

LEMOORE PLANNING COMMISSION
Regular Meeting
AGENDA
Lemoore Council Chambers
429 'C' Street

October 10, 2016
7:00 p.m.

1. Pledge of Allegiance and Roll Call

2. Public Comments and Inquiries

If you wish to comment on an item, which is not on the agenda, you may do so under "Public Comment." In order to allow time for all public comments, each individual's comments are limited to five minutes. When addressing the Commission, you are requested to come forward to the speaker's microphone, state your name and address, and then proceed with your presentation.

3. Approval – Minutes – Regular Meeting, August 8, 2016

4. Public Hearing – Zoning Text Amendment No. 2016-02: Amendment to Sections 9-4A-5 and 9-4B-2 in the event Proposition 64 is passed during the general election on November 8, 2016 of the Current Zoning Ordinance (Municipal Code Title 9) pertaining to cultivation and use of marijuana.

This project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption]

5. Director's Report – Judy Holwell, Development Services Director

6. Commission's Report and Request for Information

Adjournment

Tentative Future Items

November 14, 2016

None

Notice of ADA Compliance: If you or anyone in your party needs reasonable accommodation to attend, or participate in, any Planning Commission Meeting, please make arrangements by contacting City Hall at least 24 hours prior to the meeting. They can be reached by calling 924-6700, or by mail at 119 Fox Street, Lemoore, CA 93245.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the Development Services Department located at 711 W. Cinnamon Drive, Lemoore, CA during normal business hours. In addition, most documents will be posted on the City's website at www.lemoore.com.

CERTIFICATION OF POSTING

I, Kristie Baley, Planning Commission Secretary, do hereby declare that the foregoing Agenda for the Lemoore Planning Commission Regular Meeting of Monday, October 10, 2016 at 7:00 p.m. was posted on the outside bulletin board located at City Hall, 119 Fox Street in accordance with applicable legal requirements. Dated this 7th day of October 2016.

//s//

Kristie Baley, Commission Secretary

WELCOME TO YOUR LEMOORE PLANNING COMMISSION MEETING

Whether you are attending this meeting because of general interest, or because a particular item of special interest is to be reviewed, your presence is an important means of helping to insure an informed public and responsible City Government.

PLANNING COMMISSION

The Planning Commission has been established to advise the City Council in planning and zoning matters.

REGULAR PLANNING COMMISSION MEETINGS

Meetings are held at 7:00 p.m. on the Second Monday of each month. Business requiring Commission action is listed on the Planning Commission Meeting Agenda. An agenda is prepared for each Planning Commission Meeting. In compliance with the State open meeting laws (Brown Act), only those items on the agenda may be acted upon by the Planning Commission.

CONDUCT AT PUBLIC MEETINGS

Your courtesy is requested to help our meeting run smoothly. If you'll be kind enough to follow these simple rules, we can make the best possible use of time. Please silence all electronic devices. Please refrain from public displays or outbursts such as unsolicited applause, comments, cheering, foul language, or obscenities. Any disruptive activities that substantially interfere with the ability of the City to carry out its meeting or prevents/disrupts others from fully participating in the meeting will not be permitted and offenders will be requested to leave the meeting pursuant to Government Code § 54957.9.

PUBLIC COMMENTS

At a Planning Commission meeting, those who wish to be heard on matters on the agenda should indicate their desire to speak when the item is ready for discussion. If you wish to comment on an item which is not on the agenda, you may do so under "Public Comments". In order to allow time for all public comments, each individual's comments are limited to five minutes. Time shall not be shared/loaned from speaker to speaker. If you wish to request time on an upcoming Planning Commission Agenda to present a particular item or matter to the Planning Commission, you may contact the Planning Commission Secretary at any time before 12:00 noon on the Tuesday immediately preceding the Planning Commission meeting to so request. If the matter is within the Planning Commissions jurisdiction, and the Planning Commission has not taken action or considered the item at a recent meeting, the Planning Director may place the item on the Agenda. When addressing the Planning Commission, you are requested to come forward to the speaker's microphone, state your name and address, and then proceed with your presentation.

