

ORDINANCE NO. 19-

Ordinance Of The City Council Of The City Of Emeryville To Repeal Section 5-28.10(d) Of The Emeryville Municipal Code, “Cannabis”; CEQA Determination Exempt Pursuant to CEQA Guideline 15061(b)(3)

WHEREAS, on April 4, 2017, the City Council of the City of Emeryville adopted Ordinance No. 17-002 which amended the City’s Planning Regulations to allow for the following commercial cannabis uses: manufacturing, testing, distribution, transport, delivery, research and development, and retail/dispensary; and

WHEREAS, on April 4, 2017, the City Council of the City of Emeryville adopted Ordinance No. 17-003, repealing and replacing Chapter 28 of Title 5 of the Emeryville Municipal Code, which chapter requires cannabis businesses to obtain an annual operator’s permit; and

WHEREAS, Emeryville Municipal Code section 5-28.10(d) provides that no production, distribution, storage, display or wholesale of cannabis and cannabis-infused products shall be visible from the exterior of the building where a Commercial Cannabis Activity is being conducted; and

WHEREAS, on January 15, 2019, the City Council expressed its interest in amending Chapter 28 of Title 5 of the Emeryville Municipal Code to repeal section 5-28.10(d); and

WHEREAS, California Business and Professions Code section 26200(g) requires that cannabis consumption shall not be visible from any public place, or age-restricted area within a cannabis dispensary or retail outlet; and

WHEREAS, this Ordinance is adopted pursuant to the City of Emeryville’s police powers, afforded by the state constitution and state law, and as recognized by the Medicinal and Adult-use Cannabis Regulation and Safety Act (Cal. Business and Professions Code, § 26000, et seq.), to protect the health, safety, and welfare of the public; now, therefore be it

RESOLVED, THE CITY COUNCIL OF THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. REPEALING SECTION 5-28.10(d) IN ITS ENTIRETY

Section 5-28.10(d) of the Emeryville Municipal Code is repealed in its entirety. Section 5-28.10(d) shall be reserved for future use.

SECTION TWO. CEQA DETERMINATION

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

SECTION THREE. SEVERABILITY

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining section, paragraphs, clauses or phrases.

SECTION FOUR. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code section 33693.

SECTION FIVE. CODIFICATION

Section One of this Ordinance shall be codified in the Emeryville Municipal Code. Sections Two, Three, Four, and Five shall NOT be so codified.

This Ordinance was introduced and first read by the City Council of the City of Emeryville at a regular meeting on Tuesday, March 5, 2019, and **PASSED AND ADOPTED** by the City Council at a regular meeting on Tuesday, March 19, 2019.

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

MAYOR

ATTEST:

APPROVED AS TO FORM:



CITY CLERK

CITY ATTORNEY