

**ORDINANCE NO. 567**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ADELANTO, COUNTY OF SAN BERNARDINO, CALIFORNIA, ADDING ADELANTO MUNICIPAL CODE SECTION 17.80.081 REGARDING MEDICAL CANNABIS CULTIVATION WATER REQUIREMENTS**

**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”) section 17.80.080 to regulate medical cannabis cultivation within the City in accordance with State law.

**WHEREAS**, the Division of Water Rights of the State Water Resources Control Board (“SWRCB”) requires the City to report all water diverted for the cultivation of cannabis within the City—including specified metrics discussed herein.

**WHEREAS**, the City now wishes to add AMC section 17.80.081 regarding Medical Cannabis Cultivation Water Requirements to require Cultivation Permittees to install and maintain a separate water meter that exclusively measures and monitors the amount of water used for cultivation purposes.

**WHEREAS**, through this Ordinance, the City also desires to establish and specify water reporting requirements for Cultivation Permittees that will help the City gather the necessary information to comply with the SWRCB’s reporting requirements.

**WHEREAS**, the Adelanto Planning Commission (“Planning Commission”) adopted Resolution No. PC-17-12 on June 6, 2017 recommending to the City Council approval of this Ordinance after finding that the proposed amendments are consistent with the goals, policies, and objectives of the General Plan, and will not adversely affect surrounding properties.

**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.

**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 17.80.081 (Medical Cannabis Cultivation Water Requirements) is hereby added, and is to read in its entirety as follows:

**17.80.081 Medical Cannabis Cultivation Water Requirements**

- (a) **Purpose.** The purpose and intent of this Section is to measure and monitor the amount of water used for the cultivation of medical cannabis that is grown in accordance with State law within the City in order to comply with State water reporting requirements.
- (b) **Water Meters.** In addition to all applicable State and local laws and regulations, the following provisions shall apply to medical cannabis cultivation within the City that is conditionally permitted under Section 17.80.080 of this Code:
  - (1) Each Cultivation Permittee shall maintain a standard curbside water meter for consumption and billing purposes ("Standard Meter").
  - (2) In addition to a Standard Meter, each Cultivation Permittee shall install and maintain a separate water meter that exclusively measures and monitors the amount of water used for cultivation purposes ("Cultivation Meter").
- (c) **Water Reporting.** In addition to the requirements under Subsection (b), Cultivation Permittees shall comply with the following reporting requirements:
  - (1) Each Cultivation Permittee shall report to the City the monthly quantity of water registered by its Cultivation Meter and used for cultivation purposes no later than the 10th day of the following month.
  - (2) Each monthly report submitted by a Cultivation Permittee shall also include the following information:
    - A. The total amount of water used for cannabis cultivation (measured in gallons and in acre-feet) for each month for each of the preceding 12 months. The report shall also tabulate the total amount of water used for cannabis cultivation for the combined preceding 12 months, as well as the combined months to date for the current calendar year.
    - B. The total irrigated acreage of cannabis cultivated (measured in square feet) for the year to date.
    - C. For outdoor, indoor, and mixed light cultivation, the average cultivated canopy size (measured in square feet) for the calendar year to date, the total number of plants harvested for the calendar

year to date, and the total number of harvests for the calendar year to date.

D. Specify all the irrigation methods used for cannabis cultivation including, but not limited to: hand watering; drip or micro spray irrigation; flood irrigation; and row irrigation.

(3) Within 30 days of the effective date of this Section, each Cultivation Permittee shall submit to the City individual monthly water reports specifying all the information required under Section 17.80.081(c)(2) for each month since, and including, January 2016.

(d) **Enforcement.**

(1) Any cannabis cultivation within the City in violation of this Section is hereby declared to be unlawful and a public nuisance.

(2) Any party who engages in a violation of this Section, or who owns, possess, controls, or has charge of any parcel of real property in the City upon which a violation of this Section is maintained, shall be subject to the penalties and remedies provided by AMC section 17.80.080(e).

**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 MCRSA.

**SECTION 4.** 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 surrounding properties.

**SECTION 5.** The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act ("CEQA") pursuant to Guidelines section 15061(b)(3), in that the Ordinance alone does not have the potential for causing a significant effect on the environment.

**SECTION 6.** 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 reformed to lawfully comply with the intent of the provision and to comport with the remainder of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

**SECTION 7.** By regulating medical cannabis cultivation, the City is only undertaking to preserve the general welfare through implementing the MCRSA. 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 Cultivation Permittee. 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.

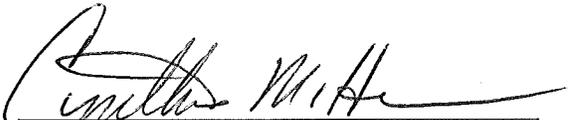
**SECTION 8.** The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and the City Clerk shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect 30 days after its final passage.

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



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Rich Kerr, *Mayor*



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Cynthia M. Herrera, MMC, *City Clerk*

APPROVED AS TO FORM:



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Ruben Duran, *City Attorney*

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I, Cindy Herrera, City Clerk of the City of Adelanto, California, do hereby certify that the foregoing Ordinance No. 567 was duly introduced for first reading on June 28, 2017 and regularly adopted at a regular meeting of the City Council of the City of Adelanto on July 12, 2017 by the following vote:

AYES: Council Members, Camargo, Glasper, Woodard, and Mayor Kerr

NOES: None

ABSENT: Mayor Pro Tem Wright

ABSTAIN:

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

  
Cynthia M. Herrera, MMC, City Clerk

SEAL