



**NEIGHBORHOOD COUNCIL #4**  
TUESDAY, SEPTEMBER 19, 2017, 7:30 P.M.  
CITY HALL COMMUNITY ROOM  
2929 TAPO CANYON ROAD

AGENDA

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NC #4 Chair	Pete Stong
NC #4 Vice Chair	Ron Knepper
NC #4 Secretary	Gina Simonelli
NC Coordinator	Emily Habib
City Council Liaison	Council Member Glen Becerra

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1. Call to Order/Welcome/Pledge of Allegiance/Introductions
2. Agenda Review
3. Approval of Minutes
4. Correspondence
5. Public Statements/Comments  
This is the time allotted for public statements or comments on matters within the subject matter and jurisdiction of the Executive Board not on the agenda. Statements and comments are limited to no more than five (5) minutes per speaker.
6. Informational Presentation: None
7. New Business
  - a. Discussion of a City-initiated Municipal Code Amendment on proposed marijuana standards, whether or not to:
    - i. Permit, with standards, the indoor cultivation of plants for adult personal or qualified patient medical use
    - ii. Prohibit outdoor cultivation
    - iii. Prohibit marijuana land uses, operations and activities
    - iv. Permit medical marijuana deliveries only to qualified patients within the City
  - b. Election of Officers



8. Neighborhood Council Coordinator's Report

9. Executive Board Comments

This is the time allotted for Executive Board member statements or comments on matters within the subject matter and jurisdiction of the Neighborhood Councils, to request a future agenda item, or to give an Ad Hoc Committee Report. This is also the time to make any announcements related to community events and other items of interest.

10. Adjournment: Tuesday, October 17, 2017, 7:30 p.m.

/s/

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Anna M. Medina  
Deputy Community Services Director

If any interested individual has a disability that may require accommodation to participate in this meeting, please contact the Neighborhood Council Coordinator at (805) 583-6756. Upon advance notification, reasonable arrangements will be made to provide accessibility to the meeting.

DRAFT MINUTES

1. Call to Order/Welcome/Pledge of Allegiance/Introductions

Chair Rick Grossman called the meeting to order at 7:32 p.m. Secretary Kimmy Tharpe confirmed that a quorum was present.

Rachel Donley	E	Rick Grossman	P
Lesley Greenfield	E	Corey Marshall	P
Sara Rosario	P	Dan McBride	P
Steve Tcherchian	A	Kimmy Tharpe	P
Jayesh Patel	P	Vacant	
Jan Smith	E	Vacant	
Jim Clement	P	P=Present; E=Excused; A=Absent	

2. Agenda Review

By consensus of the Executive Board, the agenda was approved as presented.

3. Approval of Minutes

A motion was made by Jim Clement and seconded by Jayesh Patel to approve the July 11, 2017 minutes as presented. The motion passed unanimously.

4. Correspondence: None

5. Public Statements/Comments: None

6. Informational Presentation

a. HOPE: Animal Assisted Crisis Response - Support for people affected by personal crises and natural disasters

Sara Jane and Chantal Chelin were in attendance in addition to their dogs Bailey and Maverick. They described the program, which unofficially began in 1988 after a handler and her therapy dog responded to a local school shooting in Oregon in hopes of giving some comfort to the traumatized children. It was founded in 1999 and the first event the handlers and dogs responded to was the World Trade Center attack, giving comfort to victims and emergency responders alike.

There are now over 250 handler/dog teams in 30 states. The program is funded at the national level and does not do any fundraising locally. Both dog and handler must be trained in all aspects of crisis response including how to move through airports and other transportation on their way to such events, which can last from a few days to many months. Other events they respond to include: wildfires; school, workplace and other shootings; line of duty memorials; military events; hurricanes; floods and train crashes such as the most recent local Metrolink crash.

7. New Business

- a. A request to construct a two-story, six unit apartment complex at 1837 Hubbard Street

**Questions and comments from the audience/responses from the applicant:**

**How will they separate this project from the adjacent home on the left and screen the rear of the property?**

They are constructing a new wall between their development and the adjacent home, and planting large trees along the rear property line to separate the development from the alley.

**How many parking spaces will each unit have?**

Each unit will be allotted two parking spaces and there will be three additional spaces, for a total of 2.5 spaces per unit.

**Comment from the Executive Board:**

One person commented that the development was attractively designed and that the units seemed comfortable and roomy.

