

City Council Special Meeting Agenda



JANUARY 10, 2017

5:00 p.m.

City of Turlock Yosemite Room

156 S. Broadway, Turlock, California



**Mayor
Gary Soiseth**

Council Members

Matthew Jacob

Amy Bublak

William DeHart, Jr.

Gil Esquer

Vice Mayor

**City Manager
Gary R. Hampton
City Clerk
Jennifer Land
City Attorney
Phaedra A. Norton**

SPEAKER CARDS: To accommodate those wishing to address the Council and allow for staff follow-up, speaker cards are available for any agenda item or any other topic delivered under Public Comment. Please fill out and provide the Comment Card to the City Clerk or Police Officer.

NOTICE REGARDING NON-ENGLISH SPEAKERS: The Turlock City Council meetings are conducted in English and translation to other languages is not provided. Please make arrangements for an interpreter if necessary.

EQUAL ACCESS POLICY: If you have a disability which affects your access to public facilities or services, please contact the City Clerk's Office at (209) 668-5540. The City is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the City to process and respond to your request.

NOTICE: Pursuant to California Government Code Section 54954.3, any member of the public may directly address the City Council on any item appearing on the agenda, including Consent Calendar and Public Hearing items, before or during the City Council's consideration of the item.

AGENDA PACKETS: Prior to the City Council meeting, a complete Agenda Packet is available for review on the City's website at www.cityofturlock.org and in the City Clerk's Office at 156 S. Broadway, Suite 230, Turlock, during normal business hours. Materials related to an item on this Agenda submitted to the Council after distribution of the Agenda Packet are also available for public inspection in the City Clerk's Office. Such documents may be available on the City's website subject to staff's ability to post the documents before the meeting.

1. A. CALL TO ORDER

B. SALUTE THE FLAG

2. PUBLIC PARTICIPATION – LIMITED TO ITEMS DESCRIBED IN THE NOTICE FOR THIS MEETING

This is the time set aside for citizens to address the City Council concerning any item that has been described in the notice for the meeting, including Consent Calendar items, before or during consideration of that item. You will be allowed five (5) minutes for your comments. If you wish to speak regarding an item on the agenda, you may be asked to defer your remarks until the Council addresses the matter.

3. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS

4. **ADULT USE OF MARIJUANA ACT (AUMA) – PROPOSITION 64 WORKSHOP:**

Council will review the Adult Use of Marijuana Act (AUMA) and the City of Turlock's current Medical and Nonmedical Marijuana Regulations. In addition, Council will review, discuss, and provide direction on the proposed Ordinance amendments regarding Medical and Nonmedical Marijuana Regulations, Nonmedical Marijuana Residential Cultivation for Personal Use, and Business License Regulations to address the AUMA.

Workshop Overview:

- Review the Adult Use of Marijuana Act
- Review the City's current Marijuana Regulations
- Review recommended amendments to the Turlock Municipal Code to address the AUMA
- Review local policy issues and receive direction from Council

Recommended Action:

Formal action will not be taken during the Special City Council meeting. The proposed Ordinance amendments have been agendaized as Public Hearing Item 7F of the Regular City Council meeting.

5. **ADJOURNMENT**

The foregoing meeting is hereby called by Mayor Gary Soiseth at the above mentioned date and time pursuant to California Government Code §54956.



GARY SOISETH, Mayor



THE ADULT USE OF MARIJUANA ACT (AUMA)

Proposition 64



Overview

- Review the Adult Use of Marijuana Act
- Review the City's current marijuana regulations
- Review recommended amendments to the Turlock Municipal Code to address the AUMA
- Review local policy issues and receive direction from Council





AUMA Summary

- Legalizes the nonmedical use of marijuana by persons 21 years of age and older and legalizes the personal cultivation of six (6) marijuana plants per residence
- Establishes a comprehensive system to legalize, control, and regulate the commercial sale, cultivation, processing, testing, transportation, storage, distribution and manufacturing of nonmedical marijuana, including marijuana products for use by adults 21 years and older



AUMA Summary

- The City of Turlock may prohibit or regulate and license commercial nonmedical marijuana activities
- The City of Turlock may prohibit the personal cultivation of marijuana outdoors
- The City of Turlock may reasonably regulate the personal cultivation of marijuana indoors
- The AUMA became effective November 9, 2016





Personal Use of Marijuana

- **AGE:** 21 years of age or older (pre-emptive effect lawful under state and local law)
- **POSSESSION:** possess, process, transport, purchase, obtain, or give away (without compensation) 28.5 grams of non-concentrated nonmedical marijuana, or 8.0 grams of concentrated cannabis, including as contained in marijuana products
- **USE:** smoke or ingest marijuana or marijuana products
- **CULTIVATION:** possess, plant, cultivate, harvest, dry or process up to six (6) plants per private residence for personal use



Restrictions on Personal Use of Marijuana

- No smoking in a public place.
- No smoking where smoking tobacco is prohibited.
- No smoking within 1,000 feet of a school, daycare center or youth center.
- No smoking while driving or riding in a vehicle.
- Employers may maintain a drug-free workplace.





