

**ORDINANCE NO. 557 -A**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ADELANTO, CALIFORNIA, ESTABLISHING TWO MEDICAL CANNABIS DISPENSARY 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, and which recognizes the authority of the local jurisdiction 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 17.80.050 prohibiting Medical Cannabis Dispensaries in the City.

**WHEREAS**, as part of the adoption of this Ordinance, the City wishes to modify parts of Section 17.80.120 of the Adelanto Municipal Code to establish two Medical Cannabis Dispensary Overlay Zones from where Medical Cannabis will be dispensed and delivered in accordance with applicable State laws.

**WHEREAS**, the City desires for the adoption of this Ordinance to implement General Plan Amendment 17-03 ("GPA 17-03") to establish the aforementioned two Medical Cannabis Dispensary Overlay Zones.

**WHEREAS**, it is the purpose and intent of the City to regulate Medical Cannabis Dispensing and delivery 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 Dispensaries.

**WHEREAS**, the City of Adelanto intends to be on the forefront of ground breaking research, science, innovation and development of treatment for symptoms and cures in the field of medical cannabis. Scientific research, studies and data has established that cannabis helps patients with a vast array of medical conditions that affect the vast majority of human beings across the globe; and

**WHEREAS**, nothing in this Section shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance as defined herein, allow the use or diversion of Cannabis for nonmedical purposes, or allow any activity relating to the dispensing of Cannabis that is otherwise illegal under California State 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.** Proposed Section 17.80.120 (Medical Cannabis Dispensaries) is hereby modified and is to read in its entirety as follows:

**17.80.120. Medical Cannabis Dispensaries**

(a) **Purpose.** The purpose and intent of this Section is to regulate the dispensing and delivery of Medical Cannabis that is sold in accordance with State law in order to promote the health, safety, and general welfare of the residents and businesses with the City. The City is authorized to regulate this activity pursuant to the MCRSA.

(b) **Definitions.** For the purpose of this Section, the following definitions shall apply, unless the context clearly indicates otherwise:

(11) **Medical Cannabis Dispensary Overlay Zone (“Dispensary Overlay Zone”)** means the area bounded by Air Expressway to the north, Rancho Road to the south, Adelanto Street and Permain Street and to the west, and Mesa Linda Road to the east (Medical Cannabis Overlay Zone 1), and the area bounded by Violet Road to the north, Powerline Road to the south, Jonathan Road to the west, and Highway 395 to the east. The easterly boundary to Highway 395 is setback 600’ from the highway.(Medical Cannabis Overlay Zone 2).

(12) **SECTION 3.** Recognizing that there is a potential conflict between Federal and State law, it is the City Council’s intention that the Ordinance shall be deemed to comply with California law as established by the MCRSA.

**SECTION 4.** The City council determines that it is in the best interest of the residents of the City to allow dispensaries that comply with the MCRSA to be established and operated as permitted uses within certain areas of the City subject to the regulations and restrictions provided in this Ordinance. 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 marijuana for non-medical purposes of any kind; or
3. Allow any activity relating to cannabis that is otherwise not permitted under State law.

**SECTION 5.** The City Council finds that the establishment of the Dispensary Overlay Zones is consistent with the goals, policies, and objectives of the City’s General Plan and that they will not adversely affect properties surrounding the Dispensary Overlay Zones.

**SECTION 6.** The City Council finds that the actions contemplated by this Ordinance are exempt from the requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA and section 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 will affect the environment will be permitted.

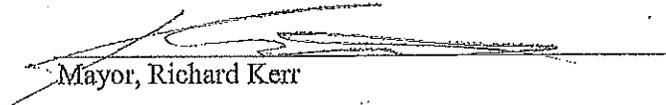
**SECTION 7.** No use, business, or activity of any kind which dispensed Medical Cannabis prior to the enactment of this ordinance shall be deemed to have been a legally established use under the provisions of the Zoning Code and such use shall not be entitled to claim legal nonconforming status.

**SECTION 8.** 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.

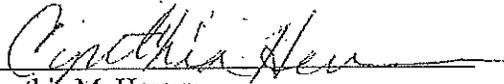
**SECTION 9.** By regulating Medical Cannabis Dispensaries, the City is only undertaking to preserve the general welfare through implementation of MCRSA. The City Council is not assuming, nor is it imposing on its officers and employees, an obligation for which a breach thereof would expose the City to a 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 Dispensary. 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 10.** 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 thirty (30) days after its final passage.

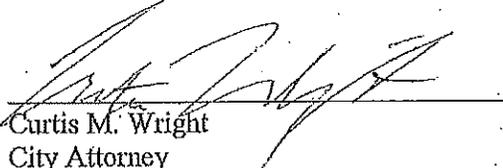
PASSED, APPROVED and ADOPTED this 24<sup>th</sup> day of May, 2017.

  
\_\_\_\_\_  
Mayor, Richard Kerr

ATTEST:

  
\_\_\_\_\_  
Cynthia M. Herrera  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Curtis M. Wright  
City Attorney

I, Cindy Herrera, City Manager/City Clerk of the City of Adelanto, California, do hereby certify that the foregoing Ordinance No. 557 was duly introduced for first reading on May 17, 2017, and regularly adopted at a regular meeting of the City Council of the City of Adelanto on May 24, 2017, by the following vote, to wit:

AYES: Council Member Glasper, Mayor Pro Tem Wright, and  
Mayor Kerr

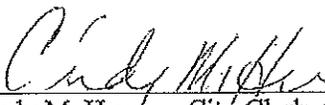
NOES: Council Member Camargo

ABSENT: None

ABSTAIN: Council Member Woodard

IN WITNESS THEREOF, I hereunto set my hand and affix the official seal of the City of Adelanto on this 24<sup>th</sup> day of May, 2017.

ATTEST:

  
\_\_\_\_\_  
Cindy M. Herrera, City Clerk, City of Adelanto