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KERN COUNTY ELECTIONS
BY _____

2018 APR 25 PM 4:56

April 25th, 2018

VIA HAND DELIVERY

Mary B. Bedard, Auditor-Controller-County Clerk
County Elections Office
1115 Truxtun Avenue, 1st Floor
Bakersfield, CA 93301

Dear Ms. Bedard:

Attached please find a copy of the text of a proposed initiative measure and a Notice of Intent to Circulate Petition, which sets forth the reasons for the proposed petition. I am the proponent of the foregoing initiative measure. Enclosed is a check for \$200 made payable to County Elections Office to cover the filing fee for the petition.

Pursuant to California Elections Code Sections 9103, this is a request that a ballot title and summary be prepared. It is my understanding that County Counsel will prepare a title and summary within 15 days and that you will provide the summary to us upon receipt from County Counsel.

I have signed and attached hereto a Declaration required pursuant to Elections Code Section 9608.

Please contact me if you require any additional information or have any questions. Thank you for your assistance and for all your public service.

Sincerely yours,

Cecelia Latu (Proponent)

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Cecelia Latu, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Cecelia Latu (Proponent)

Dated this 25 day of April, 2018.

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The People of the County of Kern ordain as follows:

INITIATIVE SECTION I - PURPOSE AND APPLICATION

The people of the County of Kern find and declare:

The purpose of this Initiative Ordinance is to allow qualified medicinal cannabis patients of Kern County safe and affordable access to all forms of natural homeopathic cannabis as medicine. This ordinance will authorize and regulate medicinal cannabis businesses and activities that are the subject of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (formerly known as the Medicinal Marijuana Regulation and Safety Act and the Adult Use of Marijuana Act) in order to promote the health, safety, and general welfare of the citizens of the county and ensure access to medicinal cannabis for the qualified patients of Kern County. It is also the purpose of this Initiative Ordinance to:

- A. Preserve access to medicinal cannabis for Veterans.
- B. Eliminate or prevent the illegal market for Cannabis in the County and the surrounding regions.
- C. Eliminate or prevent public corruption.
- D. Create jobs, tax revenue and economic growth for the County and its residents.
- E. To enable law enforcement and regulators to have sufficient rights to inspect and audit Medicinal Cannabis Activity and take expeditious action against Persons who violate the requirements of this Chapter.
- F. To minimize social harms which may arise from Cannabis including youth consumption or intoxicated driving.
- G. To regulate the operation and location of Medicinal Cannabis Activity such that public nuisance is minimized.

INITIATIVE SECTION II - SECTION 19.08.055 of Chapter 19.08, Title 19 of the Ordinance Code is repealed in its entirety and replaced as follows:

19.08.055 – Medicinal Cannabis Regulations.

- A. Purpose and Application. The purpose of this section is to allow qualified medicinal cannabis patients of Kern County safe and affordable access to all forms of natural homeopathic cannabis as medicine.
- B. Recreational Cannabis Businesses Prohibited. Businesses conducting recreational (nonmedicinal, nonpersonal) cannabis activity licensed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act are prohibited in all zone districts. No local authorization for Adult-Use Licenses identified in Business and Professions Code 26050 shall be granted for any zone district in the unincorporated area of the County of Kern. Adult-Use licenses, unlike Medicinal Cannabis Businesses subject to this petition, shall continue to be prohibited unless authorized by the Board of Supervisors or an act of the voters of Kern County.

- C. **Medicinal Cannabis Businesses.** Businesses conducting medicinal cannabis activity licensed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act shall adhere to the requirements enumerated in this Chapter.
- D. **Compassionate Use Act.** Nothing in this section is intended, nor shall be construed or inferred to burden any defense to criminal prosecution under the Compassionate Use Act of 1996, the Medicinal Marijuana Program Act of 2004, the Adult Use of Marijuana Act of 2016 or the Medicinal and Adult-Use Cannabis Regulation and Safety Act.
- E. **Definitions.** For purposes of this Chapter, these words and phrases shall be defined as follows:
1. "Business and Professions Code" means the California Business and Professions Code, as amended from time to time.
 2. "Cannabis" shall have the same definition as in California Business and Professions Code 26001(f) as it now reads or as it may be amended.
 3. "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code as it now reads or as amended.
 4. "County" means the County of Kern or the unincorporated area of the County of Kern as required by the context.
 5. "Delivery" shall have the same definition as Nonstorefront Retail.
 6. "Distribution" means the procurement, sale, and transport of Cannabis and Cannabis Products between State Licensees, including any County Permittees who are State Licensees.
 7. "Door-to-door pedestrian path of travel" shall mean the distance between the main entrance of one building to the main entrance of another building, using an unobstructed way of pedestrian passage.
 8. "Existing Medicinal Cannabis Dispensary" means any medicinal cannabis dispensary which was in operation on or before January 1, 2018, as defined below in 19.08.055(H)(1)-(3) or in 19.08.055(I)(1)-(3)
 9. "Health and Safety Code" means the California Health and Safety Code, as amended from time to time.
 10. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a Cannabis Product from such blends, extractions or infusions.
 11. "Manufacturing Level 1" means the manufacture of cannabis products using nonvolatile solvents, or no solvents.
 12. "Marijuana" shall have the same definition as cannabis.
 13. "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.

14. "Medicinal Cannabis Dispensary" or "Dispensaries" means any operation, including a store-front facility or structure, Microbusiness, mobile facility, or delivery service, wherein medicinal cannabis is made available, sold, offered for sale, given, distributed, traded, or otherwise provided to primary caregivers or qualified patients, as defined by this Chapter, subject to State licensing and local permitting or other authorization.
 15. "Microbusiness" shall mean a Medicinal Cannabis Dispensary that is conducting at least three of the following activities at its Dispensary premises: manufacturing, cultivation, distribution, and/or retail sale. Microbusinesses shall be subject to the regulations set forth by the Bureau of Cannabis Control. Microbusiness shall be considered equivalent to the California Health and Safety Code § 11362.775 definition of a collective association or a cooperative association as existing on January 1, 2018, and also considered equivalent to collective associations and cooperative associations as defined by Kern County Ordinance G-7849 for the purposes of this Chapter and the Kern County General Plan.
 16. "Nonstorefront Retail" means the commercial transfer of cannabis or cannabis products to a customer. "Nonstorefront Retail" or "Delivery" also includes the use by a retailer of any technology platform.
 17. "Primary caregiver" shall have the same definition as in California Health and Safety Code Sections 11362.5 and 11362.7 *et seq.*, as they now read or as amended.
 18. "Planning Director" shall refer to the director of the planning and natural resources department of the county of Kern.
 19. "Recreational cannabis" means cannabis used for non-medicinal purposes in accordance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act.
 20. "Qualified patient" shall have the same definition as California Health and Safety Code Sections 11362.5 and 11362.7 *et seq.*, as they now read or as amended.
- F. Personal Recreational Cannabis. Except as provided below, personal recreational cannabis use shall comply with the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including, but not limited to, California Health and Safety Code Sections 11362.1 through 11362.45 as currently stated or as otherwise amended. Outdoor planting and cultivation of personal recreational marijuana is prohibited.
- G. Personal Medicinal Cannabis. Personal medicinal cannabis use shall comply with the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including, but not limited to, California Health and Safety Code Sections 11362.1 through 11362.79 as currently stated or as otherwise amended. Outdoor planting and cultivation of personal medicinal marijuana is prohibited.
- H. Permitting of Existing Medicinal Cannabis Dispensaries. Any medicinal cannabis dispensary which was in operation on or before January 1, 2018, as defined in paragraphs (1)-(3) below, or in 19.08.055(I)(1)-(3) shall be deemed to be a lawful medicinal cannabis dispensary and shall be authorized by the County and eligible for a Medicinal Type 10 Retailer and a Medicinal Type 12 Microbusiness license from the State of California. The