**Upon conclusion of the discussion, the following motion was made by Rick Grossman and seconded by Kimmy Tharpe:**

**MOTION: Recommend that the Planning Commission approve the request to construct a two-story, six unit apartment complex at 1837 Hubbard Street as presented.**

<b>Executive Board vote:</b>	<b>8 Ayes;</b>	<b>0 Noes;</b>	<b>0</b>
<b>Abstentions</b>			
<b>Audience vote:</b>	<b>3 Ayes;</b>	<b>0 Noes;</b>	<b>1</b>
<b>Abstention</b>			
<b>Unincorporated Area vote:</b>	<b>None</b>		

**The motion carried.**

- b. A request to construct a three-story, 28-unit senior housing apartment complex at 1424 Patricia Avenue

**Questions and comments from the audience/responses from the applicant:**

**Will the resident parking be gated?**

Yes, it will be gated.

**Are there any flooding concerns?**

No, there are not.

**Will they be able to keep any of the existing large trees?**

Unfortunately not, due to their locations. However, the City is requiring them to install more trees than they remove.

**Why are they only providing 31 resident parking spaces for 28 units?**

The City requires 28 spaces and they are providing three extra. The majority of the residents will not drive or if they do, will only have one car. They are also providing five visitor parking spaces.

**Can they increase the number of resident parking spaces provided?**

No, the design will not allow for any more spaces.

**How do they propose to minimize construction impacts on adjacent residents?**

They will be building the project in two phases. They will also be storing construction materials and equipment on site.

**Questions and comments from the Executive Board/responses from the applicant:**

**Will there be any on-site staff?**

Yes, there will be a manager living on site.

**Will there be any rent subsidies available to perspective tenants?**

No, but rents for seniors are typically about 20% lower than market rate.

**How accessible is public transportation from the project site?**

The applicant did not know.

**Will there be access to the Arroyo from the back of the property?**

No, there will be a gate but it will be locked.

**Will there be walls between their property and adjacent properties?**

Yes, the existing wall to the east will be shared and maintained by the applicant. They will also build a wall on the west side of their property.

**Upon conclusion of the discussion, the following motion was made by Sara Rosario and seconded by Jim Clement:**

**MOTION: Recommend that the Planning Commission approve the request to construct a three-story, 28-unit senior housing apartment complex at 1424 Patricia Avenue as presented.**

<b>Executive Board vote:</b>	<b>7 Ayes;</b>	<b>0 Noes;</b>	<b>1</b>
<b>Abstention</b>			
<b>Audience vote:</b>	<b>2 Ayes;</b>	<b>0 Noes;</b>	<b>2</b>
<b>Abstentions</b>			
<b>Unincorporated Area vote:</b>	<b>None</b>		

**The motion carried.**

8. Neighborhood Council Coordinator's Report

Emily Habib discussed the current recruitment, noting that Neighborhood Council #2 will have seven openings and now has 12 applicants. She also informed the Executive Board that the update of the Neighborhood Council Bylaws was approved by the City Council on July 24, 2017. The revised Bylaws will go into effect on September 7, 2017.

9. Executive Board Comments

Rick Grossman announced that the Rotary Club of Simi Sunset would be hosting an adult "prom" at the Wood Ranch Country Club on Saturday, September 30, 2017.

10. Adjournment: **Special Meeting Date: Wednesday**, September 13, 2017, 7:30 p.m.

By the consensus of the Executive Board, the meeting was adjourned at 8:48 p.m.



# CITY OF SIMI VALLEY

## Neighborhood Council Proposed Municipal Code Amendment Overview

**Municipal Code Amendment No.** ..... Z-S-733  
**Neighborhood Council No.** ..... 1, 2, 3, & 4  
**Tentative Planning Commission Meeting Date** ..... October 4, 2017  
**Tentative City Council Meeting Date** ..... October 16, 2017  
**Case Planner** ..... Tom Preece, Senior Planner

### **Municipal Code Amendment Request and Description:**

Discussion of a proposed City-initiated Municipal Code Amendment for establishment of recreational marijuana standards, including consideration of recommendations on whether or not to:

1. Establish standards for the indoor cultivation of marijuana plants for adult personal or qualified patient medical use at his or her secured and enclosed private residence or accessory structure;
2. Prohibit the outdoor cultivation of all marijuana plants within secured and enclosed yards of residences;
3. Prohibit commercial marijuana land uses, operations, and activities in all zoning districts; and
4. Permit only medical marijuana deliveries to qualified patients at their residences.

### **I. Background and Overview**

On January 9, 2017, the City Council adopted the attached urgency Ordinance No. 1266 extending a moratorium that bans adult outdoor cultivation of personal recreational marijuana and commercial recreational marijuana land uses, operations, and activities in all zoning districts within the City. The City Council also directed that staff prepare amendments to the Simi Valley Municipal Code to address the marijuana standards consistent with the General Plan and within the framework of California's Proposition 64, Control, Regulate, and Tax Adult Use of Marijuana Act. Further, the City Council directed staff to obtain recommendations of the Neighborhood Councils on the proposed marijuana standards.

## **Neighborhood Council Project Overview for Z-S-733**

The Municipal Code does not specifically permit the adult cultivation of personal recreational marijuana and commercial recreational marijuana land uses as either a permitted or conditional land use in any zoning district within the City. If the use is not enumerated as a permitted or conditional land use in the Municipal Code's zoning regulations, it is not permitted. Without sufficient Municipal Code standards that are expressly enforceable pursuant to adoption of a new permanent ordinance, there is potential for ambiguity that may create a significant effect upon the public's health, safety, and welfare from inadequate marijuana standards.

Based on the City's past experiences with amending the Municipal Code to expressly prohibit medical marijuana uses, operations, and activities consistent with the provisions of the California Compassionate Use Act, the proposed Municipal Code Amendment could similarly prohibit the adult outdoor cultivation of personal recreational marijuana plants at residences and all commercial recreational marijuana uses. However, **the proposed Municipal Code Amendment will include provisions to permit the indoor cultivation of medical marijuana plants within residences or in accessory structures at residences.**

### **II. Proposition 64's Control, Regulate, and Tax Adult Use of Marijuana Act**

California voters enacted the Proposition 64 Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA) on November 9, 2016. The AUMA legalizes California adults to cultivate marijuana plants indoors or outdoors at their private residences. It also establishes a statewide regulatory licensing system to permit commercial marijuana uses, operations, and activities. The commercial recreational marijuana uses, operations, and activities will not commence until the State begins issuing licenses for each use which is to be after January 1, 2018.

In Simi Valley, 59,814 ballots were received by City residents resulting in 30,479 (50.96%) voting yes and 27,193 (45.46%) voting no for Proposition 64. The remaining 2,142 (3.58%) did not vote for Proposition 64.

Under the Proposition 64's AUMA, qualified patients maintain their existing rights of personal use of medical marijuana in accordance with 996 California Proposition 215's Compassionate Use Act and subsequent adopted related State laws. Currently, the Municipal Code bans all commercial medical marijuana land uses.

**Adult Cultivation of Personal Recreational Marijuana:** The AUMA legalizes adults 21 years or older to personally cultivate a maximum of six live marijuana plants inside (indoors) an enclosed and secured private residence, inside an accessory structure on the grounds of the residence, or outdoor area on the residence's property. The marijuana must not be visible by normal unaided vision from a public place. A "private residence" is defined as including: a house, an apartment unit, a mobile home, or other similar dwelling. Also, it is legal for adults to smoke, ingest marijuana products, and to possess, transport, purchase, obtain, or give away without compensation of any sort. The personal use possession per person is limited to: not more than 28.5 grams of marijuana (not concentrated from cannabis); four to eight grams of concentrated marijuana (including that contained in products such as edibles); and six live marijuana plants. It is illegal to sell personal marijuana.



## **Neighborhood Council Project Overview for Z-S-733**

In accordance with the AUMA, city and county local governments may “reasonably regulate” the adult indoor cultivation of personal marijuana plants at a private residences or its accessory structure. Local governments may also regulate or prohibit the adult outdoor cultivation of personal marijuana plants on the property of its residence. Urgency Ordinance No. 1266 currently contains a ban on outdoor cultivation of recreational marijuana on any residence property. **The Neighborhood Council may consider recommending to the City Council whether or not to continue the current bans prohibiting the outdoor cultivation of any personal recreational or medical marijuana plants on properties containing residences. The proposed Municipal Code Amendment will include provisions to permit the indoor cultivation of a maximum six live marijuana plants inside residences and accessory structures on the properties of residences.**

Commercial Recreational Marijuana Land Uses, Operations, Activities: The AUMA allows for the potential establishments of many new commercial recreation marijuana cultivators, manufacturers, distributors, transporters for deliveries, and dispensaries. Also, the AUMA creates a State regulatory structure, licensing system, and enforcement provisions for the commercial recreational marijuana cultivation, processing, manufacture, distribution, testing, sale, and delivery.

