

## **ORDINANCE NO. 1725 (2023 SERIES)**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, AMENDING CHAPTER 17.86 (REGULATIONS FOR SPECIFIC LAND USES AND ACTIVITIES) AND CHAPTER 9.10 (CANNABIS REGULATIONS) OF THE MUNICIPAL CODE MODIFYING SPECIFIC RULES FOR COMMERCIAL CANNABIS BUSINESS RETAIL STOREFRONT OPERATIONS**

**WHEREAS**, on May 1, 2018, the City Council of the City of San Luis Obispo adopted regulations allowing for the operation of commercial cannabis businesses and personal cultivation in the City; and

**WHEREAS**, Municipal Code Chapter 17.86 and Chapter 9.10 establishes the hours of operations and the age restrictions for access to commercial cannabis retail storefronts operating in the City; and

**WHEREAS**, the City currently has two permitted commercial cannabis retail storefronts operating in the City; and

**WHEREAS**, the permitted commercial cannabis retail storefronts requested the City expand the hours of operations from 9:00 a.m. and 8:00 p.m., daily to 7:00 a.m. and 9:00 p.m., daily; and allow individuals 18 to 20 years of age who have a valid physician's recommendation for medicinal cannabis to access retail storefronts; and

**WHEREAS**, on October 18, 2022, City Council directed staff to further evaluate and return with recommendations addressing requests to modify the regulations for hours of operations and access restrictions for medicinal cannabis customers 18 to 20 years of age; and

**WHEREAS**, the State of California's Department of Cannabis Control's Code of Regulations allows licensed cannabis retailers and delivery businesses to operate between the hours of 6:00 a.m. and 10:00 p.m. and allows licensed cannabis retailers who possess either an M-designation license or and A- and M-designation license to sell medicinal cannabis goods to individuals who are at least 18 years of age and who possess a valid physician's recommendation; and

**WHEREAS**, City staff conducted extensive public outreach for the requested changes submitted by the permitted commercial cannabis retail storefronts; and

**WHEREAS**, consistent with State of California's regulations and the feedback collected during the public outreach component of the requested changes evaluation, the City desires to continue to support existing and future commercial cannabis retail storefront operations by amending Chapter 17.86 and Chapter 9.10 of the Municipal Code; and

**WHEREAS**, the Planning Commission of the City of San Luis Obispo conducted a public hearing in the Council Chamber of City Hall, 990 Palm Street, San Luis Obispo, California, on February 8, 2023, for the purpose of considering updates to the City's commercial cannabis program including amending Chapter 17.86 and Chapter 9.10 of the Municipal Code for retail storefront operations and making recommendations to the City Council regarding such amendments.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of San Luis Obispo as follows:

**SECTION 1. Findings.** Based upon all the evidence presented, the Council makes the following findings.

1. The proposed amendments to Chapter 17.86 and Chapter 9.10 are consistent with State of California's Department of Cannabis Control's Code of Regulations.
2. The proposed amendments establish reasonable regulations for the operation of commercial cannabis retail storefront businesses in the City.
3. The proposed amendments continue to promote the public health, safety, and welfare of the City as they relate to commercial cannabis business operations.
4. The City requires discretionary review and approval of permits, licenses, and other authorizations to engage in commercial cannabis activity. Such review and approval include applicable environmental review.

**SECTION 2.** Section 17.86.080 (E)(5)(f), Commercial Cannabis Development Standards, of the San Luis Obispo Municipal Code is hereby amended as follows:

- f. The use permit to be issued under this chapter shall include, but is not limited to, the following conditions:
- i. The obtaining and maintaining of the commercial cannabis operator permit and appropriate state license.
  - ii. Payment of all applicable current and future state and local taxes and all applicable commercial cannabis fees and related penalties established by the city council, including but not limited to application, administrative review, inspection, etc.
  - iii. The commercial cannabis operator permit or a controlling interest in the permit may not be assigned, transferred or bequeathed, by operation of law or otherwise, unless permitted as described in Chapter 9.10, and the permit shall terminate automatically on such event.

iv. Any commercial cannabis operator permit issued pursuant to this chapter and Chapter 9.10 expires after one year, unless renewed.

v. Prohibition of on-site consumption of cannabis at: (A) at a commercial cannabis business or commercial cannabis activity location; (B) any other business, club or cooperative or event, regardless if open to the public or only to members; and (C) anywhere an entry or other fee is charged to attendees or the host or thing of value or consideration is received or exchanged.

vi. Prohibition of the possession, storage, sale, distribution or consumption of alcoholic beverages on the premises, or the holding of license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operating a business that sells alcoholic beverages on or adjacent to the commercial cannabis activity site.

vii. No cannabis products or cannabis accessories may be displayed in windows or visible from the public right-of-way or from places accessible to the general public.

viii. Prohibition of minors and persons under the age of twenty-one on the premises, even if accompanied by a parent or guardian, unless the person is at least eighteen years of age and is also in possession of a valid physician's recommendation for medical cannabis.

ix. Outdoor storage of cannabis or cannabis products is prohibited.

**SECTION 3.** Section 17.86.080 (E)(10), Retail—Storefront, of the San Luis Obispo Municipal Code is hereby amended as follows:

10. *Retail—Storefront.*

a. Commercial cannabis storefront retail may be conditionally permitted, subject to the requirements of this section and the obtaining and maintaining of a commercial cannabis operator permit, and the appropriate state license, in the following zones:

i. Retail commercial (C-R);

ii. Service commercial (C-S);

b. *Development Standards.*

i. Compliance with subsection (E)(5) of this section, Commercial Cannabis Development Standards.

ii. Only three retail storefronts, which must front arterial streets, will be allowed within the city. Selection of the retail commercial cannabis operator will be selected from qualified commercial cannabis operators as set forth in Chapter 9.10, Cannabis Regulations. One of the retail storefronts shall have a medicinal license and may also have an adult use license.

iii. Retail storefronts shall be located at least one thousand feet from any preschool, elementary school, junior high school, high school, public park or playground, six hundred feet from any licensed day care center, and three hundred feet from any residentially zoned area. Youth centers do not require a buffer. Distance shall be measured from the nearest point of the property line to the nearest point of the property line of the enumerated use using a direct straight-line measurement.

iv. Retail storefronts must be separated from each other by at least one thousand feet.

v. Hours of operation shall be limited between seven a.m. to nine p.m.

vi. Retail storefronts that possess a valid State of California cannabis retailer license with an A-designation must include a sign at each entrance of a retail storefront that prohibits persons under twenty-one years of age from entering. Retail storefronts that possess a valid State of California cannabis retailer license with an M-designation or both an A-designation and an M-designation must include a sign at each entrance of the retail storefront that prohibits persons under twenty-one years of age from entering unless the person is at least eighteen years of age and is also in possession of a valid physician's recommendation for medical cannabis.

**SECTION 4.** Section 9.10.230, Minors, of the San Luis Obispo Municipal Code is hereby amended as follows:

A. Minors shall not be allowed on the premises of a commercial cannabis business having either an "A" or "M" license, or both, even if accompanied by a parent or guardian.

B. No person under twenty-one years of age shall be allowed on the premises of a commercial cannabis business having an "A" license only.

C. No person under twenty-one years of age shall be allowed on the premises of a commercial cannabis business having either an "M" license or both an "A" and "M" license unless the person is at least eighteen years of age and is also in possession of a valid physician's recommendation for medical cannabis.

D. Every entrance to an “A” licensed commercial cannabis business shall be clearly and legibly posted with the following notice: “ENTRY ONTO THESE PREMISES BY PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW. VALID PHOTO ID REQUIRED.” Each letter of the notice must be at least two inches high and clearly visible.

E. Every entrance to an “M” licensed or both an “A” and “M” licensed commercial cannabis business shall be clearly and legibly posted with the following notice: “ENTRY ONTO THESE PREMISES BY PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW UNLESS THE PERSON IS EIGHTEEN YEARS OF AGE OR OLDER AND IS ALSO IN POSSESSION OF A VALID PHYSICIAN’S RECOMMENDATION FOR MEDICAL CANNABIS. VALID PHOTO ID REQUIRED.” Each letter of the notice must be at least two inches high and clearly visible.

F. No person, business, or other entity conducting a commercial cannabis activity with either an “A” or “M” state license shall employ any person who is not at least twenty-one years of age. (Ord. 1647 § 4 (Exh. A (part)), 2018)

**SECTION 5.** Section 9.10.250 (C), Security and public safety measures, of the San Luis Obispo Municipal Code is hereby amended as follows:

*C. Hours of Operation.*

1. *Retail Storefront.* Retail storefront commercial cannabis business shall not operate between the hours of nine p.m. and seven a.m.
2. *Retail Non-Storefront (Delivery Services).* Retail non-storefront (delivery services) commercial cannabis business shall not operate between the hours of ten p.m. and six a.m.
3. *Commercial Other than Retail.* All commercial cannabis activity other than retail is prohibited between the hours of ten p.m. and seven a.m. (Ord. 1647 § 4 (Exh. A (part)), 2018)

**SECTION 6. Environmental Review.** The proposed amendments to Chapter 17.86 and Chapter 9.10 of the Municipal Code was reviewed in accordance with the California Environmental Quality Act (CEQA) Guidelines. The proposed amendments are determined to be exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3), the General Rule exemption which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment. The proposed amendments constitute minor modifications to the rules governing commercial cannabis business retail storefront operations and do not have a significant effect on the environment. Any new retailer-applicant would be required to comply with all applicable state and local law, including a showing of CEQA compliance or exemption.

**SECTION 7. Action.** The City Council hereby adopts an ordinance amending Chapter 17.86 and Chapter 9.10 of the Municipal Code modifying the hours of operations and access requirements for commercial cannabis retail storefronts.

**SECTION 8.** Ordinance Number 1647 (2018 Series) is hereby amended and superseded to the extent inconsistent herewith.

**SECTION 9. Severability.** If any subdivision, paragraph, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalid or unenforceability shall not affect the validity or enforcement of the remaining provisions of this Ordinance, or any other provisions of the City's rules and regulations. It is the City's express intent that each remaining portion would have been adopted irrespective of the fact that any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

**SECTION 10.** A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage, in The New Times, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

**INTRODUCED** on the 7<sup>th</sup> day of March 2023, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the \_\_\_\_ day of \_\_\_\_\_, 2023, on the following vote:

AYES:  
NOES:  
ABSENT:

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Mayor Erica A. Stewart

ATTEST:

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Teresa Purrington  
City Clerk

APPROVED AS TO FORM:

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J. Christine Dietrick  
City Attorney

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, on \_\_\_\_\_.

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Teresa Purrington  
City Clerk