to injunctive relief, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity.
- B. Civil Penalties. Each and every violation of the provisions of this chapter shall constitute a separate violation and shall be subject to the imposition and payment of an administrative fine or fines.
- C. Criminal penalties. Each and every violation of the provisions of this chapter may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed \$1,000 or imprisonment in the county jail for a period of not more than 6 months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.
- D. Remedies cumulative and not exclusive. The remedies provided herein are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by state or local law.

SECTION 4. SEVERANCE.

The City Council of the City of Fullerton hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION 5. CERTIFICATION.

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The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the Fullerton Observer, a newspaper of general circulation, published and circulated in the City of Fullerton.

APPROVED AND ADOPTED by the City Council of the City of Fullerton at a regular meeting on the ____ day of ____ 2026.

Fred Jung
Mayor

ATTEST:

Lucinda Williams, MMC
City Clerk