Under the AUMA, city and county governments have authority to regulate or ban commercial recreational marijuana uses, operations, and activities. Urgency Ordinance No. 1266 currently bans all commercial marijuana uses, operations, and activities, whether for profit or not for profit, in every zoning district, overlay district, specific plan or other areas within the City, including but not limited to: cultivation, processing, manufacturers, testing laboratories, labeling facilities, warehousing, storage, distributors, retailers, wholesalers, microbusinesses, deliveries, collectives, and cooperatives. **The Neighborhood Council may consider recommending to the City Council whether or not to continue the current bans on all commercial recreational marijuana or medical marijuana land uses, operations, and activities. The proposed Municipal Code Amendment will include provisions to permit only the delivery medical marijuana from out-of-town State-licensed dispensaries to qualified patients at his or her residence.**

Recreational Marijuana Restrictions: The following summarizes several AUMA recreational marijuana restrictions:

- City and county local government cannot prohibit the transportation of commercial recreational marijuana as well as medical marijuana or marijuana products on public roads between entities licensed by State.
- Smoking and consumption of recreational marijuana is prohibited in a public place; within 1,000 feet of schools, daycare facilities, or youth centers; or while driving or riding in a vehicle.
- The manufacture of concentrated recreational marijuana with any volatile solvent is prohibited, except for manufactures licensed by the State.

## **Neighborhood Council Project Overview for Z-S-733**

- Property owners may prohibit the possession or use of recreational medical marijuana on their property subject to tenancy laws for renters.
- Employers may prohibit the use of marijuana by their employees.

Marijuana Standards of Other Local Governments in Ventura County: A summary of the status of recreational marijuana standards of the other city and county local governments in Ventura County is attached. In general, several cities are considering continuing or adopting permanent standards banning commercial recreational marijuana uses in their jurisdictions. The Fillmore City Council voted to reaffirm their ban on commercial recreational and medical marijuana uses on August 8, 2017. The Oxnard City Council and the Ventura County Board of Supervisors voted to take “go slow” approaches on adopting standards for commercial medical marijuana uses until they have further studied how other local governments are addressing marijuana standards.

The Thousand Oaks City Council has initiated a municipal code amendment to allow one marijuana testing facility and one medical marijuana dispensary (by appointment only) in an industrial zone. The Port Hueneme City Council adopted a permanent ordinance to allow commercial marijuana land uses, operations, and activities.

### **III. Environmental Review**

Adoption of a permanent ordinance for the proposed Municipal Code Amendment meets the standards set forth in Section 15061(b)(3) of the California Environmental Quality Act (CEQA), and is exempt under CEQA.

Attachments: Summary of Marijuana Standards of Local Governments in Ventura County  
Urgency Ordinance No. 1266 (Recreational Marijuana Moratorium)

## Summary of Marijuana Standards of Other Local Governments in Ventura County

<b>Jurisdictions</b>	<b>Status</b>
<b>Camarillo</b>	City Council adopted an urgency ordinance on December 14, 2016, extending moratorium on commercial recreational marijuana uses and outdoor marijuana cultivation. Permanent ordinance on marijuana standards to be considered in future.
<b>Fillmore</b>	City Council adopted an urgent ordinance on October 15, 2016 (effective upon passage of Proposition 64), amending municipal code to include standards prohibiting marijuana dispensaries and deliveries. Indoor cultivation of personal marijuana subject to obtaining a cultivation plan permit in compliance with reasonable standards. On August 8, 2017, the City Council voted to reaffirm current ban on commercial medical and recreational marijuana uses.
<b>Moorpark</b>	Current municipal code allows indoor cultivation of maximum six marijuana plants for personal medical use by qualified patients or recreational use by adults at his or her residence. Outdoor marijuana cultivation and all commercial medical and recreational marijuana uses are banned.
<b>Ojai</b>	Current municipal code bans all outdoor cultivation of marijuana, consumption of marijuana in public places, and deliveries of commercial recreational marijuana. Non-retail storefront medical marijuana dispensaries and medical marijuana deliveries are allowed subject to obtaining approval of a permit.
<b>Oxnard</b>	In April 2017, the City Council voted to take a “go slow” approach to marijuana regulations and directed staff to draft a future municipal code amendment to allow deliveries of medical marijuana to qualified patients and to ban commercial recreational marijuana uses. Municipal code currently bans outdoor cultivation of marijuana and medical marijuana dispensaries.
<b>Point Hueneme</b>	City Council adopted ordinance amending municipal code and resolution containing implementation procedures to allow outdoor medical marijuana cultivation by qualified patients at his or her residence subject to a city-issued ministerial permit, a cumulative cultivation area of 75 square feet within a secured fenced side or rear yard provided required minimum setbacks are maintained along with other various standards. Also, commercial retail sales, indoor cultivation, delivery services, manufacturing, and testing services of medical marijuana are permitted uses subject to city-issued certificates of approvals complying with various standards.
<b>Santa Paula</b>	City Council adopted resolution on July 17, 2017, to create an ad hoc committee with two councilmembers to develop recommendations on the consumption, sales, transportation, cultivation, manufacturing, testing, distribution, and dispensing of marijuana within the framework of California’s Proposition 64.
<b>Thousand Oaks</b>	City Council adopted resolution on July 11, 2017, to initiate a municipal code amendment for future consideration of standards to allow one marijuana testing facility and one medical marijuana dispensary within an industrial zoning district. The dispensary will be subject to an approval process, customer-only appointments between the hours of 10:00 a.m. and 7:00 p.m. (i.e., no walk-in retail sales without appointment), and provisions for security measures.
<b>Ventura</b>	City Council adopted an urgency ordinance on January 9, 2017, extending moratorium banning all recreational marijuana cultivation and all commercial recreational non-medical uses. Permanent ordinance on marijuana standards to be considered in future.
<b>County of Ventura</b>	No commercial recreational marijuana uses are permitted. The Board of Supervisors has adopted a “go slow” approach on allowing medical marijuana uses. In March 2017, the Board of Supervisors did not reach a consensus on a proposed municipal code amendment to allow limited cultivation and medical dispensaries.

ORDINANCE NO. 1266

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIMI VALLEY EXTENDING A MORATORIUM PROHIBITING ALL MARIJUANA USES, OPERATIONS, AND ACTIVITIES AND ALL PERSONAL OUTDOOR CULTIVATION OF MARIJUANA WITHIN THE CITY, AND A DETERMINATION THAT THE ACTION IS 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 urgency Ordinance is adopted in accordance with provisions as set forth below:

A. California Constitution, Article 11, Section 7 authorizes a 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 Code Section 65858, the City Council may as an urgency measure adopt an interim (urgency) ordinance by a four-fifths vote to protect the public health, safety, and welfare prohibiting any use that may be in conflict with a contemplated land use regulations that the City is studying or considering or intends to study within a reasonable time.

SECTION 2. Findings. The Simi Valley City Council finds, determines, and declares the following in support of the enactment of this urgency Ordinance.

A. This urgency Ordinance is exempt from review under the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) ("CEQA") and CEQA regulations (Title 14, California Code of Regulations Section 15000 et seq.) because this Ordinance is covered by the general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3)), and adoption of the ordinance to extend the moratorium in accordance with Government Code Section 65858 does not create a significant effect on the environment because it would prohibit all marijuana uses, operations, and activities, prohibit marijuana smoking and ingesting at businesses, microbusinesses, or public places, and prohibit outdoor cultivation of personal marijuana by residents 21 years or older.

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 marijuana. Also, the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical 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 medical marijuana use by qualified patients upon a physician's recommendation. That the intent of this Act was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical 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 & Safety Code Section 11362.7 – 11362.83), which permits qualified patients and their primary caregivers to possess not more than eight ounces of dried marijuana per qualified patient and not more than six mature or 12 immature marijuana plants per qualified patient unless a medical 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 require or impose an affirmative duty or mandate upon a city or county local government to allow, authorize, or sanction the establishment of facilities that cultivate or process medical marijuana within its jurisdiction.

E. Assembly Bill 1300 was adopted in 2011 (codified as Health and Safety Code Section 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 medical marijuana 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 the power to, prosecute the local cultivation and use of marijuana, 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 Municipal Code to prohibit medical marijuana dispensaries within all zoning districts of the City of Simi Valley.

H. The California Supreme Court issued its decision in May 2013 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 medical marijuana land uses.

I. In *Maral v. City of Live Oak* (2013) 221 Cal. App. 4th 975, the Court of Appeal held that an ordinance which prohibited the cultivation of marijuana for any purpose was within the City's police power and not preempted by the California Compassionate Use Act of 1996 or the California Medical Marijuana Program.

J. 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 medical cultivation, manufacture, retail sale, transport, distribution, transportation, delivery, and testing of medical marijuana (cannabis). Under this Act, no person shall engage in said commercial medical activities without both 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 medical marijuana referred to as “commercial cannabis activities,” including medical marijuana cultivation businesses, product manufacturers, distributors, transporters, testing laboratories, and dispensaries.

K. While the California Medical Marijuana Regulation and Safety Act expressly authorizes a city or county local government control to regulate or prohibit medical marijuana 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 that expressly regulate or prohibit medical marijuana 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 & Safety Code §1362.777(g)).