PLANNING COMMISSION ACTION

Resolution

A Resolution is a formal written expression of a policy, opinion or desire of the Planning Commission. It requires only one reading and becomes effective on adoption.

Minute Order

Actions of the Planning Commission recorded only in the Minutes taken in all cases where a formal Resolution is not needed or required.

SUGGESTIONS, INQUIRIES OR COMPLAINTS

While any citizen may speak directly to the Planning Commission concerning suggestions, inquiries or complaints, the Planning Director or Department Head responsible for the service or work concerned, can usually provide pertinent information or handle the matter without delay if a request is made directly to him or her. If you are not sure which department to call, or whenever you feel the matter has not been properly handled, please contact the office of the Planning Director at 711 W. Cinnamon Drive, telephone 924-6740.

Minutes of the
LEMOORE PLANNING COMMISSION
August 8, 2016

MEETING CALLED TO ORDER:

At 7:04 p.m. the meeting was called to order.

ATTENDANCE:

Chairman Meade, Commissioners Badasci, Clement, Dow, Koelewyn; City Planner Brandt, Development Services Director Holwell, Planning Commission Secretary Baley

ABSENT: Commissioners Marvin, Monreal

PUBLIC COMMENT:

There was no comment.

APPROVAL – MINUTES – REGULAR MEETING JULY 11, 2016:

It was moved by Commissioner Koelewyn and seconded by Commissioner Clement to approve the Minutes of the Planning Commission Regular Meeting of July 11, 2016.

Ayes: Koelewyn, Clement, Badasci, Dow, Meade

Absent: Marvin, Monreal

PUBLIC HEARING – PARCEL MAP NO. 2016-01 – A REQUEST BY ASKY PROPERTIES, LLC TO DIVIDE 43.60 ACRES INTO TWO PARCELS, AND MAJOR SITE PLAN REVIEW NO. 2016-03 – A REQUEST BY ASKY PROPERTIES, LLC FOR SITE PLAN REVIEW ACCEPTANCE OF A NEW LEMOORE SERVICE CENTER FOR PACIFIC GAS & ELECTRIC COMPANY ON 11.59 ACRES:

Chairman Meade opened the public hearing at 7:09 p.m.

City Planner Brandt presented the project and noted four changes to the conditions:

1. Change 490 sq. ft. to 4,900 sq. ft. on page 1 of staff report dated August 4, 2016 and page 1 of City Planner comments dated August 8, 2016.
2. Second sentence removed from recommended conditions No. 6 on page 4 of staff report dated August 4, 2016 and page 2 of Resolution No. 2016-07.
3. Addition made to sentence listed under DRAINAGE on page 2 of City Planner comments dated August 8, 2016: “or, if approved by the City Engineer, drains into the City sewer storm drain system on Enterprise Drive.”
4. Change two access drives to three access drives on page 1 of City Planner comments dated August 8, 2016.

Erica Cabrera, Public Affairs Representative with PG&E provided a short overview of the project.

Sara Morten-Sadler, PG&E Land Planner answered questions regarding relocation of vehicles from the current site on 19th Avenue.

Jack Richardson, Crest Real Estate Representative for PG&E provided information regarding the future of the current PG&E site on 19th Avenue and road realignment plans.

City Planner Brandt stated that with the addition of an access road, the City does not foresee the service center presenting a travel capacity problem on 19th Avenue during peak hours.

Chairman Meade closed the public hearing at 7:22 p.m.

It was moved by Commissioner Clement and seconded by Commissioner Badasci to approve Resolution No. 2016-07, A Resolution of the Planning Commission Approving Tentative Parcel Map No. 2016-01 and Major Site Plan Review No. 2016-01.

Ayes: Clement, Badasci, Dow, Koelewyn, Meade

Absent: Marvin, Monreal

DEVELOPMENT SERVICES DIRECTORS' REPORT:

Development Services Director Holwell asked for input from Commissioners regarding changing the Planning Commission Meeting time to begin at 5:30 p.m. in order to allow the City Attorney to work with staff during business hours and attend meetings. Holwell stated that this would require an Ordinance change.

Chairman Meade requested that input regarding the time change be postponed until all members of the Planning Commission are present.

Clement stated that, in the past, legal counsel was only necessary when reviewing contentious items. He also showed concern regarding the hardship it may create on the public to participate.

Commissioner Badasci suggested having legal counsel present during Planning Commission meetings when making "Approval" decisions.

Holwell reported that a public hearing has been scheduled during the regular meeting of the Lemoore City Council to receive comment and approve the General Plan Amendment and Zone Change request for the Brisbane subdivision.

Holwell notified Commissioners that concerns regarding sidewalks and trees in residential zones will be heard during the August 16, 2016 City Council meeting and handled at the City Council level.

Holwell reported that staff is finalizing details to provide a recommendation for the Appeal disputing the Fast and Friendly mini mart approval. She stated that a public hearing is scheduled for August 16, 2016; however, it may be postponed if State and City requirements regarding aboveground tank setbacks and size limit issues to accommodate the site are not clarified.

COMMISSIONER REPORTS AND REQUESTS FOR INFORMATION:

There were none.

ADJOURNMENT:

At 7:37 p.m. the meeting adjourned.

Approved the 10th day of October, 2016.

Full digital audio recording is available.

Attest:

Ron Meade, Chairman

Kristie Baley, Commission Secretary

Mayor
Lois Wynne
Mayor Pro Tem
Jeff Chedester
Council Members
Ray Madrigal
Eddie Neal
William Siegel



**Development Services
Department**

711 W. Cinnamon Drive
Lemoore, CA 93245
Phone (559) 924-6740
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Staff Report

Item 4

To: Lemoore Planning Commission
From: Judy Holwell, Development Services Director
Date: October 5, 2016 **Hearing Date:** October 10, 2016

Subject: **Public Hearing to consider Zoning Text Amendment 2016-02:
Amendment to Sections 9-4A-5 and 9-4B-2 in the event Proposition 64
is passed during the general election on November 8, 2016, of the
Current Zoning Ordinance (Municipal Code Title 9) pertaining to
cultivation and use of marijuana.**

Recommended Action

City staff recommends the Planning Commission conduct a public hearing to take testimony regarding Zoning Text Amendment 2016-02, and adopt Resolution 2016-08 recommending approval to the City Council.

Proposal

In response to the potential approval of Proposition 64, the Adult Use Marijuana Act (AUMA), and after adoption of an ordinance by the City Council, City staff is proposing changes to the Zoning Ordinance (Title 9). These changes would bring the Zoning Ordinance into conformance with the Proposition and would add wording to better define the City's role in regulating personal marijuana cultivation through conformance to all building codes.

The Ordinance changes would only take effect if Proposition 64 passes on Election Day. No change would occur if the Proposition fails.

Specifically, the text amendment would change the definitions in the Zoning Ordinance related to marijuana (Section 9-4A-5), and would change the table of allowed uses (Table 9-4B-2 in Section 9-4B-2) to allow marijuana cultivation for personal use in residential zones.

Background

Proposition 64, also known as the Adult Use Marijuana Act (AUMA) is on the general election ballot on November 8, 2016. If passed by voters, the initiative would legalize,

for adults 21 years and older, the possession of up to 28.5 grams of marijuana, up to eight (8) grams of marijuana in the form of concentrated cannabis, which may be present in marijuana products such as edibles, and would allow personal cultivation of up to six (6) living marijuana plants per household. AUMA does allow Cities to ban outdoor cultivation of marijuana and reasonably regulate personal use cultivation. If AUMA is passed, the City will be required to allow indoor growing for personal use, which the City Council approved an ordinance requiring regulation of indoor personal growing.

Marijuana remains illegal at the federal level; however, federal agencies are currently not enforcing laws regulating marijuana as closely as they historically did.

Currently, the City has a total ban on medical marijuana cultivation, processing, deliveries, dispensaries. At the September 6, 2016 Council Meeting staff held a study session to address the potential passage of AUMA. Council directed staff to bring back an ordinance limiting the use and cultivation of marijuana within the law, to take effect if AUMA does pass, which the City Council approved at a second reading on October 4, 2016.

The City Council began that process by approving the first reading of an ordinance change to Title 4, Chapter 8 in the Public Health and Safety Regulations on September 20, 2016.

This ordinance continues to prohibit marijuana commercial cultivation, commercial processing, delivery, and dispensaries in the City limits. In conformance with the Proposition, the ordinance does allow personal cultivation of marijuana. The ordinance confirms that no person shall smoke, ingest, or otherwise consume marijuana or marijuana products, whether recreational or medical, in the City of Lemoore unless such smoking, ingesting or consumption occurs entirely within a private residence. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings unless those buildings are at all times fully enclosed during the consumption.

Due to these changes, there also needs to be changes made to the Zoning Ordinance. It is these changes that are being brought for Planning Commission recommendation.

Recommended Findings

Staff recommends that the following findings be made in recommending approval of the ordinance changes.

1. The Zoning Ordinance amendment is consistent with the General Plan goals, policies, and implementation programs.

Attachments

- Draft Resolution and Proposed Text Amendment Changes
- Ordinance adopted by City Council on October 4, 2016

RESOLUTION #2016-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LEMOORE RECOMMENDING APPROVAL OF ZONING TEXT AMENDMENT 2016-02: AMENDMENT TO SECTIONS 9-4A-5 AND 9-4B-2 IN THE EVENT PROPOSITION 64 IS PASSED DURING THE GENERAL ELECTION ON NOVEMBER 8, 2016, OF THE CURRENT ZONING ORDINANCE (MUNICIPAL CODE TITLE 9) PERTAINING TO CULTIVATION AND USE OF MARIJUANA.

At a Regular Meeting of the Planning Commission of the City of Lemoore duly called and held on October 10, 2016, at 7:00 p.m. on said day, it was moved by Commissioner _____, seconded by Commissioner _____ and carried that the following Resolution be adopted:

WHEREAS, Proposition 64 (the Adult Use Marijuana Act) has been placed on the November 8, 2016, statewide ballot; and

WHEREAS, the Proposition, if passed, would require the City of Lemoore to allow personal cultivation inside residences; and

WHEREAS, the Lemoore Zoning Ordinance currently specifically prohibits personal cultivation of marijuana in all zones; and

WHEREAS, the project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption]; and

WHEREAS, the Lemoore Planning Commission held a duly noticed public hearing at its October 10, 2016, meeting.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Lemoore hereby makes the following findings regarding the proposed zoning text amendment:

1. Text Amendment 2016-02 is consistent with the General Plan goals, policies, and implementation programs.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Lemoore recommends approval of Text Amendment 2016-02, per attached Exhibit A.

Passed and adopted at a Regular Meeting of the Planning Commission of the City of Lemoore held on October 10, 2016, by the following votes:

AYES:

**NOES:
ABSTAINING:
ABSENT:**

APPROVED:

Ron Meade, Chairperson

ATTEST:

Planning Commission Secretary

Exhibit A

AMENDMENT OF CODE: PLANNING AND ZONING.

Table 9-4B-2 of Section 2 of Article B of Chapter 4 of Title 9 of the Lemoore Municipal Code is amended to read as follows:

**TABLE 9-4B-2
ALLOWED USES AND REQUIRED ENTITLEMENTS FOR BASE ZONING DISTRICTS**

Land Use/ Zoning District	Residential Zoning Districts							Special Purpose Zoning Districts				Mixed Use Zoning Districts				Office, Commercial, And Industrial Zoning Districts				
	AR	R V L D	R L D	R N	R L M D	R M D	R H D	W	A G	P R	CF	D M X -1	D M X -2	D M X -3	M U	N C	R C	P O	M L	M H
Residential uses:																				
Marijuana cultivation - personal use	<u>N</u> <u>28</u> <u>P</u> <u>28</u>	<u>N</u> <u>28</u> <u>P</u> <u>28</u>	<u>N</u> <u>28</u> <u>P</u> <u>28</u>	<u>N</u> <u>28</u> <u>P</u> <u>28</u>	<u>N</u> <u>28</u> <u>P</u> <u>28</u>	<u>N</u> <u>28</u> <u>P</u> <u>28</u>	<u>N</u> <u>28</u> <u>P</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>
Retail, service, and office uses:																				
Marijuana dispensary	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>
Industrial, manufacturing, and processing uses:																				
Marijuana cultivation - collective or cooperative cultivation; dispensary	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>N</u> <u>28</u>	<u>P</u> <u>28</u> <u>N</u> <u>28</u>	<u>N</u> <u>28</u>	

28. Also see the land use definitions in this chapter and the regulations in Title 4, Chapter 8 of the Lemoore Municipal Code. As allowed by State Law and/or as defined in Title 4 Chapter 8 of the Lemoore Municipal Code. Further, any such cultivation will require the appropriate building permits and compliance with all applicable building codes, Lemoore Municipal Codes and the building requirements outlined in Title 4 Chapter 8 of the Lemoore Municipal Code.

Subsection D of section 5 of Article A of Chapter 4 of Title 9 of the Lemoore Municipal Code is amended to read as follows:

“Delivery” shall be as defined in the Medical Marijuana Regulation and Safety Act, California Business and Professions Code section 19300.5(m), Adult Use Marijuana Act (AUMA), and as such sections may be amended from time to time, and includes the commercial transfer of marijuana and 02marijuana products from a dispensary as well as the use of any technology platform that enables qualified patients and caregivers to arrange for or facilitate the transfer.

Subsection M of section 5 of Article A of Chapter 4 of Title 9 of the Lemoore Municipal Code is amended to read as follows:

“Marijuana” shall have the same definition as in California Health and Safety Code Section 11018, and Title 4 Chapter 8 of the Lemoore Municipal Code, as it they now read or as may be amended.

“Medical marijuana” means marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.7 et seq., as may be amended.

“Medical Marijuana collective” or “dispensary” means any operation, including a store-front facility or structure, mobile facility, or delivery service, wherein medical marijuana is made available, sold, offered for sale, given, distributed, traded, cultivated for, or otherwise provided to primary caregivers or qualified patients, as defined by this chapter.

A ~~“medical~~ marijuana collective” or “dispensary” shall not include the following uses, as long as the location of such uses is otherwise regulated by code or applicable law: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; (3) a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code; (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; and (5) a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, California Health and Safety Code Section 11362.7 et seq.

The following Ordinance was adopted by the City Council on October 4, 2016, and will become effective if Proposition 64 passes. It is meant here for reference.

Chapter 8, of Title 4, of the Lemoore Municipal Code is amended in its entirety to read as follows:

Chapter 4-8

MARIJUANA

4-8-1: PURPOSE AND INTENT:

4-8-2: EFFECTIVE DATE:

4-8-3: DEFINITIONS:

4-8-4: PROHIBITED ACTIVITIES:

4-8-5: REGULATIONS APPLICABLE TO THE CULTIVATION OF MARIJUANA:

4-8-6: REGULATIONS APPLICABLE TO COMMERCIAL MARIJUANA OPERATIONS, DISPENSARIES, AND DELIVERIES:

4-8-7: REGULATIONS APPLICABLE TO THE CONSUMPTION OF MARIJUANA:

4-8-8: VIOLATION AND PENALTY:

4-8-9: PUBLIC NUISANCE:

4-8-10: JUDICIAL REVIEW

4-8-1: PURPOSE AND INTENT

It is the purpose and intent of this Chapter to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating the cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale, and consumption of marijuana, whether for medical purposes as currently allowed under State law, or for recreational use should recreational use become lawful under State law.