Personal Cultivation of Marijuana

- Local governments may “reasonably regulate” but not prohibit personal indoor cultivation of up to 6 marijuana plants within a private residence (private residence means a house, an apartment unit, a mobile home, or other similar dwelling)
- Includes cultivation within an accessory structure to a private residence located on the grounds of a private residence that is fully enclosed and secure and is not visible from a public space
- Local governments may regulate or prohibit personal outdoor cultivation



Reasonable Regulations

What are “reasonable regulations” on personal cultivation of six plants within a personal residence?

Examples:

- A local requirement that personal cultivation comply with the Fire Code, Building Code, Electrical Code, etc.
- A local requirement for a residential cultivation permit, with an appropriate fee and the property owner’s authorization





Reasonable Regulations

- Requiring as a condition of the permit, that the permit holder agree to periodic inspections (upon appropriate notice), to ensure that cultivation is not:
 - In excess of the 6-plant limit
 - Drawing more electrical power from the grid than the structure/house is designed to withstand, thereby causing a fire hazard
 - Presenting a health hazard such as mold accumulation



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State Licensing of Commercial Operations

State licensing and enforcement under direction of the Bureau of Marijuana Control is divided among the:

- **Department of Consumer Affairs** - transportation, storage, distribution, and sale
- **Department of Food and Agriculture** - cultivation
- **Department of Public Health** - manufacturers and testing laboratories

Regulations adopted and licensing to begin no later than January 1, 2018



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State Licensing Commercial Operations

- All nonmedical marijuana businesses must have a state license
- State licenses cannot be issued to an applicant whose operations would violate the provisions of any local ordinance or regulations
- State license valid for one year
- Separate state license required for each business location



Local Regulation

- Cities may adopt and enforce ordinances regulating or completely prohibiting state-licensed marijuana businesses (but may not prohibit use of public roads for deliveries in another jurisdiction).
- State standards are minimums. Cities may establish additional standards, requirements and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections.





Taxation of Nonmedical Marijuana

- 15% State excise tax of gross retail sales receipts
 - \$9.25/dry-weight ounce on marijuana flowers State cultivation tax
 - \$2.75/dry-weight ounce on marijuana leaves State cultivation tax
 - (Marijuana cultivated for personal use is exempt from cultivation tax and Medical marijuana is exempt from State/local sales tax)
- The AUMA does not prevent cities and counties from imposing local taxes [except sales tax on medical marijuana]



Allocation of State Tax Revenues

- 60% for youth programs, substance abuse education, prevention and treatment
- 20% for environmental cleanup and remediation
- 20% for state and local programs that reduce DUI and grant programs designed to reduce negative health impacts resulting from marijuana legalization
- A city that bans cultivation, including outdoor personal cultivation or the retail sale of marijuana, is not eligible for grants





City of Turlock Current Regulations Turlock Municipal Code 5-21-102



Medical Marijuana

- **Prohibits** commercial cannabis (marijuana) activities of all types including, but not limited to, dispensaries, collectives, cooperatives, transportation, distribution, cultivation, manufacturing, delivery, testing, and processing are expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Turlock.
- **Prohibits** all deliveries of medical cannabis (marijuana) within the City of Turlock.
- **Prohibits** all activities for which a State license is required pursuant to the Medical Marijuana Regulation and Safety Act.
- **Prohibits** cultivation of cannabis (marijuana) for noncommercial purposes including, but not limited to, cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Turlock.
- **Provides** in the event that there is future legislation or an initiative that authorizes recreational marijuana, the prohibitions contained herein related to medical cannabis (marijuana) shall apply to recreational marijuana (cannabis).





Turlock Municipal Code Section 3-1-101



Business Licensing

- The City shall not approve licenses or uses that violate State or Federal law.
- The City shall not approve licenses or uses for a medical marijuana (cannabis) collective, cooperative or dispensary or any other commercial cannabis (marijuana) activity.
- The City shall not approve licenses or uses for the distribution, cultivation, manufacturing, transportation, delivery, testing, or processing of medical marijuana (cannabis).
- The City shall not approve licenses or uses for any activity that requires a license or any other authorization or approval under the Medical Marijuana Regulation and Safety Act.





Proposed Amendments to the Turlock Municipal Code

- **Prohibits** commercial marijuana activities of all types including, but not limited to, the sale, transportation, distribution, cultivation, possession, manufacturing, delivery, testing, storing, labeling, and processing and personal cultivation of marijuana outdoors are expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Turlock. No person shall establish, operate, conduct or allow any commercial marijuana activity anywhere within the City.
- **Prohibits** all deliveries of nonmedical marijuana within the City of Turlock.
- **Prohibits** all activities for which a State license is required pursuant to the AUMA.
- **Prohibits** outdoor cultivation of marijuana in the City of Turlock.
- **Regulates** personal cultivation of nonmedical marijuana indoors



Summary of Proposed Regulations

- Indoor cultivation of nonmedical marijuana is prohibited except inside private residences or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.
- Personal cultivation by an individual 21 years of age or older shall meet the following minimum standards:
 - The primary use of the property shall be for a residence. Nonmedical marijuana cultivation is prohibited as a home occupation.
 - A residential cultivation permit shall be required prior to commencing indoor nonmedical marijuana cultivation.
 - All areas used for cultivation of nonmedical marijuana shall comply with Title 8 (Building Regulations) and Title 9 (Zoning Regulations) of the Turlock Municipal Code, as well as applicable law.





Summary of Proposed Regulations

- The use of gas products (CO₂, butane, propane, natural gas, etc.) or generators for cultivation of nonmedical marijuana is prohibited.
- Any fully enclosed and secure structure or residential structure used for the cultivation of nonmedical marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with Title 8 (Building Regulations) of the Turlock Municipal Code.
- Indoor grow lights shall not exceed 1,200 watts per light, and shall comply with the California Building, Electrical and Fire Codes as adopted by the city.
- The maximum area that may be used for cultivation is 100 square feet but no more than six (6) plants at any one time.



Summary of Proposed Regulations

- Adequate mechanical locking or electronic security systems must be installed as part of the fully enclosed and secure structure or the residential structure, including the garage, prior to the commencement of cultivation.
- Nonmedical marijuana cultivation shall be limited to six marijuana plants per private residence, regardless of whether the marijuana is cultivated inside the residence or a fully enclosed and secure structure. The limit of six plants per private residence shall apply regardless of how many individuals reside at the private residence.





Summary of Proposed Regulations

- The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress. These rooms shall not be used for nonmedical marijuana cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping and bathing.
- Cultivation of nonmedical marijuana shall only take place on impervious surfaces.
- From a public right-of-way, there shall be no exterior evidence of nonmedical marijuana cultivation occurring on the parcel. Nonmedical cultivation shall not be visible by normal unaided vision from a public place.



Summary of Proposed Regulations

- Nonmedical marijuana cultivation area, whether in a fully enclosed and secure structure or inside a residential structure, shall not be accessible to persons under 21 years of age.
- Written consent of the property owner to cultivate nonmedical marijuana within the residential structure shall be obtained and shall be kept on the premises, and available for inspection by the chief of police or his/her designee.





Summary of Proposed Regulations

- A portable fire extinguisher, that complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the fully enclosed and secure structure used for cultivation of nonmedical marijuana. If cultivation occurs in a residential structure, the portable fire extinguisher shall be kept in the same room as where the cultivation occurs.
- The permit applicant shall agree to certain inspections to ensure compliance with the Turlock Municipal Code and State law.



Summary of Proposed Regulations

- A fully enclosed and secure structure used for the cultivation of nonmedical marijuana shall be located in the rear 1/3 of the lot and shall maintain the minimum yard set backs as defined in Chapter 9-3 for the applicable zoning district and a minimum ten-foot setback from any property line, whichever is greater. The yard where the fully enclosed and secure structure is maintained must be enclosed by a solid fence at least six feet in height. This provision shall not apply to cultivation occurring in a garage.
- The maximum height of an accessory structure shall be fifteen (15') feet.





Summary of Proposed Regulations

- When the proposed cultivation area is located within either an attached or detached garage, the area of cultivation shall be screened from public view when the doors are opened. The doors shall have a physical lock to prevent accidental entry by persons less than 21 years of age. When a portion of the garage is separated by a permanent wall or barrier such that required parking is eliminated, the parking shall be replaced on the site in a manner that is compliant with Title 9 (Zoning Regulations).



Local Policy Issues

Do you want to:

- regulate the indoor cultivation of nonmedical marijuana for personal use?
- regulate or ban the outdoor cultivation of nonmedical marijuana for personal use?
- enact business regulations for medical and/or nonmedical marijuana businesses?





Local Policy Issues

Do you want to:

- enact land use regulations for medical and/or nonmedical marijuana businesses?
- impose local taxes on marijuana?
- participate in countywide discussion related to the proposed regulation and taxation of medical/nonmedical marijuana?



BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF AMENDING TURLOCK }
MUNICIPAL CODE TITLE 5, CHAPTER 21, }
REGARDING MEDICAL AND NONMEDICAL }
MARIJUANA REGULATIONS CREATING }
ARTICLE 1 ENTITLED MEDICAL MARIJUANA }
REGULATIONS, USING EXISTING SECTIONS 01 }
THROUGH 04, CREATING ARTICLE 2 }
ENTITLED NONMEDICAL MARIJUANA }
REGULATIONS, AND CREATING ARTICLE 3 }
ENTITLED NONMEDICAL MARIJUANA }
RESIDENTIAL CULTIVATION FOR PERSONAL }
USE, AND AMENDING TITLE 3, CHAPTER 1, }
ARTICLE 1, SECTION 01 REGARDING }
STATEMENT AND PURPOSE OF CHAPTER: }
PROHIBITIONS }

ORDINANCE NO. -CS

WHEREAS, on January 12, 2016, the Turlock City Council adopted Ordinance No. 1217-CS, effective February 11, 2016, amending Title 5, Chapter 21 of the Turlock Municipal Code with regard to the regulation of medical marijuana and cultivation; and

WHEREAS, at the November 8, 2016, California general election, Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act was adopted by the voters; and

WHEREAS, Proposition 64 adopts Business and Professions Code section 26200, which specifically recognizes that a city may regulate or completely prohibit the establishment or operation of one or more types of nonmedical marijuana businesses licensed by the state within the city's jurisdiction; and

