ORDINANCE 1278

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3196 OF CHAPTER 10.08 "ZONING REGULATIONS" OF TITLE 10 "PLANNING AND ZONING" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LAND USE RESTRICTIONS ON COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

WHEREAS, In November 1996, California voters approved the Compassionate Use Act of 1996 ("CUA") which authorized a limited defense to criminal charges for the use, possession or cultivation of marijuana (cannabis) for medical purposes when a qualified patient has a doctor’s recommendation for the use of cannabis, and

WHEREAS, In November 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized the use of non-medical (recreational) cannabis by adults and the cultivation of up to six cannabis plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical cannabis for adult use, and

WHEREAS, In June 2017, the State Legislature adopted Senate Bill 94 creating a new statewide comprehensive regulatory system for medical and adult use commercial cannabis activity titled Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and

WHEREAS, CUA, AUMA and MAUCRSA do not prohibit cities from enacting regulations regarding commercial cannabis activities and uses, and

WHEREAS, The City Council seeks to establish land use regulations for commercial cannabis activity in the City of Tracy to ensure such activities are conducted in a manner that mitigates negative impacts, protects the public health safety, and welfare of residents, and supports economic development, and

WHEREAS, The City of Tracy engaged in a comprehensive review and study of state and local cannabis regulations, conducted community outreach on this topic, and held various public meetings to discuss, provide policy direction to staff, and receive public input on the topic of commercial cannabis activity, and

WHEREAS, This amendment seeks to establish zoning and locational requirements on commercial cannabis activity to ensure that these uses are compatible with the City’s General Plan and zoning restrictions.

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on October 23, 2019 and recommended that the City Council approve the proposed amendments to Section 10.08.3196, and

WHEREAS, The City Council considered this ordinance at a duly noticed public hearing held on November 5, 2019.

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.
SECTION 2. The City Council hereby amends Section 10.08.3196 as shown in Exhibit "A".

SECTION 3. If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 4. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 5. The City Council finds that this Ordinance is exempt from CEQA in accordance with Business and Professions Code section 26055(h) because it requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

SECTION 6. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

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The foregoing Ordinance 1278 was introduced at a regular meeting of the Tracy City Council on the 19th day of November 2019, and finally adopted on the 3rd day of December, 2019, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE

[Signature]
MAYOR

[Signature]
CITY CLERK
Chapter 10.08 - Zoning Regulations

10.08.3196 – Cannabis Uses.

(a) **Purpose and Intent.** The purpose of this section is to impose zoning restrictions on commercial and personal cannabis activities or uses. This section is not intended to give any person or entity authority to conduct commercial cannabis activities in the City of Tracy. If a commercial cannabis use is not specifically permitted in this Chapter it is not allowed in any zoning district within the City.

(b) **Definitions.** Unless otherwise provided in this section, the definitions set forth in Chapter 10.08 (Zoning Regulations) and Chapter 6.36 (Commercial Cannabis Activity) apply. The following words shall have the meanings set forth below when used in this section:

1. "Day care center" means a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, as well as child care centers pursuant to Section 1596.951 of the California Health and Safety Code. This definition shall have the same meaning as set forth in Section 1596.76 of the California Health and Safety Code, as the same may be amended from time to time.

2. "Fully enclosed and secure structure" means a space within a building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.

3. "Outdoors" means any location within the City of Tracy that is not within a fully enclosed and secure structure or private residence, as defined by California Health and Safety Code section 11362.2.

4. "Personal use" shall mean an individual's personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with state law, including but not limited to Health and Safety Code sections 11362.1 and 11362.2, as may be amended from time to time. Personal use does not include any commercial activity.

5. "School" means those sites upon which full-time instruction in any of the grades K through 12 is provided where the primary purpose is education, as determined in the sole discretion of the Planning Commission. "School" includes public schools, private schools, and charter schools, but does not include any private site upon which education is primarily conducted in private homes.

6. "Youth center" means any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to: private youth membership organizations or clubs, social service teenage club facilities, video arcades where ten (10) or more video games or game machines or devices are operated, and where minors are legally permitted to accept services, or similar amusement park facilities. It shall also include a park, playground or recreational area...
specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or in City, county, or state parks. This definition shall not include any private gym, martial arts, yoga, ballet, music, art studio or similar studio of this nature, nor shall it include any athletic training facility, pizza parlor, dentist office, doctor’s office primarily serving children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.

(c) **Commercial Cannabis Uses.**

(1) All commercial cannabis uses are prohibited from operating in all zoning districts in the City, except as expressly permitted in this section as well as Chapter 6.36.

(2) All commercial cannabis uses permitted by this section must, prior to establishing and commencing operations, obtain and maintain a City cannabis business permit pursuant to Chapter 6.36 and any other state or local license or permit, as applicable.

(3) The following commercial cannabis uses are permitted to establish as a conditional use on property in the following zoning districts, subject to the granting of and compliance with terms of a City cannabis business permit pursuant to Chapter 6.36 and a conditional use permit issued pursuant to Section 10.08.4250:

(i) Storefront Retailer (dispensary):

a. Commercial Zone Districts:

   Tracy Hills Specific Plan – General Highway Commercial (GHC-TH)
   Tracy Hills Specific Plan – Mixed Use Business Park (MUBP-TH)
   Residential Areas Specific Plan – Neighborhood Shopping (NS)
   Residential Areas Specific Plan - General Highway Commercial (GHC)
   Industrial Areas Specific Plan – Neighborhood Shopping (NS)
   Industrial Areas Specific Plan – Village Center (VC)
   Industrial Areas Specific Plan – Flex Office (FO)
   Ellis Specific Plan – Limited Use (LU)
   Ellis Specific Plan – Village Center (VC)
   Northeast Industrial Areas Specific Plan – General Commercial (GC)
   I-205 Corridor Specific Plan – Commercial Center (CC)
I-205 Corridor Specific Plan – Freeway Commercial (FC)
I-205 Corridor Specific Plan – General Commercial (GC)
I-205 Corridor Specific Plan – General Commercial 2 (GC2)
I-205 Corridor Specific Plan – Service Commercial (SC)
Cordes Ranch Specific Plan – General Commercial (GC)
Community Shopping Center (CS)
Neighborhood Shopping Center (NS)
General Highway Commercial (GHC)
Highway Service (HS)
Central Business District (CBD)
Community Recreation Support Zone (CRS)
Planned Unit Development – West Clover Rd (City Council ordinance 789 c.s.)
Planned Unit Development – Southeast corner of Grantline Road and Corral Hollow Road (City Council ordinance 697 c.s.)
Planned Unit Development – Northwest corner of 6th Street and C Street (City Council Resolution 2012-053)
Planned Unit Development – northwest corner of 11th Street and East Street (City Council ordinance 742 c.s.)

b. Industrial Zone Districts:

Tracy Hills Specific Plan – Light Industrial (M1-TH)
Industrial Areas Specific Plan – General Industrial (GI)
Industrial Areas Specific Plan – Limited Industrial (LI)
Northeast Industrial Areas Specific Plan – Light Industrial (LI)
I-205 Corridor Specific Plan – Light Industrial (LI)
Cordes Ranch Specific Plan – Business Park Industrial (BPI)
Light Industrial – M1
Heavy Industrial – M2
Planned Unit Development – West Larch Road (City Council ordinance 1083)

(ii) Non-storefront retailer (Delivery), distribution, manufacturing, microbusiness, testing laboratory, indoor cultivation:

a. Industrial Zone Districts:

Tracy Hills Specific Plan – Light Industrial (M1-TH)
Industrial Areas Specific Plan – General Industrial (GI)
Industrial Areas Specific Plan – Limited Industrial (LI)
Northeast Industrial Areas Specific Plan – Light Industrial (LI)
I-205 Corridor Specific Plan – Light Industrial (LI)
Cordes Ranch Specific Plan – Business Park Industrial (BPI)
Light Industrial – M1
Heavy Industrial – M2

Planned Unit Development – 450 West Larch Road (City Council resolution)

(d) Location Requirements.

(1) Any commercial cannabis use shall be located at least 600 feet from any parcel containing any of the following sensitive uses as of the date the conditional use permit is issued: school, day care center, or youth center; and

(2) If located on separate parcels, the distance between the commercial cannabis use and the sensitive use property shall be measured from the outer boundaries of the sensitive use parcel to the closest structure containing a cannabis use, and

(3) If located on the same parcel, the distance between the structures containing the cannabis use and any sensitive use shall be at least 600 feet.

(e) Cultivation of Cannabis.

(1) All outdoor cultivation of cannabis within the City is prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(2) The indoor cultivation of cannabis shall comply with Chapter 6.36 and applicable state law. The cultivation of cannabis for personal use shall only be conducted indoor and in accordance with applicable state law.
(f) **Penalties.**

(1) Violations of this chapter are hereby declared a public nuisance.

(2) Violations of this section are punishable as misdemeanors and as otherwise set forth in Chapter 1.04 of this Code. Each day of operation of a commercial cannabis business or the outdoor cultivation of marijuana occurs, in violation of this section, constitutes a separate offense.