Planning Director must and shall issue a ministerial permit in writing under Section 19.102.040 to Existing Medicinal Cannabis Dispensaries upon application and after determination that they meet the following requirements:

1. Can provide the Planning Director with documentation that the dispensary was in operation in unincorporated Kern County before January 1, 2018 by producing any three of the following: a copy of any County-issued list of marijuana dispensaries, at least one tax return, a seller's permit, a lease agreement, and/or articles of incorporation or organization. This Section shall be construed broadly in favor of the Applicant.
2. The location is not within one-thousand (1,000) feet of a school providing instruction in kindergarten or any grades 1 through 12 that is in existence at the time the ministerial permit is issued. All distances shall be measured as door-to-door pedestrian path of travel.
3. The location is in a zone where pharmacies are permitted.

Existing medicinal cannabis dispensaries may relocate for any reason provided that their new location complies with 19.08.055(F)(1)-(3), below.

- I. Relocation of Existing Medicinal Cannabis Dispensaries. A Medicinal Cannabis Dispensary that can document that it was in operation prior to January 1, 2018 using the criteria in Section 19.08.055(H)(1), but has ceased operations as of the effective date of the ordinance from which this section derives, can reopen in a previous location. The Planning Director shall issue them a ministerial cannabis permit per this Chapter. Alternatively, the dispensary can relocate, and the Planning Director shall issue them a ministerial cannabis permit as long as the new location meets the following requirements:
 1. The new location must not be within 1,000 feet of another existing medicinal cannabis dispensary. All distances shall be measured as door-to-door pedestrian path of travel.
 2. The new location must not be within 1,000' of a school providing instruction in kindergarten or any grades 1 through 12 that is in existence at the time the ministerial permit is issued. All distances shall be measured as door-to-door pedestrian path of travel. The new location must be in a zone where pharmacies are permitted, but not the C-1 zone.

Relocating Existing Medicinal Cannabis Dispensaries shall be authorized by the County and eligible for a Medicinal Type 10 Retailer and a Medicinal Type 12 Microbusiness license from the State of California.

- J. Time to Apply. Unless otherwise stated, existing medicinal cannabis dispensaries must apply under this Section within 60 days of this section becoming effective. There shall be no County enforcement against existing medicinal cannabis dispensaries prior to their application, nor during the pendency of their application, nor during any appeals of a denial of an application. The Planning Director must issue a ministerial permit or permit denial in writing within 30 days of receipt of an application, or it shall be deemed issued.
- K. Time to Relocate. Medicinal cannabis dispensaries seeking to relocate under 19.08.055(T) shall have 12 months from the date this section becomes effective to identify a new

location and submit an application for a ministerial cannabis permit to the Planning Director. The Planning Director must issue a ministerial permit or permit denial in writing within 30 days of receipt of an application, or it shall be deemed issued.

