



**CITY COUNCIL
OF THE
CITY OF ATWATER**

ORDINANCE NO. CS 996

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
AWATER REPEALING AND REPLACING CHAPTER 5.60 OF
THE ATWATER MUNICIPAL CODE RELATING TO
CANNABIS BUSINESS PILOT PROGRAM**

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age or older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, on October 23, 2017, the City of Atwater adopted Ordinance No. CS 982 to enact cannabis regulations for cannabis businesses pursuant to AUMA and MAUCRSA (the "Cannabis Ordinance"); and

WHEREAS, on December 7, 2017, the Bureau of Cannabis Control, the Department of Agriculture, and the Department of Public Health issued final emergency regulations relating to all cannabis businesses allowed under state law (collectively, the "Emergency Regulations"); and

WHEREAS, the City Council of the City of Atwater ("City Council") desires to amend the Cannabis Ordinance to conform with the Emergency Regulations, AUMA, and MAUCRSA; and

WHEREAS, the City Council finds that (1) outdoor cannabis cultivation, whether for medical or adult-use purposes, can adversely affect the health, safety, and well-being of city residents and shall be prohibited commercially; (2) city-wide regulation of indoor cannabis activities is proper and necessary to avoid the risks of criminal activity; and (3) that cannabis activity without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity; and

WHEREAS, the City Council finds that this ordinance is in the best interest of the health, welfare, and safety of the public.

NOW, THEREFORE, the City Council of the City of Atwater does hereby ordain as follows:

SECTION 1: Chapter 5.60 of the Atwater Municipal Code is hereby repealed in its entirety and amended to read as follows:

Chapter 5.60 Cannabis Business Pilot Program

Section 5.60.010 - Legislative Intent.

It is the intent of the City to establish a cannabis business pilot program to regulate commercial cannabis activities pursuant to state law and to discourage violations of related state law, especially those that prohibit the sale, use, or distribution of cannabis and cannabis products to juveniles. It is not the intent of the City to expand, reduce, or alter the penalties for violations of state cannabis laws.

Section 5.60.020 - Definitions.

- A. "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- B. "Business" means a profession, trade, occupation, gainful activity, and all and every kind of calling whether or not carried on for profit.
- C. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

“Cannabis” does not mean “industrial hemp” as defined by section 11018.5 of the Health and Safety Code.

- D. “Cannabis business” means any business engaged in commercial cannabis activity. “Cannabis business” does not include any of the following:
1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
 2. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
 3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
 4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the Health and Safety Code.
 5. The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by section 11362.7 of Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, sections 11362.5 and 11362.765 of the Health and Safety Code.
- E. “Cannabis cultivation business” means any cannabis business that, pursuant to a Type 1, Type 1A, Type 1B, Type 1C, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, Type 5B, or Type 12 state cannabis license, or their successors, cultivates cannabis or cannabis products.
- F. “Cannabis delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Cannabis delivery” also includes the use by a retailer of any technology platform.
- G. “Cannabis delivery business” means any cannabis business that, pursuant to a Type 10 state cannabis license, or its successors, delivers, makes available, or distributes cannabis and cannabis products to a consumer.
- H. “Cannabis dispensary” means any cannabis business where medicinal or adult-use cannabis or cannabis products are sold at retail, pursuant to a Type 10 state cannabis license, or its successors. A cannabis dispensary includes a cannabis business that provides cannabis deliveries.

- I. "Cannabis distribution business" means any cannabis business that, pursuant to a Type 11 or Type 13 state cannabis license, or their successors, procures, sells, or transports cannabis and cannabis products between cannabis businesses.
- J. "Cannabis manufacturing business" means any cannabis business that, pursuant to a Type 6, Type 7, or Type 12 state cannabis license, or their successors, manufactures cannabis or cannabis products.
- K. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- L. "Cannabis testing laboratory" means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license, or its successors.
- M. "City" means the City of Atwater, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.
- N. "Commercial cannabis activity" includes the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products that requires a state license.
- O. "Commercial cannabis waste" means cannabis plants and plant materials that are discarded by a cannabis business, including, but not limited to, extra vegetative plants, failed clones, and harvest waste.
- P. "Cultivation" means any activity involving the planting, growing, harvesting, processing, drying, curing, grading, or trimming of cannabis.
- Q. "Day care center" means any licensed child day care facility other than a small or large day care home, including infant centers and preschools.
- R. "Employee permit" means the permit required by this chapter for every employee or independent contractor employed by a cannabis business.
- S. "Juvenile" means any natural person who is under the age of eighteen (18) years.
- T. "License" means a state license issued pursuant to Business & Professions Code, section 26000.
- U. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

- V. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- W. "Primary caregiver" has the same meaning as that term is defined by section 11362.7 of the Health and Safety Code.
- X. "Qualified patient" has the same meaning as that term is defined by section 11362.7 of the Health and Safety Code.
- Y. "School" means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school where education is primarily conducted in private homes.