WHEREAS, Proposition 64 legalized the recreational use of marijuana in California for individuals 21 years of age and older; and

WHEREAS, Proposition 64 authorized the personal cultivation of up to six (6) marijuana plants in a private residence for nonmedical purposes; and

WHEREAS, pursuant to Proposition 64, Health and Safety Code Section 11362.1 et seq., the City can enact reasonable regulations for the cultivation of nonmedical marijuana that occurs inside a residence or accessory structure, and may completely prohibit outdoor nonmedical marijuana cultivation until such time as the California Attorney General determines that the nonmedical use of marijuana is lawful in California under federal law; and

WHEREAS, the California Attorney General has not made a determination that nonmedical use of marijuana is lawful in California under federal law; and

OK for Agenda

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WHEREAS, the City Council desires to exercise its authority under Article XI, Section 7 of the California Constitution, Business and Professions Code Section 26200 et seq., and Health and Safety Code Section 11362.1 et seq. to prohibit all commercial nonmedical marijuana businesses from operating in the City of Turlock, to prohibit the delivery of nonmedical marijuana in the City of Turlock, to prohibit the outdoor cultivation of marijuana, and to reasonably regulate the personal cultivation of marijuana indoors; and

BE IT ORDAINED by the City Council of the City of Turlock as follows:

SECTION 1. AMENDMENT: Title 5, Chapter 21, is hereby amended to read as follows:

Chapter 5-21

MEDICAL MARIJUANA (CANNABIS) AND CULTIVATION REGULATIONS

Article 1. Medical Marijuana Regulations

Sections: 5-21-101 Definitions.
5-21-102 Prohibition.
5-21-103 Public nuisance.
5-21-104 Civil penalties.

5-21-101 Definitions.

“Cannabis” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(f) as the same may be amended from time to time.

“Caregiver” or “primary caregiver” shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

“Commercial cannabis activity” shall have the same meaning as that set forth in Business and Professions Code Section 19300.5(k) as the same may be amended from time to time.

“Cooperative/collective” shall mean two (2) or more persons collectively or cooperatively cultivating, distributing, using, transporting, possessing, administering, delivering or making available medical marijuana (cannabis), with or without compensation.

“Cultivation” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(l) as the same may be amended from time to time.

“Cultivation site” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(x) as the same may be amended from time to time.

“Delivery” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time.

“Dispensary” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(n) as the same may be amended from time to time. For purposes of this Chapter, “dispensary” shall also include a cooperative/collective.

“Dispensing” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(o) as the same may be amended from time to time.

“Distribution” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(p) as the same may be amended from time to time.

“Distributor” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(q) as the same may be amended from time to time.

“Manufacturer” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(y) as the same may be amended from time to time.

“Manufacturing site” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(af) as the same may be amended from time to time.

“Medical cannabis,” “medical cannabis product,” or “cannabis product” shall have the same meanings as set forth in Business and Professions Code Section 19300.5(ag) as the same may be amended from time to time.

“Medical Marijuana Regulation and Safety Act” or “MMRSA” shall mean the following bills signed into law on October 9, 2015, as the same may be amended from time to time: AB 243, AB 246, and SB 643.

“Nursery” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(ah) as the same may be amended from time to time.

“Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

“Testing laboratory” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(z) as the same may be amended from time to time.

“Transport” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(am) as the same may be amended from time to time.

“Transporter” shall have the same meaning as set forth in Business and Professions Code Section 19300.5(aa) as the same may be amended from time to time.

5-21-102 Prohibition.

(a) Commercial cannabis (marijuana) activities of all types including, but not limited to, dispensaries, collectives, cooperatives, transportation, distribution, cultivation, manufacturing, delivery, testing, and processing are expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Turlock. No person shall establish, operate, conduct or allow any commercial cannabis (marijuana) activity anywhere within the City.

(b) To the extent not already covered by subsection (a) of this section, all deliveries of medical cannabis (marijuana) are expressly prohibited within the City of Turlock. No person shall conduct any deliveries that either originate or terminate within the City.

(c) This section is meant to prohibit all activities for which a State license is required. Accordingly, the State and/or the City shall not issue any permit, license, authorization or other entitlement for any activity for which a State license is required under the MMRSA.

(d) Except for the indoor personal cultivation of nonmedical marijuana permitted under Section 5-21-303, cCultivation of cannabis (marijuana) for noncommercial purposes including, but not limited to, cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Turlock. No person including, but not limited to, a qualified patient or primary caregiver, shall cultivate any amount of cannabis (marijuana) in the City, even for medical purposes.

~~(e) In the event that there is future legislation or an initiative that authorizes recreational marijuana (cannabis) use/activities, to the greatest extent permitted by law and to the extent not already prohibited by this chapter, the prohibitions contained herein related to medical cannabis (marijuana) shall apply to recreational marijuana (cannabis).~~

5-21-103 Public nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this eChapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

5-21-104 Civil penalties.

In addition to any other enforcement remedies permitted by this eChapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity violating this Chapter. In any civil action brought pursuant to this eChapter, a court of competent jurisdiction may award reasonable attorney's fees and costs to the prevailing party.

SECTION 2. ADDITION: Title 5, Chapter 21, Article 2 is hereby added to read as follows:

Article 2. Nonmedical Marijuana Regulations

Sections: 5-21-201 Definitions.

5-21-202 Prohibition.

5-21-203 Public nuisance.

5-21-204 Civil penalties.

5-21-201 Definitions.

“Commercial marijuana activity” shall have the same meaning as set forth in Business and Profession Code Section 26001(d) as the same may be amended from time to time.

“Cultivation” shall have the same meaning as set forth in Business and Profession Code Section 26001(e) as the same may be amended from time to time.

“Delivery” shall have the same meaning as set forth in Business and Profession Code Section 26001(h) as the same may be amended from time to time.

“Distribution” shall have the same meaning as set forth in Business and Profession Code Section 26001(j) as the same may be amended from time to time.

“License” shall have the same meaning as set forth in Business and Profession Code Section 26001(m) as the same may be amended from time to time.

“Manufacture” shall have the same meaning as set forth in Business and Profession Code Section 26001(q) as the same may be amended from time to time.

“Manufacturer” shall have the same meaning as set forth in Business and Profession Code Section 26001(r) as the same may be amended from time to time.

“Marijuana” shall have the same meaning as set forth in Business and Profession Code Section 26001(s) as the same may be amended from time to time.

“Marijuana products” shall have the same meaning as set forth in Business and Profession Code Section 26001(u) as the same may be amended from time to time.

“Operation” shall have the same meaning as set forth in Business and Profession Code Section 26001(w) as the same may be amended from time to time.

“Sell,” “sale,” and “to sell” shall have the same meaning as set forth in Business and Profession Code Section 26001(aa) as the same may be amended from time to time.

“Testing service” shall have the same meaning as set forth in Business and Profession Code Section 26001(bb) as the same may be amended from time to time.

5-21-202 Prohibition.

(a) Commercial marijuana activities of all types including, but not limited to, the sale, transportation, distribution, cultivation, possession, manufacturing, delivery, testing, storing, labeling, and processing and personal cultivation of marijuana outdoors are expressly prohibited in all zones, planned developments, and all specific and master plan areas in the City of Turlock. No person shall establish, operate, conduct or allow any commercial marijuana activity anywhere within the City.

(b) To the extent not already covered by subsection (a) of this section, all deliveries of nonmedical marijuana are expressly prohibited within the City of Turlock. No person shall conduct any deliveries that either originate or terminate within the City.

(c) This section is meant to prohibit all activities for which a State license is required. Accordingly, the State and/or the City shall not issue any permit, license, authorization or other entitlement for any activity for which a State license is required under the Adult Use of Marijuana Act.

(d) Indoor personal cultivation of nonmedical marijuana is subject to the regulations set forth in Article 3. Personal cultivation of nonmedical marijuana outdoors is prohibited.

5-21-203 Public nuisance.

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 Code of Civil Procedure Section 731 or any other remedy available to the City.

5-21-204 Civil penalties.

In addition to any other enforcement remedies permitted by this Chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person or entity violating 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.

SECTION 3. ADDITION: Title 5, Chapter 21, Article 3, is hereby added to read as follows:

Article 3. Nonmedical Marijuana Residential Cultivation for Personal Use

Sections: 5-21-301 Purpose.

5-21-302 Definitions.

5-21-303 Cultivation of nonmedical marijuana.

5-21-304 Residential cultivation permit.

5-21-305 Public nuisance

5-21-306 Enforcement

5-21-301 Purpose.

The purpose and intent of this article is to regulate the cultivation of nonmedical marijuana in a manner that protects the health, safety and welfare of the community. Health and Safety Code section 11362.2 authorizes the city to adopt reasonable regulations regarding the cultivation of nonmedical marijuana inside a private residence or inside an accessory structure to a private residence. That section also authorizes the city to completely prohibit the cultivation of nonmedical marijuana outdoors, as long as the California Attorney General has not made a determination that the nonmedical use of marijuana is lawful in California under federal law. The Attorney General has not made such a determination.

This article is not intended to interfere with the right of an individual 21 years of age or older to cultivate nonmedical marijuana as provided for by Proposition 64, also known as The Control, Regulate and Tax Adult Use of Marijuana Act. This article is not intended to give any person independent legal authority to grow nonmedical marijuana, but rather to impose reasonable regulations on the cultivation of nonmedical marijuana when cultivation is authorized by California state law.

Furthermore, it is the purpose and intent of this article to require that nonmedical marijuana be cultivated only in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the general public; to provide for the health, safety and welfare of the public; to prevent odor created by nonmedical marijuana plants from impacting adjacent properties; and to ensure that marijuana grown in the City remains secured.

5-21-302 Definitions.

For the purposes of this article, the following definitions shall apply unless the context clearly indicates otherwise. If a word is not defined in this article, and not otherwise defined in state law, the common and ordinary meaning of the word shall apply.

"Accessory structure" shall mean a permanent building or structure whether attached or detached which is subordinate to the private residence in area, extent or purpose to the private residence and located on the same lot as the private residence that is fully enclosed and secure.

"City" shall mean the City of Turlock.

"Cultivation" shall mean the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

"Fully enclosed and secure accessory structure" shall mean a space within a building that complies with the applicable building code, and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable

doors. Walls and roof must be constructed of solid materials that cannot be easily broken through, and must be constructed with non-transparent material. Windows shall be designed to completely obstruct visibility into the area of cultivation during day and evening hours, and shall not allow light to be emitted away from the structure. No skylights or other translucent materials may be utilized in the construction.

"Indoors" shall mean inside a fully enclosed and secure accessory structure to a private residence or within a private residence.

"Nonmedical marijuana" shall mean marijuana that is intended to be used for nonmedical purposes pursuant to Health and Safety Code section 11362.1 et seq.

"Outdoors" shall mean any location within the city that is not within a fully enclosed and secure accessory structure or within a private residence.

"Person" shall mean an individual.

"Private residence" shall mean a house, an apartment unit, a mobile home or other similar dwelling.

"Solid fence" shall mean a fence constructed of substantial material, such as wood or metal, that prevents viewing the contents from one side to the other side of the fence.

5-21-303 Cultivation of nonmedical marijuana.

(a) General provisions. The following regulations shall apply to the cultivation of nonmedical marijuana within the city:

(1) Cultivation not in compliance with this Chapter. It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying or having charge or possession of any parcel or premises within any zoning district, plan development and all specific and master planned areas in the city to cultivate nonmedical marijuana except as provided for in this Code. No person other than an individual 21 years of age or older may engage in the cultivation of nonmedical marijuana.

(2) Outdoor cultivation. It is unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district, plan development and all specific and master planned areas in the city to cause or allow such parcel or premises to be used for the outdoor cultivation of nonmedical marijuana.

(3) Indoor cultivation. Indoor cultivation of nonmedical marijuana is prohibited except inside a private residence or inside a fully enclosed and secure accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure. All cultivation must be in compliance with this Chapter.

(b) Residential cultivation permit required. Prior to commencing any indoor nonmedical marijuana cultivation, a person must obtain a residential cultivation permit from the Development Services Director or his or her designee. The permit shall be specific to a location and the person(s) identified in the permit, and shall not be transferable to other locations or persons.

(1) Residential cultivation permit application: Form and content. The application for the permit shall be on a form prescribed by the City for that purpose and shall contain at least the following information:

(i) The physical site address of the property where the nonmedical marijuana will be cultivated.

(ii) A notarized signature from the owner of the property consenting to the cultivation of nonmedical marijuana at the premises on a form acceptable to the city.

(iii) The name and age of the person ("permittee") owning, leasing, occupying, or having charge or possession of the private residence who is requesting authorization to cultivate nonmedical marijuana for personal use.

(iv) A copy of the driver's license or other state-issued identification card displaying the name and age of the person authorized to cultivate nonmedical marijuana for personal use. The address shown on the identification card shall be the same as the address for which the permit is being requested to demonstrate that the permittee resides at the private residence.

(v) A signed consent form, acceptable to the city, authorizing city staff, including the police department authority, to conduct an inspection of the detached, fully enclosed and secure accessory structure or area of the private residence used for the cultivation of nonmedical marijuana prior to issuance of the initial permit, any extended permit, or upon 24 hours' notice, to ensure the nonmedical marijuana cultivation is in compliance with this Code and State law.

(vi) A site plan showing the location, size and area within the private residence and/or accessory structure where indoor cultivation would occur and its relation to property lines and public right-of-way. The site plan shall identify all existing structures, proposed new structures, and other physical improvements to the property including fencing. The site plan shall be drawn to scale or specific measurements shall be provided.

(vii) A floor plan showing the area and all internal fixtures, doorways, walls, cabinets, and other features associated with the cultivation of marijuana within the private residence or a fully enclosed and secure accessory structure. The floor plan shall identify the layout and dimension of all existing and proposed uses that will be located within the private residence or a fully enclosed and secure accessory structure.

(viii) Building elevations of the private residence and/or accessory structure where indoor cultivation would occur. The elevations shall show the physical features of the existing building and any proposed modifications to an existing building, or the proposed new building including windows, doorways, roofing, and any other feature of the exterior of the building. The elevations of the required fence enclosure shall include the height, materials and method of construction.

(ix) Manufacturer and model of the ventilation and filtration system that will be installed as required by this section. Documentation shall be provided demonstrating the system along with window and/or door seals will prevent marijuana plant odors from exiting the interior of the private residence or accessory structure.

(x) A detailed description of the mechanical locking or electronic security system(s) that will be installed as required by this section.

(xi) Any other information or documentation deemed by the Development Services Director to be necessary to ensure compliance with this Chapter.

(2) Residential cultivation permit application: Review and approval.

(i) Once an application has been accepted as complete, the Development Services Director or designee shall take action within fifteen (15) working days.

(ii) Once an application has been accepted as complete, the Development Services Director or designee shall refer the permit application to City departments and any other agencies deemed appropriate by the Development Services Director.

(iii) In considering an application for a permit pursuant to this section, the Development Services Director or designee shall grant tentative approval of the residential cultivation permit upon making all of following findings:

(aa) The permittee is 21 years or older and resides in the private residence.

(ab) The permittee does not have an active residential cultivation permit at another private residence within the City.

(ac) The property owner has consented to the cultivation of nonmedical marijuana on the premises.

(ad) The proposed use complies with all of the conditions of this Chapter.

