

MARIN COUNTY BOARD OF SUPERVISORS

ORDINANCE NO. 3664

AN ORDINANCE OF THE COUNTY OF MARIN ADDING CHAPTER 6.83 TO THE MARIN COUNTY CODE (1) PROHIBITING ALL CANNABIS BUSINESSES WHICH WOULD REQUIRE A STATE LICENSE UNDER THE ADULT USE OF MARIJUANA ACT; AND (2) EXERCISING THE COUNTY OF MARIN'S AUTHORITY TO PROHIBIT OUTDOOR CANNABIS CULTIVATION OTHERWISE ALLOWED AS A MATTER OF RIGHT BY THE ADULT USE OF MARIJUANA ACT

SECTION I. FINDINGS

The Board of Supervisors of the County of Marin ordains as follows.

- I. WHEREAS on November 8, 2016, the voters of the State of California enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act (AUMA). The AUMA established a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use.
- II. WHEREAS the AUMA creates a licensing system whereby the State will issue licenses to businesses authorizing them to cultivate, distribute, transport, store, manufacture, process, and sell nonmedical cannabis and cannabis products for adults 21 years of age and older, with such licenses to be issued by January 1, 2018. The State shall not approve an application for a State license if approval of the license will violate the provisions of any local ordinance or regulation adopted in accordance with the AUMA.
- III. WHEREAS the AUMA does not limit the authority of a local governing body to adopt and enforce local ordinances regulating businesses licensed under the AUMA or to completely prohibit such businesses within the local jurisdiction to the full extent authorized to a local agency by the AUMA.
- IV. WHEREAS unregulated cannabis businesses associated with cultivation, processing, manufacturing, distribution, testing, and sale of cannabis could result in: (1) displacement of existing agricultural production activities; (2) impacts to natural resources; and (3) land use conflicts. The County has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, and to preserve the peace and integrity of neighborhoods within the unincorporated area.
- V. WHEREAS a prohibition on cannabis businesses that would require a state permit will provide an opportunity for the County to consider various policy implications of potentially authorizing and regulating cannabis businesses in the unincorporated area before any state licenses can be granted.
- VI. WHEREAS nothing in this ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of cannabis for purposes that is inconsistent with the AUMA; or (3) allow any cultivation, distribution, or consumption of cannabis that is otherwise illegal.

VII. The proposed ordinance is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) as it has no potential for causing a significant impact on the environment and 15308 as a regulatory action that will protect the environment.

SECTION II. ACTION

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby adopts Ordinance No. 3664 and adds Chapter 6.83 Prohibition of Cannabis Businesses That Would Require a State License; Prohibition of Outdoor Cannabis Cultivation Otherwise Allowed as a Matter of Right by the AUMA to the Marin County Code, consisting of the attached Exhibit "A".

SECTION III: EFFECTIVE DATE

This ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published before the expiration of fifteen (15) days after its passage, with the names of the supervisors voting for and against the same in the INDEPENDENT JOURNAL, a newspaper of general circulation published in the County of Marin.

SECTION IV: VOTE

Introduced at a regular meeting of the Board of Supervisors held on the 31st day of January 2017, and adopted by the Board of Supervisors of the County of Marin, State of California, on the 7th day of February, 2017 by the following vote to wit:

AYES: SUPERVISORS Dennis Rodoni, Katie Rice, Damon Connolly, Kathrin Sears,
Judy Arnold

NOES: NONE

ABSENT: NONE

PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

CLERK

EXHIBIT "A"

TO MARIN COUNTY ORDINANCE NO. 3664

Marin County Code Chapter 6.83 Prohibition of Cannabis Businesses That Would Require a State License; Prohibition of Outdoor Cannabis Cultivation Otherwise Allowed as a Matter of Right by the AUMA

Section: 6.83.010 Findings.

- I. On November 8, 2016, the voters of the State of California enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act (AUMA). The AUMA established a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana (referred to as cannabis in this ordinance), including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use.
- II. The AUMA creates a licensing system whereby the State will issue licenses to businesses authorizing them to cultivate, distribute, transport, store, manufacture, process, and sell nonmedical cannabis and cannabis products for adults 21 years of age and older, with such licenses to be issued by January 1, 2018. The State shall not approve an application for a State license if approval of the license will violate the provisions of any local ordinance or regulation adopted in accordance with the AUMA.
- III. The AUMA does not limit the authority of a local governing body to adopt and enforce local ordinances regulating businesses licensed under the AUMA or to completely prohibit such businesses within the local jurisdiction to the full extent authorized to a local agency by the AUMA.
- IV. Unregulated cannabis activity associated with cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical cannabis could result in: (1) displacement of existing agricultural production activities; (2) impacts to natural resources; and (3) land use conflicts. The County has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, and to preserve the peace and integrity of neighborhoods within the unincorporated area of Marin County.
- V. A prohibition on all cannabis businesses that would require a state license will provide an opportunity for the County to consider various policy implications of potentially authorizing and regulating cannabis businesses in the unincorporated area before any state licenses can be granted.
- VI. Nothing in this ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of cannabis for nonmedical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal.
- VII. This chapter is not subject to the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3) as it has no potential for causing a significant impact on the environment and 15308 as a regulatory action that will protect the environment.

Section 6.83.020 Purpose and intent.

It is the purpose and intent of this chapter to exercise the county's police power derived from Section 7 of Article XI of the California Constitution and State law to protect the public health, safety, and welfare of the County's residents and businesses, and to preserve the peace and integrity of neighborhoods within the unincorporated area of Marin County.

Section: 6.83.030 Cannabis Activities That Would Require a State License Prohibited.

Except those activities allowed with a permit under Chapter 6.85 of this Code (Medical Cannabis Dispensaries), the establishment, maintenance, or operation of any cannabis business or activity, including, but not limited to cultivation, processing, manufacture, distribution (including delivery as defined in Business and Professions Code § 26001(h)), transportation, laboratory testing, and sale, which would require a state license to be issued pursuant to the Adult Use of Marijuana Act is prohibited within the unincorporated area of the County of Marin.

Section: 6.83.040 Outdoor Cannabis Cultivation Otherwise Allowed as a Matter of Right by the Adult Use of Marijuana Act (AUMA) Prohibited.

The cultivation of cannabis outdoors is hereby expressly and completely prohibited. This complete prohibition is authorized by Cal. Health and Safety Code § 11362.2(b)(2).

Section: 6.83.050 Violations.

- (A) Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.
- (B) All remedies prescribed under this chapter shall be cumulative and the use of one or more remedies by the County shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.
- (C) Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.
- (D) Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is declared a public nuisance and may be abated under Chapter 1.05 (Nuisance Abatement) of the Marin County Code.
- (E) In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies as set forth by the Marin County Code.

Section 6.83.060 Severability.

The provisions of this chapter are declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter.