

ORDINANCE NO. 2018-01

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ISLETON
ESTABLISHING REGULATIONS CONCERNING THE SMOKING OF CANNABIS IN PUBLIC
PLACES**

The City Council of the City of Isleton hereby finds and declares as follows:

SECTION 1. FINDINGS.

A. In November 1996, the voters of the State of California approved Proposition 215, entitled "The Compassionate Use Act of 1996" ("CUA"), which decriminalized the use of medical cannabis. The Legislature of the State of California enacted Senate Bill 420 ("SB 420," entitled the "Medical Cannabis Program Act") in 2004 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420. In 2015, the State Legislature adopted the Medical Cannabis Regulation and Safety Act ("MMRSA"), which addressed state licensing with respect to medical cannabis cultivation, dispensing, and manufacturing.

B. In November 2016, the voters of the State of California approved Proposition 64, the Adult Use of Cannabis Act ("AUMA"), legalizing the recreational use of cannabis for adults 21 years of age and older. The AUMA allows cities to retain their police powers and land use authority to regulate, but not prohibit indoor cultivation of up to a total of six cannabis plants per residence, and to regulate or prohibit cultivation or any commercial activity related to cannabis.

C. In June 2017, the State Legislature passed the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") in Senate Bill 94. It established a single system of administration for cannabis laws in California and conforms the regulations contained in MCRSA and AUMA together for all commercial cannabis activity.

D. In light of these developments in state law, and in the interest of applying consistent law enforcement guidelines, the City now desires to regulate cannabis activities in the City.

E. Unregulated cannabis activities, including, but not limited to, possession, smoking, or ingesting cannabis or cannabis products, may have significant health, safety, and welfare impacts on the residents of the City. These impacts include the damages related to secondhand smoke.

F. Use of cannabis on the premises of or within 1000 feet of schools, child care centers, or youth centers may create unique risks that the cannabis plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles in violation of state law. Further, the potential for criminal activities associated with cannabis use in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, visible use of any amount of cannabis in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the cannabis plants.

G. The authority to enact this ordinance is derived from Article XI, section 7 of the California Constitution which provides that a city may make and enforce within its limits all local police, sanitary, and other ordinances and regulations not in conflict with general laws. Additionally,

California Health and Safety Code section 11362.2(b) (1) authorizes cities to adopt zoning, land use, and permit regulations concerning the location and establishment of cannabis businesses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ISLETON HEREBY ORDAINS AS FOLLOWS:

SECTION 2. PURPOSE AND AUTHORITY.

The purpose of this ordinance is to regulate recreational and medicinal cannabis use in a manner that protects the health, safety, and welfare of the community, consistent with Proposition 64, also known as the Control, Regulate, and Tax Adult Use of Cannabis Act ("AUMA"), and with the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). This chapter is not intended to interfere with a patient's right to medical cannabis, as provided in Health and Safety Code section 11362.5, nor does it criminalize cannabis possession or use, pursuant to state law.

SECTION 3. GENERAL CANNABIS REGULATIONS.

I. 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 chapter, the common and ordinary meaning of the word shall apply.

A. "Cannabis" shall mean any or all parts of the plant *cannabis sativa linnaeus*, *cannabis indica*, or *cannabis ruderalis*, whether growing or not, the seeds thereof, the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including cannabis infused in foodstuff or other ingestible or consumable product containing cannabis. The term "cannabis" shall also include "medical cannabis" as defined in California Health and Safety Code section 11362.5, and "medicinal cannabis," "medicinal cannabis product" as defined in California Business and Professions Code section 26001(ai), and "cannabis product" as defined in Section 11018.1 of the Health and Safety Code.

B. "Smoking" means inhaling, exhaling, burning or carrying any lighted combustible substance containing cannabis in any manner or in any form and use of electronic devices with electrical ignition or vaporization (e-cigarettes/cigars or similar devices) with cannabis or its byproducts in the device.

II. CANNABIS USE ON PUBLIC PROPERTY

It is hereby declared to be unlawful, a public nuisance, and a violation of this code to smoke cannabis or cannabis products on City property. Violations of this provision shall be punishable as a misdemeanor.

III. CIVIL INJUNCTION

The violation of this ordinance shall be and is hereby declared to be a public nuisance and contrary to the public interests and shall, at the discretion of the City, create a cause of action for injunctive relief.

SECTION 4. CEQA.

This ordinance is consistent with the protection of the public interest, health, safety and welfare of the City. This ordinance is hereby found to be categorically exempt from environmental review pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15061(b)(3).

SECTION 5. SEVERABILITY.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not result in the invalidity of the entire chapter which can be given effect without the invalid provision or application. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 6. EFFECTIVE DATE AND PUBLICATION.

This ordinance shall take effect thirty (30) days after its adoption. The City Clerk is hereby directed to publish this ordinance within fifteen (15) days after its passage in a newspaper of general circulation published in the City of Isleton or to post it in at least three (3) public locations in the City of Isleton.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Isleton that it hereby:

Adopted and approved this ordinance at a meeting held on the 25th day of April, 2018 by the following vote:

AYES: Councilmember's Dean Dockery, Glenn Giovannoni, Robert Jankovitz, Vice Mayor Elizabeth Samano, Mayor Eric Pene.

NOES: None.

ABSTAIN: None.

ABSENT: None.


Eric Pene, Mayor
City of Isleton

ATTEST:


Yvonne Zepeda City Clerk