(ae) The proposed use will not conflict with the terms or intent of any zoning, planned unit development, or land use permit requirements currently in effect on the property.

(af) The proposed use and location complies with all applicable requirements of the Turlock Municipal Code, the California Building and Fire Codes, the Adult Use of Marijuana Act (AUMA) and any other applicable local, regional or state laws or regulations.

(ag) The proposed use will not otherwise constitute a nuisance or be detrimental to the public welfare of the community.

(iv) An inspection shall be scheduled to verify compliance with the conditions of the residential cultivation permit.

(v) Once the inspection verifies compliance and all of the conditions of the permit have been met, the Development Service Director shall grant final approval of the residential cultivation permit. The final approved permit shall be mailed to the applicant within three (3) working days of receiving confirmation from all departments and divisions that the permit conditions have been met. Cultivation of marijuana shall not occur on the property until such time that final approval of the residential cultivation permit has been granted.

(3) Residential cultivation permit: Conditions. The indoor cultivation of nonmedical marijuana shall only be conducted within a fully enclosed and secure accessory structure to a private residence or within a private residence. Such cultivation shall be in conformance with the following minimum standards:

(i) Standards that apply to any area of cultivation in a private residence or accessory structure to a private residence.

(aa) The primary use of the property shall be for a residence. Nonmedical marijuana cultivation is prohibited as a home occupation.

(ab) Written consent of the property owner to cultivate nonmedical marijuana within the private residence or within an accessory structure upon the grounds of the private residence shall be obtained and shall be kept on the premises, and available for inspection by the chief of police or his/her designee.

(ac) All areas used for cultivation of nonmedical marijuana shall comply with Title 8 (Building Regulations) and Title 9 (Zoning Regulations) of the Turlock Municipal Code, as well as any other applicable state or local laws and regulations.

(ad) The area of cultivation shall be permitted for use by only one permittee and private residence.

(ae) Indoor grow lights shall not exceed 1,200 watts per light, and shall comply with the California Building, Electrical and Fire Codes as adopted by the city.

(af) The use of gas products (CO2, butane, propane, natural gas, etc.) or generators for cultivation of nonmedical marijuana is prohibited.

(ag) The maximum area that may be used for the cultivation of nonmedical marijuana is one hundred (100) square feet but no more than six (6) plants at any one time.

(ah) Any fully enclosed and secure accessory structure or portion of a private residence used for the cultivation of nonmedical marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the accessory structure or private residence and that shall comply with Title 8 (Building Regulations) of the Turlock Municipal Code.

(ai) Adequate mechanical locking or electronic security systems must be installed as part of the fully enclosed and secure accessory structure or the private residence, including the garage, prior to the commencement of cultivation.

(aj) Nonmedical marijuana cultivation area, whether in a fully enclosed and secure structure or inside a private residence, shall not be accessible to persons under 21 years of age.

(ak) Nonmedical marijuana cultivation shall be limited to six marijuana plants per private residence, regardless of whether the marijuana is cultivated inside the residence or a fully enclosed and secure accessory structure. The limit of six plants per private residence shall apply regardless of how many individuals reside at the private residence.

(al) The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping and sanitation facilities with proper ingress and egress. These rooms shall not be used for nonmedical marijuana cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping and bathing.

(am) Cultivation of nonmedical marijuana shall only take place on impervious surfaces.

(an) From a public right-of-way, there shall be no exterior evidence of nonmedical marijuana cultivation occurring on the parcel. Nonmedical marijuana cultivation shall not be visible by normal unaided vision from a public place. Any fully enclosed and secure accessory structure or portion of a structure used for the cultivation of nonmedical marijuana must prevent any person from viewing marijuana plants or products under day and night conditions and shall not be a source of light and glare to adjacent uses. Such devices or features shall be an integral and permanent

part of the structure and shall not include temporary devices such as blinds, curtains, shades, and the like. Any exterior lighting on the residence and accessory structure shall be directed away from adjacent uses and shall be shielded to avoid the spread of light onto adjacent properties

(ao) A portable fire extinguisher, that complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the fully enclosed and secure accessory structure used for cultivation of nonmedical marijuana. If cultivation occurs in a private residence, the portable fire extinguisher shall be kept in the same room as where the cultivation occurs.

(ii) Additional standards that apply to an area of cultivation within an accessory structure to a private residence.

(aa) The cultivation of marijuana in an accessory structure to a private residence shall be limited to only one private residence. An accessory structure may not be used for cultivation of marijuana for two (2) or more private residences.

(ab) A fully enclosed and secure accessory structure or portion of a structure used for the cultivation of nonmedical marijuana shall be located in the rear one-third (1/3) of the lot and shall maintain the minimum yard setbacks as defined in Chapter 9-3 (Base District Regulations) for the applicable zoning district and a minimum ten (10) foot setback from any property line, whichever is greater. The accessory structure shall not be granted exceptions provided under the provisions of TMC 9-2-101 (Accessory buildings or structures). This provision shall not apply to cultivation occurring in a garage or private residence with a valid building permit issued prior to January 1, 2017.

(ac) The accessory structure must be enclosed by a solid fence at least six feet in height in compliance with Title 9 of the Turlock Municipal Code.