4-8-2: EFFECTIVE DATE:

The ordinance codified herein shall take effect and be in full force and effect from and after thirty (30) days after its final passage and adoption provided that AUMA is approved by the voters of the State of California during the general election on November 8, 2016. Within fifteen (15) days after its adoption, the ordinance codified herein, or a summary of the ordinance codified herein, shall be published once in a newspaper of general circulation.

4-8-3: DEFINITIONS:

For purposes of this Chapter, the following definitions shall apply:

(a) "Cannabis" or "marijuana" shall have the meaning set forth in California Business and Professions Code section 19300.5(f).

(b) “City” shall mean the City of Lemoore.

(c) “Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and designated primary care givers to cultivate marijuana for medical purposes as may be allowed under the Compassionate Use Act, the Medical Marijuana Program Act, or the California Medical Marijuana Regulation and Safety Act adopted on October 9, 2015 with legislative bills AB 243, AB 266, and SB 643 (“MMRSA”).

(d) “Commercial marijuana operation” means any commercial cannabis activity as set forth in California Business and Professions Code section 19300.5(k) and allowed under MMRSA, and the implementing regulations, as MMRSA and the implementing regulations may be amended from time to time, and all uses permitted under any subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.

(e) “Delivery” shall be as defined in the Medical Marijuana Regulation and Safety Act, California Business and Professions Code section 19300.5(m), as that section may be amended from time to time, and includes the commercial transfer of medical marijuana and medical marijuana products from a dispensary as well as the use of any technology platform that enables qualified patients and caregivers to arrange for or facilitate the transfer.

(f) “Marijuana dispensary” or “dispensary” means any facility or location, whether fixed or mobile, and any building or structure, where cannabis is made available to, distributed by, or distributed to more than two persons.

(g) “Marijuana products” 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.

(h) “Medical marijuana or medical marijuana use” means the use of cannabis for the purposes set forth in the Compassionate Use Act and the Medical Marijuana Program Act, California Health and Safety Code sections 11362.5 and 11362.7 et seq.

(i) “Recreational marijuana or recreational marijuana use” means all uses of cannabis not included within the definition of medical marijuana use.

4-8-4: PROHIBITED ACTIVITIES:

Marijuana commercial cultivation, marijuana commercial processing, marijuana delivery, and marijuana dispensaries shall be prohibited activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity.

4-8-5: REGULATIONS APPLICABLE TO THE CULTIVATION OF MARIJUANA:

To the extent that the City is required to allow the cultivation of marijuana, whether for medical or recreational use, under State law, the rules set forth herein shall apply. Nothing in this section shall be interpreted to permit commercial marijuana operations or marijuana dispensaries otherwise prohibited by this Chapter.

(a) Personal use cultivation. The cultivation of marijuana shall be subject to the limits set forth in any applicable State law. An individual that has a right to cultivate marijuana for personal use shall be allowed to cultivate medical marijuana within his/her private residence, in an attached garage, or in an accessory building if the property is detached single family residential. No outdoor cultivation is allowed within the City. Marijuana cultivation for personal use shall be subject to the following requirements:

(1) Area. The marijuana cultivation area shall not exceed thirty two (32) square feet measured by the canopy and not exceed ten feet (10') in height per residence. This limit applies regardless of the number of individuals residing in the residence. The cultivation area shall be a single designated area.

(2) Lighting. Marijuana cultivation lighting shall not exceed a total of 1200 watts.

(3) Building Code Requirements. Any alterations or additions to the residence, including garages and accessory buildings, shall be subject to applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including lot coverage, set back, height requirements, and parking requirements.

(4) Gas products. The use of gas products (CO₂, butane, etc.) for marijuana cultivation or processing is prohibited.