L. The City Council adopted Ordinance No. 1255, which became effective on April 13, 2016, to amend the Municipal Code land use regulations to expressly prohibit medical marijuana cultivation, processing, distribution, deliveries, collectives, and cooperatives within all zoning districts of the City of Simi Valley.

M. 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 or non-medical marijuana 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 marijuana of not more than 28.5 grams (ounce) and 8 grams of concentrated marijuana. Also, smoking or ingesting marijuana or marijuana products is allowed for adults. Further, adults are allowed to possess, transport, purchase, obtain, or give away marijuana accessories to persons 21 years old or older (Health & Safety Code §11362.1);
- (2) Allow adult persons 21 years or older to plant, cultivate, harvest, dry, or process six live personal marijuana plants inside a 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 marijuana plants inside a private residence and inside the residence’s accessory structure and to completely prohibit outdoor cultivation of marijuana plants on the grounds of the residence, up

to and until a “determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal laws” (Health & Safety Code §11362.2);

- (3) Prohibits the sale of commercial or non-medical marijuana by businesses that also sell alcohol or tobacco (Business & 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 or non-medical marijuana cultivation, processing, manufacturing, testing, labeling, storing, distributing, sale, microbusinesses (Business & Professions Code §26200). The State agencies are required to promulgate rules and regulations to begin issuing licenses by January 1, 2018;
- (5) Permits cities to regulate or prohibit the smoking or ingesting of marijuana or marijuana products in any public place, such as a business or microbusiness (Business & Professions Code §26000); and
- (6) Prevents cities from prohibiting the transportation of marijuana on public roads between State licensees (Business & Professions Code §260809(b)).

N. Under the Simi Valley Municipal Code, medical marijuana dispensaries, cultivation, processing, distribution, collectives, cooperatives, dispensaries are expressly prohibited. While the Municipal Code’s “permissive zoning” land use regulations prohibit commercial and non-medical marijuana uses, operations, activities, it is the City Council’s desire to enact this urgency Ordinance to expressly make clear that all such uses, operations, activities are prohibited throughout the City.

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

- (1) Marijuana 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 marijuana 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 marijuana plants are valuable. The U.S. Drug Enforcement Agency reports that each marijuana plant under various planting conditions may yield an average between one-half to two pounds in its lifetime.

Prices for domestically produced high-grade marijuana sold illegally within Northern California can reach \$2,000 to \$5,000 per pound;

- (3) The indoor residential cultivation of marijuana 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, 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 marijuana;
- (5) The manufacturing of marijuana 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 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; 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 marijuana 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.

P. Based on the above, there is a current and immediate threat to 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 marijuana, whether commercial or non-medical. Further, the County of Ventura District Attorney cited in a letter dated November 10, 2016, concern on the negative impact of legalized marijuana in California and the negative impact the marijuana industry brings to communities they operate in. In this letter, the District Attorney encouraged the City of Simi Valley to adopt coordinated and uniform standards to prohibit the operation of commercial marijuana enterprises in the community. A similar letter was sent to other cities in the County of Ventura.

Q. On December 5, 2016, the City Council in accordance with Government Code Section §65858 adopted Urgency Ordinance No. 1264 to establish a 45-day moratorium prohibiting all marijuana uses, operations, and activities and all personal outdoor cultivation of marijuana within the City.



R. Subsequent to the City Council's adoption of Urgency Ordinance No. 1264, City staff has researched and analyzed ordinances containing standards regulating marijuana uses, operations, and activities; researched and analyzed the legislation contained in Proposition 64 and other State laws regarding regulations applicable to marijuana uses, operation, and activities; researched best practice measures relating to the regulation of all marijuana uses; and, considered the potential effects in the implementation of regulating marijuana uses, operations, and activities pursuant to the requirements of Proposition 64.

S. On January 9, 2017, the City Council issued a report in accordance with Government Code Section §65858 addressing the measures taken to regulate marijuana uses, operations, and activities pursuant to the requirements of Proposition 64; however, the 45-day moratorium is an insufficient length of time to fully study and adopt an ordinance with all necessary amendments to the Municipal Code's land use, public safety, public welfare, and other related standards.

T. In order to protect the public health, safety, and welfare, it is the City Council's desire to adopt this urgency Ordinance to extend the moratorium pursuant to Government Code §65858 to fully and immediately address all changes in State laws from the recent enactment of the California Control, Regulate and Tax Adult Use of Marijuana Act (Proposition 64), to allow the City sufficient time to develops a permanent ordinance with standards that expressly regulate and/or prohibit marijuana uses, operations, activities, and avoid the potential for unnecessary and costly litigation involving the interpretation of the Municipal Code. Therefore, the extension of the moratorium is necessary until new regulations are in effect that expressly regulate or prohibit any marijuana uses, operations, or activities.