(ad) When the proposed cultivation area is located within either an attached or detached garage, the area of cultivation shall be screened from public view when the vehicle doors are opened. The vehicle doors shall have a physical lock to prevent accidental entry by persons less than 21 years of age. When a portion of the garage is separated by a permanent wall or barrier such that required parking is eliminated, the parking shall be replaced on the site in a manner that is compliant with Title 9 (Zoning Regulations).

(ae) The maximum height of an accessory structure used for the cultivation of marijuana shall be fifteen (15') feet.

(iii) Any proposed addition to an existing private residence or accessory structure to accommodate the cultivation of marijuana shall comply with all of the standards in this section.

(4) Residential cultivation permit: Appeal. Upon approval or denial of a residential cultivation permit, any person may initiate an appeal to the Planning Commission by filing a written notice of appeal together with the required fee with the Secretary to the Planning Commission within ten (10) working days of the action or decision by the Development Services Director as provided in Chapter 4 of Title 1 of this Code.

(5) Residential cultivation permit: Amendments. The residential cultivation permit issued to a private residence may be amended to substitute another qualified permittee for the original permittee. A new application for a residential cultivation permit shall be required when any changes are made in the location, size, or other conditions associated with the cultivation of marijuana inside the private residence or accessory structure to the private residence.

(6) Residential cultivation permit: Termination. Either the property owner or the permittee may terminate the permit at any time. Upon termination, the cultivation of marijuana will cease immediately. An inspection shall be conducted to determine that the cultivation activity has ceased.

(7) Residential cultivation permit: Suspension or revocation. The residential cultivation permit shall be subject to suspension or revocation by the Development Services Director when the permittee violates any of the restrictions or conditions set forth in this Chapter, or any state or local law or regulation.

(c) Inspection required. City staff, including the police department, may conduct an inspection of the detached, fully enclosed and secure structure or area of the residence used for the cultivation of nonmedical marijuana prior to issuance of the initial permit, any permit amendment, termination of the permit annually, or upon 24 hours' notice, to ensure the nonmedical marijuana cultivation is in compliance with this Code and State law.

(d) Residential cultivation application and inspection fees. The City Council shall fix the amount of the fees for applications, permits, and inspections required and authorized by the provisions of this Chapter. Fees shall not exceed the reasonable cost of administering this Chapter.

5-21-305 Public nuisance.

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 Code of Civil Procedure Section 731 or any other remedy available to the City.

5-21-306 Enforcement.

In addition to any other enforcement remedies permitted by this Chapter, the City Attorney may bring a civil action for injunctive relief and civil penalties against any

person or entity violating 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.

SECTION 4. AMENDMENT: Title 3, Chapter 1, Article 1, Section 01 is hereby amended to read as follows:

3-1-101 Statement and purpose of chapter: Prohibitions.

(a) There is imposed upon the businesses, trades, professions, callings and occupations in the City a license tax in the amounts hereinafter prescribed.

(b) It shall be unlawful for any person whether as a principal or as an agent or employee for any other person or for any body corporate, or otherwise, to commence and carry on any business, trade, profession, calling or occupation in the City without first having procured a license from the City to do so and without having complied with any and all applicable provisions of this Chapter.

(c) This Chapter shall not be construed to require any person to obtain a license prior to doing business within the City if such requirement conflicts with the Constitution of the United States or of the State, or any applicable statutes.

(d) The City shall not approve licenses or uses that violate State or Federal law.

(e) The City shall not approve licenses or uses for a nonmedical marijuana or medical marijuana (cannabis) collective, cooperative or dispensary or any other nonmedical or medical commercial cannabis (marijuana) activity.

(f) The City shall not approve licenses or uses for the distribution, cultivation, manufacturing, transportation, delivery, testing, storing or processing of medical marijuana (cannabis) or nonmedical marijuana, whether under the MMRSA or the AUMA.

(g) The City shall not approve licenses or uses for any activity that requires a license or any other authorization or approval under the Medical Marijuana Regulation and Safety Act or the Adult Use of Marijuana Act.

(h) In the event that any portions of this Chapter are deemed to be for any reason unenforceable, the remaining provisions of this Chapter shall remain in full force and effect.

SECTION 5. VALIDITY: If any section, subsection, sentence, clause, word, or phrase of this ordinance is held to be unconstitutional or otherwise invalid for any reason, such decision shall not affect the validity of the remainder of this ordinance. The Turlock City Council hereby declares that they would have passed this ordinance, and each section, subsection, sentence, clause, word, or phrase thereof, irrespective of the fact that one or more section, subsection, sentence, clause, word, or phrase be declared invalid or unconstitutional.

SECTION 6. ENACTMENT: Prior to the expiration of fifteen (15) days from the passage and adoption thereof, this ordinance shall be published in a newspaper of general circulation printed and published in the County of Stanislaus, State of California, together with names of the members of the City Council voting for and against the same.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this ___ day of _____, 2017, by the following vote:

AYES:

NOES:

NOT PARTICIPATING:

ABSENT:

Signed and approved this ___ day of _____, 2017.

GARY SOISETH, Mayor

ATTEST:

Jennifer Land, City Clerk,
City of Turlock, County of Stanislaus,
State of California