

ORDINANCE NO. 564

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ADELANTO, COUNTY OF SAN BERNARDINO, CALIFORNIA,
AMENDING ADELANTO MUNICIPAL CODE SECTIONS
17.80.080(d)(1)(B), 17.80.090(d)(1)(B), 17.80.100(d)(1)(B), AND
17.80.110(d)(1)(B) TO RESTRICT MEDICAL CANNABIS
CULTIVATION, MANUFACTURING,
DISTRIBUTION/TRANSPORTATION, AND TESTING WITHIN THE
CITY TO PROPERTIES WITHIN THE CITY'S CANNABIS OVERLAY
ZONES**

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, 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 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, within the City.

WHEREAS, the City now wishes to amend AMC sections 17.80.080, 17.80.090, 17.80.100, and 17.80.110 to restrict medical cannabis cultivation, manufacturing, distribution/transportation, and testing within the City to properties within the City's Cannabis Overlay Zones—as defined in Ordinance 563 being proposed concurrently with this Ordinance—to help protect the health and safety of City residents while permitting activities that can potentially have a beneficial medical effect on many individuals.

WHEREAS, the Adelanto Planning Commission ("Planning Commission") recommended approval to the City Council of this Ordinance during the Planning Commission's regular meeting held on May 16, 2017.

WHEREAS, it is the purpose and intent of the City to regulate medical cannabis cultivation, manufacturing, distribution, transportation, and testing 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 negative impacts associated with such medical cannabis activities.

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 nonmedical purposes, or allows any activity relating to cannabis that is otherwise illegal under California law.

WHEREAS, on June 14, 2017, the City Council held a duly noticed public hearing at which time it considered all evidence presented, both written and oral.

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 17.80.080(d)(1)(B) is hereby amended to read as follows:

17.80.080 Medical Cannabis Cultivation

(d) **Indoor Medical Cannabis Cultivation Conditionally Permitted.** Indoor medical cannabis cultivation is conditionally permitted in the City only as expressly specified in this Section

(1) Indoor Medical Cannabis Cultivation Standards. Indoor medical Cannabis cultivation within the City, shall be in conformance with the following standards:

B. Indoor medical cannabis cultivation is a conditionally permitted use only on properties within *the City's Cannabis Overlay Zones*.

SECTION 3. AMC section 17.80.090(d)(1)(B) is hereby amended as follows:

17.80.090 Medical Cannabis Manufacturing

(d) **Medical Cannabis Manufacturing Conditionally Permitted.** Medical Cannabis manufacturing is conditionally permitted in the City only as expressly specified in this Section.

(1) Medical Cannabis Manufacturing Standards. Medical Cannabis manufacturing, within the City, shall be in conformance with the following standards:

B. Medical cannabis manufacturing is a conditionally permitted use only on properties within *the City's Cannabis Overlay Zones*.

SECTION 4. AMC section 17.80.100(d)(1)(B) is hereby amended as follows:

17.80.100 Medical Cannabis Distribution/Transportation

(d) **Distribution and Transportation of Medical Cannabis Conditionally Permitted.** Distribution and transportation of medical cannabis is conditionally permitted in the City only as expressly specified in this Section.

(1) Medical Cannabis Distribution/Transportation Standards. Medical cannabis distribution and transportation within the City shall be in conformance with the following standards:

B. Medical cannabis distribution and transportation is a conditionally permitted use only on properties within *the City's Cannabis Overlay Zones*.

SECTION 5. AMC section 17.80.110(d)(1)(B) is hereby amended as follows:

17.80.110 Medical Cannabis Testing

(d) **Medical Cannabis Testing Conditionally Permitted.** Commercial medical cannabis testing is conditionally permitted in the City only as expressly specified in this Section.

(1) Medical Cannabis Distribution/Transportation Standards. Medical cannabis distribution and transportation within the City shall be in conformance with the following standards:

B. Commercial medical cannabis testing is a conditionally permitted use only on properties within *the City's Cannabis Overlay Zones*.

SECTION 6. 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 MCRSA.

SECTION 7. It is the City Council's intention that 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 of any kind.
3. Allow any activity relating to cannabis that is otherwise not permitted under State law.

SECTION 8. The City Council finds that these amendments to the Zoning Code are consistent with the goals, policies, and objectives of the City's General Plan, and that they will not adversely affect properties surrounding the Cannabis Overlay Zones.

SECTION 9. The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act pursuant to Sections 15061(b)(3) and 15305 of the Guidelines, in that the Ordinance alone does not have the potential for causing a significant effect on the environment. Further permits and approvals will be required before any activity that may affect the environment will be permitted.

SECTION 10. 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 severed and shall be inoperative, and the remainder of this Ordinance shall remain in full force and effect.

SECTION 11. As with previous amendments pertaining to the cannabis land uses, 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 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 medical cannabis land uses. 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 12. 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 28th day of June, 2017.



Rich Kerr, *Mayor*



G. Michael Milhiser, *Interim City Manager*

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. 563 was duly introduced for first reading on the 14th day of June, 2017 and regular adopted at a regular meeting of the City Council of the City of Adelanto on this day 28th day of June, by the following voter, to wit:

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

NOES: None

ABSENT: Council Member Camargo

ABSTAIN: None

IN WITNESS WHEREOF, I hereunto set my hand and affix the official seal of the City of Adelanto on this 28th day of June, 2017

A handwritten signature in cursive script, appearing to read "Cynthia M. Herrera", is written over a horizontal line.

Cynthia M. Herrera, MMC, City Clerk