Section 5.60.030 - State and Local Requirements.

- A. Any cannabis business that does not have the applicable state license is prohibited within the City.
- B. Any cannabis business allowed in the City shall obtain all of the following:
 - 1. A development agreement.
 - 2. A City business license.
 - 3. A conditional use permit.
- C. A cannabis business shall maintain compliance with Title 17 of the Atwater Municipal Code.
- D. At the time of application to the City, every cannabis business applicant shall submit to the Community Services Director a copy of its state license or state license application required for its operation.
- E. A cannabis business shall not be located within six hundred (600) feet of any school, day care center, church, or residentially zoned parcels in existence at the time the business submits an application to operate a cannabis business. The distance specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the school, day care center, church, or residentially zoned parcel to the closest property line of the lot on which the cannabis business is to be located without regard to intervening structures.
- F. Outdoor cultivation is prohibited within the City.

Section 5.60.040 – Cannabis Dispensaries.

- A. Up to two (2) cannabis dispensaries may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. Any cannabis dispensary allowed and operating within the City is allowed to perform cannabis delivery services.
- C. A cannabis dispensary shall maintain all applicable state licenses and comply with all of the following:
 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas.
 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
 3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis dispensary, specifying the street address and parcel number.
 4. Security.
 - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
 - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.

5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
6. Tax Compliance. A cannabis cultivation business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
7. Insurance. The cannabis dispensary shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
8. Waste Management Plan. A cannabis cultivation business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

Section 5.60.050 - Cannabis Deliveries from Outside City Limits.

Any commercial cannabis activity related to cannabis deliveries is prohibited unless the business first obtains a City business license. The City reserves the right to deny any business license application for a business that performs cannabis deliveries within the City. The possession of a state license from another city, county, or other government entity does not allow a cannabis business to provide cannabis delivery services in the City.

Section 5.60.060 - Cannabis Cultivation Business.

- A. A cannabis cultivation business may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. A cannabis cultivation business shall maintain all applicable state licenses and comply with all of the following:
 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas. All cultivation and curing areas within a building on the cultivation site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis cultivation business.
 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, boundaries, lights, and canopy areas.

3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis cultivation business, specifying the street address and parcel number.
 4. Security.
 - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
 - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
 5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
 6. Cultivation Site Restricted. A cannabis cultivation business shall not open their cultivation site to the public. A cannabis business shall not allow anyone on the cultivation site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters. A juvenile shall not be on the cultivation site or operate a cannabis cultivation business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
- C. Tax Compliance. A cannabis cultivation business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.

- D. Insurance. The cannabis cultivation business shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
- E. Waste Management Plan. A cannabis cultivation business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

Section 5.60.070 - Cannabis Testing Laboratory.

- A. A cannabis testing laboratory may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. A cannabis testing laboratory shall meet the accreditation criteria in the International Organization for Standardization (ISO) guidelines known as ISO 17025.
- C. All cannabis testing laboratories shall maintain all applicable state licenses and maintain compliance with all of the following:
 - 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas.
 - 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries. The site plan shall comply with all of the following:
 - i. Entrances. All entrances into the buildings on the laboratory site shall be locked at all times, with entry controlled by the cannabis testing laboratory business' managers and staff.
 - ii. Main Entrance and Lobby. The laboratory site shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed in the testing areas.
 - iii. Testing Area. All testing areas in any building on the laboratory site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff, of the cannabis testing laboratory.

- iv. Transport Area. Each building with a testing area shall have an area designed for the secure transfer of cannabis from a vehicle to the testing area.
 - v. Storage area. Each building with a testing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby and shall be secured by a lock accessible only to managers and staff, of the cannabis testing laboratory.
3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis manufacturing business, specifying the street address and parcel number.
4. Security
 - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the laboratory site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the laboratory site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
 - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
6. Tax Compliance. A cannabis manufacturing business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.

7. Laboratory Site Restricted. A cannabis testing laboratory shall not open their laboratory site to the public. A cannabis testing laboratory shall not allow anyone on the laboratory site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there; such as contractors, inspectors, and cannabis transporters. A manager must be on the laboratory site at all times any other person, except for security guards, is on the site. A juvenile shall not be on the laboratory site or operate a cannabis testing laboratory in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
8. Insurance. The cannabis testing laboratory shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
9. Waste Management Plan. A cannabis testing laboratory shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

Section 5.060.080 - Cannabis Manufacturing Business.

- A. A cannabis manufacturing business may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.
- B. A cannabis manufacturing business shall obtain all applicable licenses and maintain compliance with all of the following:
 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas. All manufacturing areas within a building on the manufacturing site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis manufacturing business.
 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
 3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis manufacturing business, specifying the street address and parcel number.
 4. Security.
 - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas,

and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the manufacturing site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

- ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.
 - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
 6. Manufacturing Site Restricted. A cannabis manufacturing business shall not open their manufacturing site to the public. A cannabis manufacturing business shall not allow anyone on the manufacturing site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters. A manager must be on the manufacturing site at all times any other person, except for security guards, is on the site. A juvenile shall not be on the manufacturing site or operate a cannabis manufacturing business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
 7. Tax Compliance. A cannabis manufacturing business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
 8. Insurance. The cannabis manufacturing business shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
 9. Waste Management Plan. A cannabis manufacturing business shall submit and comply with an approved commercial cannabis waste

management plan describing how commercial cannabis waste will be disposed.

Section 5.60.090 - Cannabis Distribution Business.

- A. A cannabis distribution business may be permitted pursuant to a development agreement and a conditional use permit, subject to the requirements in Chapter 17.71 of the Atwater Municipal Code.

- B. All cannabis distribution business shall obtain all applicable state licenses and maintain compliance with all of the following:
 - 1. Floor Plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas. All storage areas within a building on the distribution site shall be separated from the main entrance and lobby and shall be secured by a lock accessible only to managers and staff of the cannabis distribution business.

 - 2. Site Plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.

 - 3. Statement of Owner's Consent. Written consent of the owner or landlord of the proposed site to operate a cannabis distribution business, specifying the street address and parcel number.

 - 4. Security.
 - i. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the distribution site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

 - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least ninety (90) days. The video recordings shall be made available to the City upon request.

 - iii. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in

good working condition. The alarm system shall include a private security company that is required to respond to every alarm.

5. Odor Control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
6. Distribution Site Restricted. A cannabis distribution business shall not open their distribution site to the public. A cannabis distribution business shall not allow anyone on the distribution site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters. A juvenile shall not be on the distribution site or operate a cannabis distribution business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
7. Tax Compliance. A cannabis distribution business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
8. Insurance. The cannabis distribution business shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
9. Waste Management Plan. A cannabis distribution business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

5.60.100 Inspections and record retention.

A. Authority to inspect.

1. City officials or law enforcement may reasonably enter and inspect the cannabis business at any time between the hours of 6:00 a.m. and 11:00 p.m. on any day of the week, or at any reasonable time, to ensure compliance and enforcement of this chapter.
2. City officials may inspect and demand copies of records maintained by the cannabis business, except for private medical records, that shall be made available to law enforcement agencies only pursuant to a properly executed search warrant, subpoena, or court order.
3. A person shall not refuse, impede, obstruct, or interfere with an inspection pursuant to this chapter.

- B. Records. A cannabis business shall maintain accurate records of commercial cannabis activity for a minimum of seven (7) years in accordance with Chapter 16 (commencing with Section 2610) of Division 10 of the Business and Professions Code.

Section 5.60.110 – Appeals

- A. An applicant or cannabis business may appeal any adverse action taken under this chapter to the City Council.
- B. All appeals taken under this chapter must be taken within thirty (30) days after the adverse action by filing with the office of the City Clerk a written notice of appeal specifying the grounds thereof. An appeal shall be accompanied by a non-refundable filing fee, as established by resolution adopted by the City Council from time to time.
- C. The City Clerk, upon the filing of such appeal and payment of an appeal fee, shall place the matter upon the agenda for the next regular meeting of the City Council occurring not earlier than five (5) days after the filing of the appeal, and shall notify the appealing permit applicant by letter of the meeting date and place at which the appeal will be heard.

Section 5.60.120 - Penalties.

- A. Any use or condition caused, or permitted to exist, in violation of any provision of this chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to section 731 of the Code of Civil Procedure or any other remedy available to the City.
- B. In addition to any other enforcement permitted by this chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.
- C. Violations of this chapter shall be subject to an administrative penalty. The amount of the administrative penalty shall be five hundred dollars (\$500) for the first offense within a twelve (12) month period, seven hundred fifty dollars (\$750) for the second offense within a twelve (12) month period, and one thousand dollars (\$1,000) for any subsequent offense within a twelve (12) month period.
- D. Penalty Enhancements.
 - 1. In addition to any other enforcement permitted by this chapter, the City may double any administrative penalty for egregious violations of this chapter. Egregious violations include (a) the unpermitted use of volatile

solvents; (b) the operation of a cannabis business without City approval; or (c) a cannabis business allowing juveniles to consume or possess cannabis or cannabis products.

2. If a cannabis business receives four (4) or more penalties for violating this chapter within any twelve (12) month period, that business shall be immediately prohibited from operating within the City.

Section 5.60.130 - Cost Recovery.

- A. The City shall be entitled to recover its abatement and enforcement costs incurred in obtaining compliance with this chapter. Costs incurred by the City are recoverable even if a public nuisance, Atwater Municipal Code, or other violation of law is corrected by the property owner or other responsible party.
- B. The cost of abating a public nuisance or enforcing this chapter shall either be a special assessment and lien on the subject property or the personal obligation of the owner of the subject property or the responsible party. If there is more than one responsible party, each party shall be jointly and severally liable for the costs.
- C. For purposes of this chapter, the following additional definitions shall apply:
 1. "Abatement costs" include the actual and reasonable costs incurred by the City to abate a public nuisance. These costs include all direct and indirect costs to the City that result from the total abatement action, including but not limited to, investigation costs, costs to enforce the Atwater Municipal Code and any applicable state or county law, clerical and administrative costs to process paperwork, costs incurred to provide notices and prepare for and conduct administrative appeal hearings, and costs to conduct actual abatement of the nuisance. Costs include personnel costs, administrative overhead, costs for equipment such as cameras and vehicles, staff time to hire a contractor, and reasonable attorneys' fees incurred by the City.
 2. "Enforcement costs" include all actual and reasonable costs incurred by the City to enforce compliance with the Atwater Municipal Code and any applicable state, county, or City public health and safety law that are not included within abatement costs. Enforcement costs shall also include, but are not limited to, costs of fringe benefits for personnel, administrative overhead, costs of equipment, costs of materials, costs related to investigations, costs related to issuing and defending administrative or court citations, costs incurred investigating and abating violations of the Atwater Municipal Code or state or county law violations, and reasonable attorneys' fees related to these activities.

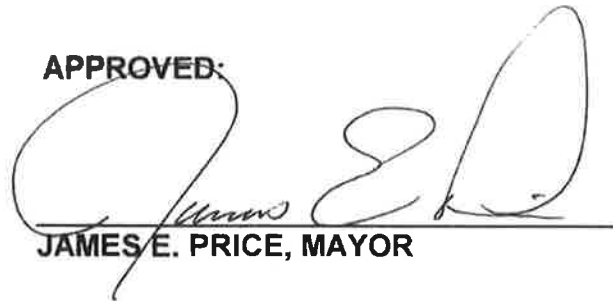
- 3. "Responsible party" means a person or entity responsible for creating, causing, committing, or maintaining the violation of this chapter or state or county law.
- 4. "Subject property" means the real property that is the subject of any abatement or enforcement action by the City for which the City incurred costs and seeks recovery under this chapter.

SECTION 2: If any section, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3: This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, provided it is published in a newspaper of general circulation at least fifteen (15) days prior to its effective date or a summary of the Ordinance is published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

INTRODUCED: April 30, 2018
ADOPTED: May 14, 2018
AYES: Vineyard, Vierra, Creighton, Raymond, Price
NOES: None
ABSENT: None

APPROVED:



A handwritten signature in black ink, appearing to read 'James E. Price', is written over a horizontal line.

JAMES E. PRICE, MAYOR

ATTEST:



A handwritten signature in black ink, appearing to read 'Don Hyler III', is written over a horizontal line.

DON HYLER III, CITY CLERK

