

ORDINANCE NO. 561

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ADELANTO, COUNTY OF SAN BERNARDINO, CALIFORNIA, AMENDING SECTION 8.60.050 OF THE ADELANTO MUNICIPAL CODE REGARDING PERSONAL CULTIVATION RESTRICTIONS TO AFFIRM THE CITY'S LEGAL AUTHORITY TO ENTER AND INSPECT CULTIVATION AREAS SUBJECT TO A PERSONAL CULTIVATION PERMIT

WHEREAS, on October 9, 2015, Governor Brown approved the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacturing, testing, distribution, transportation, dispensing, and delivery of medical cannabis, and which recognizes the authority of local jurisdictions to prohibit or impose additional restrictions on any such medical cannabis activity.

WHEREAS, on June 27, 2016, Governor Brown approved Senate Bill number 837 ("SB 837"), effective immediately, which amends the MMRSA and renames it the Medical Cannabis Regulation and Safety Act ("MCRSA").

WHEREAS, the City of Adelanto ("City") has previously adopted Adelanto Municipal Code ("AMC") sections 17.80.080, 17.80.090, 17.80.100, and 17.80.110 to regulate medical cannabis cultivation, manufacturing, distribution/transportation, and testing, respectively, in the City.

WHEREAS, at the November 8, 2016 General Election, California voters adopted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA").

WHEREAS, the AUMA legalizes the personal cultivation and use of non-medical cannabis by individuals 21 years of age or older.

WHEREAS, the AUMA authorizes local governments to regulate many activities related to non-medical cannabis including, but not limited to, personal cultivation and use of non-medical cannabis and non-medical cannabis products.

WHEREAS, pursuant to the AUMA, the City wishes to regulate personal cultivation and use of non-medical cannabis in a manner that is consistent with State law and promotes the health, safety, and general welfare of the residents and businesses within the City, while limiting the dangers accompanying personal cultivation and use of non-medical cannabis.

WHEREAS, the City has previously adopted AMC chapter 8.60 to regulate personal cultivation and use of non-medical cannabis.

WHEREAS, the City now desires to amend AMC chapter 8.60, specifically AMC section 8.60.050 regarding Personal Cultivation Restrictions, to affirm the City's legal authority to enter

and inspect upon reasonable demand Cultivation Areas subject to a Personal Cultivation Permit in order to help protect the health and safety of any occupants, neighbors, and the public.

WHEREAS, nothing in this Ordinance shall be construed to allow persons to engage in conduct that violates the law, endangers others, causes a public nuisance, allows the use or diversion of cannabis for commercial recreational purposes, or allows any activity relating to cannabis that is otherwise illegal under California law.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ADELANTO DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein.

SECTION 2. AMC section 8.60.050(Y) is hereby amended, and is to read in its entirety as follows:

8.60.050 Personal Cultivation Restrictions.

Y. *The City Manager, the City Manager's designee, the City's Code Enforcement Manager, the City's Building Official, the Fire Department, and law enforcement have the legal authority and right to enter and inspect the Cultivation Area upon reasonable demand to protect the health and safety of any occupants, neighbors, and the public. Authorized purposes for inspection of the Cultivation Area under this Chapter include, but are not limited to, observing and enforcing compliance with this Chapter, the Health and Safety Code, the California Building Standards Code, and all other applicable laws of the City and the State. Refusing consent to an inspection under this Chapter shall constitute grounds for obtaining an Inspection Warrant and for revocation of any related Personal Cultivation Permit.*

SECTION 3. Recognizing that there is a potential conflict between federal and State law, it is the City Council's intention that this Ordinance shall be deemed to comply with California law as established by the AUMA.

SECTION 4. The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, title 14, section 15268. The AUMA mandates the right to Personal Cultivation and Personal Use of non-medical cannabis in the State. Therefore, the City is not exercising discretion in allowing Personal Cultivation and Personal Use of non-medical cannabis in the City, but rather merely seeks to reduce the effect of these activities on the environment.

SECTION 5. If any section or provision of this Ordinance is for any reason held to be invalid, unconstitutional, illegal, or unenforceable by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, then such section or provision shall be revised to best preserve the intent of the section or provision, or may be declared severed and shall

be inoperative if there is no reasonable means to revise it, and the remainder of this Ordinance shall remain in full force and effect.

SECTION 6. By regulating the personal cultivation and use of non-medical cannabis, the City is only undertaking to preserve the general welfare through implementing the AUMA. The City Council is not assuming, nor is it imposing on its officers and employees, an obligation for which a breach thereof would expose the City to liability in money damages to any person who claims that such breach proximately caused any injury. To the fullest extent permitted by law, the City shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to any provision of this Ordinance or for the activities of any user or cultivator of non-medical cannabis. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Ordinance shall not become a personal liability of any public officer or employee of the City. Nothing in this Ordinance shall be deemed or considered in any respects to constitute authorization to violate any law.

SECTION 7. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and the City Clerk shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect 30 days after its final passage.

PASSED, APPROVED, and ADOPTED this 12th day of April, 2017.



Rich Kerr, *Mayor*



Cynthia M. Herrera, MMC, *City Clerk*

APPROVED AS TO FORM:



Curtis R. Wright, *City Attorney*

I, Cindy Herrera, City Clerk of the City of Adelanto, California, do hereby certify that the foregoing Ordinance No. 561 was duly introduced for first reading on March 22, 2017 and regularly adopted at a regular meeting of the City Council of the City of Adelanto on April 12, 2017 by the following vote, to wit:

AYES: Council Members Glasper, Woodard,
Mayor Pro Tem Wright, and Mayor Kerr

NOES: None

ABSENT: Council Member Camargo

ABSTAIN: None

IN WITNESS THEREOF, I hereunto set my hand and affix the official seal of the City of Adelanto on this 12th day of April, 2017.


Cynthia M. Herrera, MMC, City Clerk

SEAL