U. Failure to adopt this urgency ordinance to extend the moratorium would impair the orderly and effective implementation of the City's General Plan as well as the Municipal Code's zoning regulations and other regulations.

SECTION 3. Extension of Moratorium on Commercial and Non-Medical Uses, Operations, and Activities.

A. The findings and determinations in Section 2 above are true and correct.

B. Based on the foregoing, the City Council finds and declares there a current and immediate threat to the public, health, safety, and welfare, and upon that basis has determined that urgency Ordinance No. 1264 is hereby extended for 10 months and 15 days pursuant to California Government Code §65858.

C. From 45-days of the effective date of urgency Ordinance No. 1264 on December 5, 2016, and extending for an additional 10 months and 15 days, continuing unless later extended by the City Council pursuant to California Government Code §65858, the following are banned and shall prevail over any conflicting provision of the Simi Valley Municipal Code or other ordinances, resolutions, policies, and regulations of the City of Simi Valley:

- (1) All commercial marijuana uses, operations, and activities, whether for profit or not for profit, are prohibited in every zoning district, overlay district, specific plan or other areas within the City, including but not limited to: cultivation, processing, manufacturers, testing laboratories, labeling facilities, warehousing, storage, distributors, retailers, wholesalers, microbusinesses, deliveries, collectives, and cooperatives, whether for profit or not for profit. No business tax certificates, home occupation permits, zoning clearances, approvals or other entitlements shall be issued for these commercial or non-medical uses, operations, or activities.
- (2) Smoking, Vaporizing, or ingesting marijuana uses are prohibited in lounges, businesses, microbusinesses, collectives, cooperatives, or other similar uses within the City, whether for profit or not for profit. No business tax certificates, home occupation permits, zoning clearances, approvals or other entitlements shall be issued for these marijuana uses, operations, or activities.
- (3) All outdoor cultivation of personal marijuana on any land of a residence or on any vacant land within the City is prohibited. A private residence shall mean a house, townhome, condominium unit, an apartment unit, mobile home, or similar dwelling.
- (4) No person or any entity may cultivate marijuana at any location in the City, except an adult 21 years or over may cultivate not more than six personal live marijuana plants inside a secured and enclosed private residence, or inside his or her secured and enclosed accessory structure located on the grounds of that private residence in strict accordance with California Health and Safety Code Sections 11362.1(3) and 11362.2, and including:
  - (i) Any light or lighting system utilized in connection with the cultivation of marijuana must not exceed the maximum capacity of the electrical circuit;
  - (ii) Gas products, including CO<sub>2</sub>, butane, propane, and natural gas for the cultivation of marijuana are prohibited; and,
  - (iii) Accessory structures used for the cultivation of marijuana must be a greenhouse, shed, workshop, guest house or other similar building structure that are detached and incidental to the private residence. They must be enclosed by walls, a roof, 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.
  - (iv) For the purposes of this urgency Ordinance, the following terms and phrases have the following meanings:

Dwelling. As defined in Section 9-80.020 of the Simi Valley Municipal Code.

Commercial Marijuana Activity. Has same meaning as “commercial marijuana activity” definition in California Business and Profession Code §26000, and including the commercial for profit, wholesale, or not for profit cultivation, processing, manufacturing, testing, research, labeling, warehousing, storage, distributing, sale, and delivery of marijuana.

Marijuana. 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 term “marijuana” shall also include “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 state of California or subject to the provisions of California Health and Safety Code §11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code §11362.7 to §11362.83 (Medical Marijuana Program Act).

Marijuana Accessories. Same meaning as “marijuana accessories” in of the California Health and Safety Code §11081.2, as any equipment, products or materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivation, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repacking, labeling, storing, smoking, vaporizing, or containing marijuana or marijuana products into the human body.

Marijuana Activity. The commercial marijuana activity, including but not limited to possession, smoking, ingesting, cultivation, processing, manufacturing, testing, labeling, storing, distributing, sale, transportation, deliveries, collectives, cooperatives, businesses, microbusinesses, collectives, and cooperatives.

Marijuana Cultivation. The growing, planting, cloning, harvesting, drying, curing, grading, trimming, or processing of marijuana either indoors or outdoors.

Marijuana Deliveries and Transportation. Commercial delivery and transportation of marijuana to or from locations within the City of Simi Valley for and not for profit, except transportation of medical marijuana by a qualified patient and their primary caregiver only for

the qualified patients' medical use in strict accordance with California Business and Professional Code §19319 and by an adult for personal marijuana in strict accordance with California Health and Safety Code §11362.3.

Marijuana Dispensary. As defined in Chapter 5-41 of Simi Valley Municipal Code.

Marijuana Distribution. Has same meaning as "distribution" definition in California Business and Profession Code §26000, and including any procurement, sale, and transport of marijuana and marijuana products between State-licensed entities.

Marijuana Manufacture. Compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

Marijuana Manufacturer. Same meaning as "manufacturer" definition in California Business and Professions Code §26000, and including a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a State license.

Marijuana Operation. Same meaning as "operation" definition in California Business and Professions Code §26000, and including any act or and commercial transfer of marijuana requiring a license by the State.

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.

Marijuana Products. Same meaning as "marijuana products" definition as in the Health and Safety Code §11018.1, and including marijuana 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 marijuana or concentrated cannabis, and other ingredients.

Marijuana Testing. Same meaning as "testing service" definition in California Business and Professions Code §26000, and including a laboratory, facility, or entity that offers or performs test of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity.

Medical Marijuana Collective or Cooperative. Any profit or not-for-profit group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes is a prohibited land use in the City of Simi Valley. This collective or cooperative is also any profit or not-for-profit group or entity, including those group that is organized in the manner 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 §11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code §11362.7 to §11362.83 (Medical Marijuana Program Act).

D. The City Council directs staff to continue to study, prepare, and process necessary amendments to the Municipal Code land use, public safety, and public welfare regulations and other regulations consistent with the General Plan and within the framework of the California Control, Regulate and Tax Adult Use of Marijuana Act (Proposition 64), including a prohibition of commercial marijuana uses, operations, and activities, a prohibition of marijuana smoking and ingesting at businesses, microbusinesses, and other similar public places, prohibiting outdoor marijuana cultivation on a residence's property, regulations permitting indoor personal and medical marijuana cultivation inside a residence or accessory structure of residence.

SECTION 4. Penalty for Violation. No person, whether principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any requirement of Section 3 of this urgency Ordinance. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by said Section 3, shall constitute a misdemeanor or infraction and punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a period not exceeding six (6) months, or by both such fine and imprisonment, at the discretion of the City Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of said Section 3 is declared a public nuisance and may be abated as set forth in Title 1 Chapter 6 of the Simi Valley Municipal Code, as well as any other manner provided for by law for the abatement of public nuisances.

SECTION 5. 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 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.

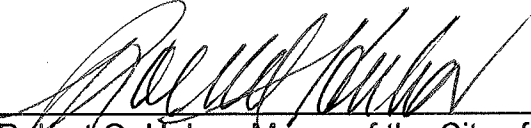
SECTION 7. The City Clerk shall cause this ordinance or a summary hereof to be published in a newspaper of general circulation, published in the County of Ventura and circulated in the City, and if applicable, to be posted, in accordance with §36933 of the California Government Code; shall certify to 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.

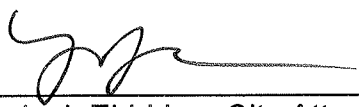
PASSED and ADOPTED this 9<sup>th</sup> day of January 2017.

**Attest:**

  
\_\_\_\_\_  
Ky Spangler, Deputy Director/City Clerk


  
\_\_\_\_\_  
Robert O. Huber, Mayor of the City of  
Simi Valley, California

**Approved as to Form:**

  
\_\_\_\_\_  
Lonnie J. Eldridge, City Attorney

**Approved as to Content:**

  
\_\_\_\_\_  
Eric J. Levitt, City Manager

  
\_\_\_\_\_  
Peter Lyons, Director  
Department of Environmental Services

CERTIFICATION

I, Deputy Director/City Clerk of the City of Simi Valley, California, do hereby certify that the foregoing is a full, true, and correct copy of Ordinance No. 1266 which was adopted as an urgency ordinance by the City Council of the City of Simi Valley, California, at a regular meeting thereof held on the 9<sup>th</sup> day of January 2017 by the following vote of the City Council:

AYES:	Council Members Cavanaugh, Mashburn, Becerra, Mayor Pro Tem Judge and Mayor Huber
NAYS:	None
ABSENT:	None
ABSTAINED:	None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Simi Valley, California, this 13<sup>th</sup> day of January 2017.

  
\_\_\_\_\_  
Ky Spangler  
Deputy Director/City Clerk