(5) Evidence of cultivation. From a public right of way, there shall be no exterior evidence of marijuana cultivation occurring on the site.

(6) Residence. The qualified individual shall reside in the residence where the marijuana cultivation occurs.

(7) Cultivation elsewhere in City. The qualified individual shall not participate in marijuana cultivation in any other location within the City of Lemoore.

(8) Incidental use. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for marijuana cultivation.

(9) Ventilation. The marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the residence, or property line for detached single family residential, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence and cultivating the marijuana. This shall include at a minimum, a system meeting the requirements of the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)).

(10) Storage of chemicals. Any chemicals used for marijuana cultivation shall be stored outside of the habitable areas of the residence and outside of public view from neighboring properties and public rights of way.

(11) Nuisance. The marijuana cultivation area shall: not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts; and not be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.

(12) Property owner authorization. For rental property, the lessee shall obtain written authorization from the property owner or property management company to cultivate marijuana.

(13) Notification. The owner and any lessee of the residence upon which cultivation will occur shall inform the Police Department of the intent to cultivate marijuana and pick up a handout setting forth the owner and lessee responsibilities under this section. This notification shall be provided prior to the commencement of the cultivation except that for existing cultivation, the information shall be provided within ten (10) days of the effective date of this Chapter. The Police Department may direct the owner and lessee to the Department of Planning and Development Services for more information about building code and permit requirements that may be applicable if alterations or additions to the residence are contemplated. The Police Department and Department of Planning and Development Services shall keep patient information confidential to the extent required by law.

(14) Additional requirements for garages and accessory buildings. The following additional requirements shall apply for personal use cultivation that occurs in a garage or accessory building: the garage or accessory building shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. The garage or building shall include a burglar alarm monitored by an alarm company or private security company. The garage or building, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door.

(15) Collective or cooperative cultivation. The collective or cooperative cultivation of medical marijuana shall be prohibited in the City.

4-8-6: REGULATIONS APPLICABLE TO COMMERCIAL MARIJUANA OPERATIONS, DISPENSARIES, AND DELIVERIES:

(a) Commercial marijuana operations. Commercial marijuana operations as defined in section 8-4-3(d) are prohibited within the City.

(b) Dispensaries. Marijuana dispensaries as defined in Section 8-4-3 (f) are prohibited within the City.

(c) Deliveries. The delivery of marijuana as defined in Section 8-4-3 (e) is prohibited in the City regardless of whether the delivery is initiated within or outside of

the City, and regardless of whether a technology platform is used for delivery by the dispensary.

No person shall deliver any marijuana-infused product such as tinctures, baked goods or other consumable products, to any location within the City from a mobile marijuana dispensary, regardless of where the mobile marijuana dispensary is located, or engage in any operation for this purpose.

Public Nuisance declared.

Operation of any mobile marijuana dispensary within the City in violation of the provisions of this Chapter is hereby declared a public nuisance and may be abated pursuant to all available remedies.

4-8-7: REGULATIONS APPLICABLE TO THE CONSUMPTION OF MARIJUANA:

No person shall smoke, ingest, or otherwise consume marijuana or marijuana products, whether recreational or medical, in the City of Lemoore unless such smoking, ingesting or consumption occurs entirely within a private residence. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings unless those buildings are at all times fully enclosed during the consumption.

All consumption shall be done in a manner so as to not cause a nuisance to nearby residents with noxious odors or other adverse health and safety impacts.

4-8-8: VIOLATION AND PENALTY:

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a maximum penalty of six (6) months imprisonment in the County Jail or a fine of one thousand dollars (\$1,000), as well as the administrative penalties as set forth, as may be amended. Violators shall be subject to any other enforcement remedies available to the city under any applicable state or federal statute or pursuant to any other lawful power the city may possess.

4-8-9: PUBLIC NUISANCE:

Any violation of this chapter is hereby declared to be a public nuisance.

4-8-10: JUDICIAL REVIEW:

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions.