

ORDINANCE NO. 1919

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI AMENDING LODI MUNICIPAL CODE
TITLE 9 – PUBLIC PEACE, MORALS, AND WELFARE –
BY REPEALING CHAPTER 9.30, “MEDICAL MARIJUANA
DISPENSARIES” IN ITS ENTIRETY, AND ENACTING
CHAPTER 9.30, “MEDICAL MARIJUANA”

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – is hereby amended by repealing Chapter 9.30, “Medical Marijuana Dispensaries” in its entirety, and enacting Chapter 9.30, “Medical Marijuana” to read as follows:

CHAPTER 9.30

MEDICAL MARIJUANA

SECTIONS:

- 9.30.010 Definitions
- 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited
- 9.30.030 Delivery of Medical Marijuana as a Prohibited Use and/or Activity
- 9.30.040 Processing of Medical Marijuana as a Prohibited Use and/or Activity
- 9.30.050 Public Nuisance
- 9.30.060 Civil Penalties

Section 9.30.010 Definitions.

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

A. “Medical Marijuana” is marijuana authorized in strict compliance with Health and Safety Code Section 11362.5, et seq.

B. “Medical Marijuana Dispensary” means any facility or location, whether fixed or mobile, where medical marijuana is cultivated or by any means made available to, distributed by, or distributed to two (2) or more of the following: a qualified patient, a person with an identification card, or a primary caregiver in strict accordance with Health and Safety Code Sections 11362.5, et seq., and 11362.7, et seq.

A medical marijuana dispensary shall not include the following uses, so long as such uses comply with this code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.

3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
5. A hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

C. "Marijuana Delivery" or "Delivery" means the commercial delivery, transfer or transport, or arranging for the delivery, transfer or transport, or the use of any technology platform to arrange for or facilitate the commercial delivery, transfer or transport of medical marijuana, marijuana edibles, and/or any marijuana products to or from any location within the jurisdictional limits of the City of Lodi, and any and all associated business and/or operational activities.

D. "Marijuana Processing" or "Processing" means any method used to prepare medical marijuana, marijuana edibles and/or marijuana byproducts for commercial retail and/or wholesale sales, including, but not limited to: cleaning, curing, preparation, laboratory testing, manufacturing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

E. "Person with an identification card" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

F. "Primary caregiver" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

G. "Qualified patient" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

Section 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited.

No person shall establish, operate, or permit the establishment or operation of a medical marijuana dispensary in or upon any premises in the City of Lodi.

Section 9.30.030 Delivery of Marijuana as a Prohibited Use and/or Activity. Marijuana Delivery by any person or entity, including, but not limited to, clinics, collectives, cooperatives and dispensaries, is prohibited in the City. No permit, license, use permit or variance, whether conditional or otherwise, shall be issued for the establishment of such activity. Any Delivery that takes place in violation of any provision of this Chapter is unlawful, and is hereby declared a public nuisance. Nothing in this Chapter is intended to, nor shall it be construed to, make legal any Delivery activity that is otherwise prohibited under California law.

Section 9.30.040 Processing of Marijuana as a Prohibited Use and/or Activity. Marijuana Processing by any person or entity, including, but not limited to, clinics,

collectives, cooperatives and dispensaries, is prohibited in all zones within the City's jurisdictional limits. No permit, license, use permit or variance, whether conditional or otherwise, shall be issued for the establishment of such activity. Any Processing that takes place in violation of any provision of this Chapter is unlawful, and is hereby declared a public nuisance. Nothing in this Chapter is intended to, nor shall it be construed to, make legal any Processing activity that is otherwise prohibited under California law.

Section 9.30.050 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 9.30 shall be; and hereby is declared to be a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731.

Section 9.30.060 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 9.30, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.10 of this code against any person or entity that violates this Chapter 9.30. In any civil action brought pursuant to this Chapter 9.30, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party.

SECTION 2. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 20th day of January, 2016.



MARK CHANDLER
Mayor

Attest:



JENNIFER M. FERRAILOLO
City Clerk

State of California
County of San Joaquin, ss.

I, Jennifer M. Ferraiolo, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1919 was introduced at a regular meeting of the City Council of the City of Lodi held January 6, 2016, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held January 20, 2016, 2016, by the following vote:

AYES: COUNCIL MEMBERS – Johnson, Kuehne, Nakanishi, and
Mayor Chandler

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Mounce

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1919 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.


JENNIFER M. FERRAIOLO
City Clerk

Approved as to Form:

By 

JANICE D. MAGDICH
City Attorney