- L. **Nonstorefront Retail.** Existing and relocating medicinal cannabis dispensaries are permitted to conduct Nonstorefront Retail activities without an additional County ministerial permit and shall apply for a Type 9 License from the Bureau of Cannabis Control. Nonstorefront retailers must comply with Business and Professions Code § 26090 and the regulations for Nonstorefront Retailers promulgated by the Bureau of Cannabis Control, as they now read, or as thereafter amended or updated.
- M. **Prohibition on New Cannabis Businesses and Dispensaries.** Applicants that cannot prove operation prior to January 1, 2018 under either 19.08.055(H) or (I), above, shall not be permitted in the County. Only existing dispensaries (19.08.055(H)) and pre-existing, relocating dispensaries (19.08.055(I)) may conduct any medicinal cannabis activity under State-issued, Medicinal Type 10, Medicinal Type 12, or Medicinal Type 1, 1A, 1B, 2, 2A, or 2B licenses, as defined in Business and Professions Code § 26061 as it now reads or as may be amended.
- N. **Testing Laboratories.** Paragraph M, above, notwithstanding, any person or entity may apply for a Type 8, testing laboratory license. Testing laboratories may be located in the following zones: Light Industrial (M-1), Medium Industrial (M-2), Heavy Industrial (M-3). Testing laboratories shall comply with Business and Professions Code §§ 26100–26106 and the regulations for testing laboratories promulgated by the Bureau of Cannabis Control.
- O. **Hours of Operation.** No medicinal cannabis dispensary may be open for retail sales between the hours of 10:00 P.M. and 8:00 A.M.
- P. **Offsite Activities.** Permitted Medicinal Cannabis Dispensaries and Microbusinesses may apply for a State Medicinal Type 1, 1A, 1B, 2, 2A, 2B, 6 and 7 license on a site other than the location of their Microbusiness or Dispensary. State Medicinal License Types 1, 1A, 1B, 2, 2A, or 2B may be co-located with a State Medicinal License Type 6 and 7. State Medicinal License Types 1, 1A, 1B, 2, 2A, 2B, 6 and 7 shall be considered a use entitled to a ministerial permit under Section 19.102.040 of the County Code provided that the location complies with the following:
 - 1. State Medicinal License Types 1A and 2A are permitted in the following zones: Exclusive Agricultural (A), Limited Agricultural (A-1), Light Industrial (M-1), Medium Industrial (M-2), or Heavy Industrial (M-3). State Medicinal License Type 1A and 2A activities shall be considered a ministerially permitted use in these zones for permitted medicinal cannabis dispensaries with an existing storefront only.
 - 2. State Medicinal License Types 1, 1B, 2, and 2B are permitted in the following zones: Limited Agricultural (A-1) and Exclusive Agricultural (A). State Medicinal License Type 1, 1B, 2, and 2B shall be considered a ministerially permitted use in these zones for permitted medicinal cannabis dispensaries with a storefront only.

3. State Medicinal License Types 6 and 7 are permitted in the following zones: Medium Industrial (M-2), and Heavy Industrial (M-3).
 4. State Medicinal License Type 1, 1A, 1B, 2, 2A, 2B, 6 and 7 activities must not be within 1,000' of a school providing instruction in kindergarten or any grades 1 through 12 that is in existence at the time the ministerial permit is issued. All distances shall be measured as door-to-door pedestrian path of travel.
 5. The Planning Director must issue a ministerial cannabis activity permit or permit denial for the above activities in writing within 30 days of receipt of an application, or it shall be deemed issued.
- Q. Denials. If the Planning Director is not satisfied that the requirements of this Chapter are met, the Director shall issue the denial in writing with detailed and specific findings.
- R. Dispute Resolution. A written denial of a ministerial permit under this Chapter shall be appealable to a mandatory hearing in front of a State of California Administrative Law Judge within 30 days of the Planning Director's written denial. The findings of the Administrative Law Judge shall be final and binding, appealable only by writ of administrative mandamus to the Superior Court of the County of Kern.
- S. Enforcement. Violations of this section shall be subject to the enforcement provisions set forth in this subsection exclusively.
1. Any person, business, or owner or possessor of any property who violates this section pertaining to commercial cannabis activity, or who, with the lawful authority to prevent it, causes, permits or allows such a violation, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a time not exceeding six (6) months, or by both such fine and imprisonment.
 2. Any person, business, or owner or possessor of any property who violates this section pertaining to commercial cannabis activity, or who, with the lawful authority to prevent it, causes, permits or allows such a violation, is subject to the administrative procedures and penalties set forth in Chapter 8.54 of the Kern County Ordinance Code.
 3. Any person, business, or owner or possessor of any property who violates this section pertaining to commercial cannabis activity, or who, with the lawful authority to prevent it, causes, permits, or allows such a violation, is subject to a civil action in the state court system as set forth in Section 19.114.080 of the Kern County Ordinance Code.

INITIATIVE SECTION III - SECTION 19.102.040 of Chapter 19.102, Title 19, of the Ordinance Code is amended to add the following ministerial permit types next in order:

- S. Medicinal cannabis dispensary ministerial permit
- T. Medicinal cannabis activity ministerial permit

INITIATIVE SECTION IV - SECTION 19.114.077 of Article II, Chapter 19.114, Title 19 of the Ordinance Code is repealed in its entirety and replaced as follows:

In addition to the other provisions contained in this Chapter, property owners of any property in violation of the provisions of this title are subject to the regulations pertaining to the imposition and collection of administrative penalties as provided for in Chapter 8.54 of the Kern County Ordinance Code.

INITIATIVE SECTION V - The following is added to Kern County Code of Ordinances, Title 4, Chapter 4.13, Cannabis Tax:

4.13.010 Title

This Chapter shall be known as the medicinal cannabis business tax of the county.

4.13.020 Definitions

For the purposes of this section:

- A. "Medicinal Cannabis Business" means any activity regulated or permitted by Chapter 19.08.055 of this Code that involves planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the plant *Cannabis sativa* L. or any of its derivatives, pursuant to Health and Safety Code Sections 11362.5 and 11362.7-11362.83.

4.13.030 Amount—General Fund

- A. Every person engaged in a "Medicinal cannabis business" not otherwise specifically taxed by other business tax provisions of this Chapter, shall pay a business tax of up to \$37.50 for each \$1,000.00 of adjusted gross income or fractional part thereof, as set by resolution of the Board of Supervisors.
- B. The Board of Supervisors may not set the medicinal cannabis any higher than enumerated in Paragraph A without approval of the voters of Kern County.
- C. Cannabis taxes collected under this Chapter shall enter the County General Fund and may be used for law enforcement, drug abuse education and treatment, and/or K-12 education.

INITIATIVE SECTION VI – SEVERABILITY

If any word, phrase, sentence, paragraph, or other part of this Initiative Ordinance is for any reason held to be invalid, unlawful, in conflict with the Kern County General Plan, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this Initiative Ordinance. Only the word, phrase, sentence, paragraph, or part that is minimally necessary to cure the invalidity, unlawfulness, or unconstitutionality shall be severed.

INITIATIVE SECTION VII – CONFLICTS

This Initiative Ordinance and its provisions shall take priority over all conflicting laws, rules, measures or other County policies. All conflicting laws shall be nullified or read to harmonize with this Initiative Ordinance.

Notice of Intent to Circulate Petition
(Election Code § 9103)

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the County of Kern for the purpose of creating a program for the permitting of medicinal cannabis activity in the County of Kern.

A statement of the reasons of the proposed action as contemplated in the petition is as follows:
This ordinance measure will create a permitting process within the County Planning Department, allowing those existing medicinal cannabis dispensaries who are or were in operation before January 1, 2018 to continue operations, obtain a local permit, and apply for State licensure. In order to promote economic activity in the County of Kern, reduce or eliminate illegal market cannabis activity, and create safe and local sources of medicinal cannabis for Kern County's qualified patients, existing medicinal cannabis dispensaries will also be permitted to operate as a Microbusiness and open one additional cultivation and/or manufacturing site in zones where those uses are appropriate and prevent nuisance to surrounding neighborhoods or businesses.

This ordinance will protect safe access to cannabis in Kern County and will generate jobs, economic growth, and tax revenue by permitting and regulating legitimate cannabis organizations that comply with state and County law. In addition, the ordinance will protect legitimate, taxpaying cannabis organizations that have invested in the County by addressing illegal and unregulated cannabis activities.

Respectfully submitted by Proponents pursuant to Election Code § 9103.

Cecelia Latu
Central Valley Cannabis Association
727 Kentucky St. #30013
Bakersfield, CA 93305

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2018 APR 25 PM 4: 56