



A G E N D A

Meeting of the Scotts Valley City Council

Date: January 6, 2016

Time: 6:00 p.m.

CITY OF SCOTTS VALLEY 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5602	MEETING LOCATION City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	POSTING: The agenda was posted 1-1-16 at City Hall, SV Senior Center, SV Library and on the Internet at www.scottsvalley.org .
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Elected Officials Donna Lind, Mayor Randy Johnson, Vice Mayor Stephany E. Aguilar, Council Member Dene Bustichi, Council Member Jim Reed, Council Member	City Staff Members Chuck Comstock, Interim City Manager Kirsten Powell, City Attorney Corrie Kates, Community Dev Dir/Deputy City Mgr Scott Hamby, Public Works Director John Weiss, Chief of Police Tracy Ferrara, City Clerk
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Notice regarding City Council Meetings:

The City Council meets regularly on the 1st and 3rd Wednesday of each month at 6:00 pm in the City Hall Council Chambers located at 1 Civic Center Drive, Scotts Valley, CA 95066.

Agenda and Agenda Packet Materials:

The City Council agenda and the complete agenda packet are available for review by 5:00 pm the Friday before the Wednesday meeting on the Internet at the City's website: www.scottsvalley.org and in the lobby of City Hall at 1 Civic Center Drive, Scotts Valley, CA. Pursuant to Government Code §54957.5, materials related to an agenda item, submitted after distribution of the agenda packet, are available for public inspection in the lobby of City Hall during normal business hours, Monday-Friday, 8am-12 pm and 1-5 pm. In accordance with AB 1344, such documents will be posted on the City's website at www.scottsvalley.org.

Televised Meetings:

City Council meetings are cablecast "Live" on Community Television of Santa Cruz County on Comcast Channel 25.

CALL TO ORDER 6:00 p.m.

PLEDGE OF ALLEGIANCE and MOMENT OF SILENCE

ROLL CALL

COMMITTEE REPORTS

(Council members are appointed to committees which are either City committees or committees dealing with other jurisdictions. This portion of the agenda allows the committee member to present oral or written reports to the Council regarding their committee assignments. It also allows the Council to make comments and give the committee member direction, as required.)

Interjurisdictional Committees:		
✓	Criminal Justice Council	(Lind/Johnson)
✓	Transportation Commission	(Johnson/Lind)
✓	Metro Transit District Board	(Bustichi)
✓	County Integrated Waste Mgmt Local Task Force	(Lind/Hamby)
✓	City/School District Joint Committee	(Reed/Johnson)
✓	AMBAG	(Aguilar/Lind)
✓	LAFCO	(Lind)
✓	City Selection Committee	(Mayor)
✓	League of California Cities Delegate Program	(Aguilar)
✓	Hazardous Materials Advisory Commission	(Ron Whittle)
✓	Cultural Council	(Lind)
✓	Seniors Advisory Council	(Lind)
✓	Santa Margarita Ground Water Basin Advisory Committee	(Lind /Aguilar)
✓	Library Financing Authority/Joint Powers Boards	(Reed/Johnson)
Standing Local Committees:		
✓	Traffic Safety Committee	(Lind/Aguilar)
✓	Economic Development	(Johnson/Bustichi)
✓	Affordable Housing	(Aguilar/Bustichi)
✓	Water Subcommittee	(Bustichi/Lind)
✓	Budget Subcommittee	(Mayor/Vice Mayor)
✓	Sign Subcommittee	(Aguilar/Lind)
✓	Green Building Permit Process Subcommittee	(Lind/Reed)
✓	ADA Accessibility Subcommittee	(Aguilar)
Project Specific Committees:		
✓	Skypark Subcommittee	(Johnson/Bustichi)
✓	Gateway South Commercial	(Reed/Johnson)
✓	Library Construction Subcommittee	(Bustichi/Reed)
✓	Glenwood Trails Subcommittee	(Aguilar/Reed)

PUBLIC COMMENT TIME

(This is the opportunity for individuals to make and/or submit written or oral comments to the Council on any items within the purview of the Council, which are **NOT** part of the Agenda. No action on the item may be taken, but the Council may request the matter be placed on a future agenda.

CONVENE TO CLOSED SESSION

CLOSED SESSION

SUBJECT:

- (1) Conference with legal counsel regarding real property negotiations.
- Legal Authority: Govt Code section 54956.8
- Location/APN's: The City of Scotts Valley ocean outfall pipeline starting at the City's wastewater facility, APN 021-061-25 and through Hocus Pocus Park, APN 021-061-45 which runs along Whispering Pines Drive, to Estrella Drive, to Lockewood Lane to Graham Hill Road with turnouts located off of Sims Road and Deer Path Road onto APN 060-011-02, the Pasatiempo Golf Club

(3)	Staff Present:	Interim City Manager, City Attorney, Community Development
	Director/Deputy City Manager, Public Works Director	
	City Manager Employment	
	Legal Authority:	54957
	Staff Present:	Interim City Manager, City Attorney

RECONVENE TO OPEN SESSION

REPORT ON ACTION TAKEN DURING CLOSED SESSION

ALTERATIONS TO CONSENT AGENDA

(Council can remove or add items to the Consent Agenda.)

CONSENT AGENDA

(The Consent Agenda is comprised of items which appear to be non-controversial. Persons wishing to speak on any item may do so by raising their hand to be recognized by the Mayor.)

- A. Approve check register – 12-11-15
- B. Approve first amendment to Memorandum of Understanding between the City of Scotts Valley and the Scotts Valley Municipal Service Employees, SEIU Local 521 for the period July 1, 2015 to June 30, 2017

ALTERATIONS TO REGULAR AGENDA

(Council can remove or add items to the Regular Agenda.)

PUBLIC HEARING (To be heard at 6:30 p.m.)

- 1. Consider approval of ordinance of the City Council of the City of Scotts Valley adding Chapter 17.60 to the Scotts Valley Municipal Code prohibiting all commercial marijuana uses in the City and prohibiting cultivation for medical use by a qualified patient or primary caregiver and repealing Chapter 17.58 relating to medical marijuana dispensaries (Planning/Kates)
 - ➔ Open public hearing
 - ➔ Close public hearing
 - ➔ Approve first reading and introduction Ordinance No. 16.128.4

REGULAR AGENDA

(For Regular Agenda items following the public hearing. Regularly scheduled subjects of discussion on the Regular Agenda include:)

- 2. Future Council agenda items
(This portion of the Regular Agenda allows the Council to determine items to be placed on a future agenda and to choose a date, if so desired.)

ADJOURNMENT

The City of Scotts Valley does not discriminate against persons with disabilities. The City Council Chambers is an accessible facility. If you wish to attend a City Council meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the City Clerk's office at (831) 440-5602 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a City Council meeting be available in an alternative format consistent with a specific disability, please call the City Clerk's Office. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.

PROCEDURAL INFORMATION FOR THE PUBLIC

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN APPROVAL OF A RESOLUTION:

1. Move the Resolution number for approval.
2. Second the motion.
3. Vote by body, a roll call vote is not required.

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN INTRODUCTION/ADOPTION OF AN ORDINANCE:

1. Move the Ordinance number for introduction (or adoption).
2. Move the Ordinance be introduced by title only and waive the reading of the text.
3. Read the Ordinance title.
4. Second the motion.
5. Vote by body, a roll call vote is not required.

THE FOLLOWING IS THE PROCEDURE COUNCIL SHOULD TAKE IN PUBLIC COMMENT/PUBLIC HEARINGS:

Unless otherwise determined by the presiding officer of the meeting:

1. Three minutes allowed per individual to speak.
2. Five minutes allowed per individual representing a group of three or more.



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BANK	VENDOR	CHECK#	DATE	AMOUNT
BA	GENERAL CHECKING ACCOUNT			
.14978	ADAM/TOM	106117	12/11/15	68.00
.14985	ALBANO/DAVID	106118	12/11/15	100.00
.14979	ALDANA/ROBERT	106119	12/11/15	89.00
001219	ALHAMBRA	106120	12/11/15	122.28
001219	ALHAMBRA	106121	12/11/15	211.97
002004	AMERICAN CHEMICAL SOCIETY	106122	12/11/15	176.00
001670	AT & T	106123	12/11/15	3,498.10
000097	AT&T	106124	12/11/15	444.94
000205	BACK TO EDEN INC	106125	12/11/15	950.00
001373	BAY TREE, LLC	106126	12/11/15	3,620.38
001822	BC LABORATORIES INC.	106127	12/11/15	192.00
.14987	BIDLEMAN/HARRY	106128	12/11/15	100.00
003470	BIOTIC RESOURCES GROUP	106129	12/11/15	250.00
001477	BLISS/MARCIA	106130	12/11/15	216.00
000021	BOWMAN & WILLIAMS	106131	12/11/15	21,488.20
000437	BRASS KEY LOCKSMITH	106132	12/11/15	47.03
001990	CALIFORNIA MUNICIPAL	106133	12/11/15	475.00
003211	CARNU DDS/OANA	106134	12/11/15	87.20
.14990	CENTRAL CALIFORNIA	106135	12/11/15	450.00
000226	COAST PAPER & SUPPLY INC	106136	12/11/15	556.70
002091	COMCAST	106137	12/11/15	271.16
002091	COMCAST	106138	12/11/15	156.37
.14974	COX/GREGORY	106139	12/11/15	100.00
.14973	CRIVELLO/JOHN	106140	12/11/15	100.00
000037	CRYSTAL SPRINGS WATER CO	106141	12/11/15	34.60
003464	DANIELS/JASON	106142	12/11/15	170.00
.14984	DE LEEUW/MARKUS	106143	12/11/15	100.00
.14967	DIAZ/NELIDA	106144	12/11/15	200.00
003298	DISCOVERY DOOR	106145	12/11/15	29.63
001362	DUNCAN AUTO TECH	106146	12/11/15	41.75
003352	FERNANDEZ DDS/PABLO	106147	12/11/15	196.60
.14996	FIELDS/LINDA	106148	12/11/15	100.00
001316	FODGE/MICHELLE	106149	12/11/15	34.20
.14966	GARCIA/MINERVA	106150	12/11/15	200.00
.14997	GOOD/LOUISE	106151	12/11/15	100.00
001053	GOVERNMENT FINANCE OFFIC	106152	12/11/15	435.00
000057	HACH COMPANY	106153	12/11/15	506.14
.14971	HARLESS/SUE	106154	12/11/15	100.00
003387	HEIDARI DDS/ALI	106155	12/11/15	28.80
.14983	HESTER/LORRIE	106156	12/11/15	100.00
.14969	HIDDEN OAKS HOA	106157	12/11/15	155.00
.14993	HINDS/JACK	106158	12/11/15	100.00
000283	HOSE SHOP	106159	12/11/15	18.98
001856	HUB INTERNATIONAL	106160	12/11/15	235.44
001925	INDUSTRIAL CHEM LABS &	106161	12/11/15	208.11
.14970	JULIANO/NICK	106162	12/11/15	68.00
.14988	JULIANO/NICK	106163	12/11/15	198.00
.14994	KAPLAN/JONATHAN	106164	12/11/15	100.00

BANK	VENDOR	CHECK#	DATE	AMOUNT
BA	GENERAL CHECKING ACCOUNT			
.14989	KELLY/MARY	106165	12/11/15	68.00
003292	KIMLEY-HORN & ASSOCIATES	106166	12/11/15	4,730.10
003292	KIMLEY-HORN & ASSOCIATES	106167	12/11/15	20,053.81
003292	KIMLEY-HORN & ASSOCIATES	106168	12/11/15	9,097.99
001660	KING/KATI	106169	12/11/15	101.57
001333	LARA/ JESUS D	106170	12/11/15	370.98
001030	LEAGUE OF CA CITIES	106171	12/11/15	200.00
.14981	LEE/MIN-JOHN	106172	12/11/15	100.00
.14976	LICHT/ADINA	106173	12/11/15	200.00
001591	MARKELL/ROD	106174	12/11/15	1,973.00
.14992	MAZUREK/ROBERT	106175	12/11/15	100.00
001234	MC GRAW DDS/BERNARD	106176	12/11/15	686.70
000195	MESITI-MILLER ENGINEERIN	106177	12/11/15	2,609.03
000218	MID VALLEY SUPPLY	106178	12/11/15	895.78
000083	MISSION UNIFORM SERVICE	106179	12/11/15	658.35
000888	MONTEREY PENINSULA ENGIN	106180	12/11/15	25,538.00
001418	MONTEREY REGIONAL	106181	12/11/15	3,912.90
.14977	MOOK/CAREY	106182	12/11/15	200.00
.14975	MOREY/DOUGLAS	106183	12/11/15	50.00
000086	MOTION INDUSTRIES INC.	106184	12/11/15	275.15
000939	NATIONAL COMTEL NETWORK	106185	12/11/15	23.98
001615	OLIN CORP-CHLOR ALKALI	106186	12/11/15	1,955.15
.14982	OTTEM/ERIK	106187	12/11/15	100.00
000101	PACIFIC GAS & ELECTRIC C	106188	12/11/15	114.69
000101	PACIFIC GAS & ELECTRIC C	106189	12/11/15	126.25
.14986	PATEL/NEVIL	106190	12/11/15	100.00
000723	PIED PIPER INC./THE	106191	12/11/15	55.50
001097	PRODESSE PROPERTY GROUP	106192	12/11/15	3,522.64
001640	PROFESSIONAL TOUCH/THE	106193	12/11/15	4,906.17
.14995	QUINN/MATTHEW	106194	12/11/15	28.00
.14972	RODD/NOREEN	106195	12/11/15	100.00
003407	SAN JOSE BMW VESPA	106196	12/11/15	1,474.90
000122	SANTA CRUZ/CITY OF	106197	12/11/15	944.88
000820	SANTA CRUZ/COUNTY OF	106198	12/11/15	30.00
000133	SCOTTS VALLEY SPRINKLER	106199	12/11/15	42.66
003306	SCOTTS VALLEY THEATRE GU	106200	12/11/15	500.00
003085	SHRED-IT US JV LLC	106201	12/11/15	69.13
000405	SILVERSTEIN/THOMAS	106202	12/11/15	4,328.40
.14980	SOUSA/CARLY	106203	12/11/15	100.00
002053	STEPFORD	106204	12/11/15	5,313.00
001361	STEVENS DDS/JOHN A	106205	12/11/15	126.40
.14968	STOUT/ANN	106206	12/11/15	654.88
000153	THOMSON REUTERS-WEST	106207	12/11/15	269.86
001366	U.S. BANCORP OFFICE	106208	12/11/15	1,257.46
001366	U.S. BANCORP OFFICE	106209	12/11/15	342.03
001803	VARGAS ACADEMY OF	106210	12/11/15	700.00
000714	VOLUNTEER CENTER	106211	12/11/15	634.25
.14991	WILLIAMS/ERIN	106212	12/11/15	156.00

SCOTTS VALLEY ACCOUNTS PAYABLE
CITY OF SCOTTS VALLEY
12/11/2015 16:41:58
GL540R-V07.27 PAGE 3

Check Register

BANK	VENDOR	CHECK#	DATE	AMOUNT	
BA	GENERAL CHECKING ACCOUNT				
003166	WISDOM/ANGIE	106213	12/11/15	270.00	
003483	WONDERWARE	106214	12/11/15	412.28	
001625	YOSHIDA DDS/NOREEN	106215	12/11/15	436.00	
	GENERAL CHECKING ACCOUNT			138,146.45	***

SCOTTS VALLEY ACCOUNTS PAYABLE
CITY OF SCOTTS VALLEY
12/11/2015 16:41:58
GL540R-V07.27 PAGE 4

Check Register

BANK	VENDOR	CHECK#	DATE	AMOUNT
REPORT TOTALS:				138,146.45

RECORDS PRINTED - 000134

GL540R

FUND RECAP:

FUND	DESCRIPTION	DISBURSEMENTS
001	GENERAL	43,552.96
002	RECYCLING/ENVIRONMENTAL	30.00
004	RECREATION	7,201.93
008	TRAFFIC IMPACT MITIGATION	3,074.57
009	PARKS & REC FACILITIES	25,538.00
010	WASTEWATER OPERATIONS	14,569.41
011	TERTIARY TREATMENT PLANT	192.00
019	AFFORDABLE HOUSING	1,973.00
023	SVRDA SUCCESSOR AGENCY	7,143.02
025	GENERAL TRUST	29,511.80
028	SENIOR CENTER	731.38
035	GREEN BUILDING FUNDING	283.80
077	SKYPARK MAINT ASSESS DIST	950.00
112	DENTAL INS INTERNAL SERV	1,561.70
123	COMMUNITY FACILITY CENTER	211.15
150	GENERAL CAPITAL IMPROVEMENTS	1,621.73
TOTAL ALL FUNDS		138,146.45

BANK RECAP:

BANK	NAME	DISBURSEMENTS
BA	GENERAL CHECKING ACCOUNT	138,146.45
TOTAL ALL BANKS		138,146.45

City of Scotts Valley INTEROFFICE MEMORANDUM

DATE: January 6, 2016

TO: Honorable Mayor and City Council

FROM: City Manager

SUBJECT: **Approval of First Amendment to Memorandum of Understanding between the City of Scotts Valley and the Scotts Valley Municipal Service Employees, SEIU Local 521 for the period July 1, 2015 to June 30, 2017**

SUMMARY OF ISSUE

The City and the Scotts Valley Municipal Service Employees represented by SEIU Local 521 reopened negotiations pursuant to Section 1.00 of the Memorandum of Understanding. Both parties have reached a tentative agreement to amend the effective date of the salary increase for the current fiscal year. The amended effective date of the increase will be the first full pay period in July 2015 rather than August 29, 2015.

FISCAL IMPACT

Approximately \$2,284 in salary and benefits to the General Fund, \$1,130 to the Wastewater Fund, and \$464 to the Recreation Fund.

STAFF RECOMMENDATION

That Council approve the First Amendment to the attached Memorandum of Understanding and authorize the Mayor and Interim City Manager to sign it.

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**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING
BETWEEN CITY OF SCOTTS VALLEY AND
SCOTTS VALLEY MUNICIPAL EMPLOYEES, SEIU LOCAL 521
JULY 1, 2015 – JUNE 30, 2017**

WHEREAS, both the City of Scotts Valley and the Scotts Valley Municipal Employees represented by SEIU Local 521 wish to amend the Memorandum of Understanding between both parties for the period July 1, 2015 to June 30, 2017.

NOW, THEREFORE, IT IS AGREED that the first paragraph of Section 10.01 – Salary Ranges is hereby amended to read as follows:

“Effective the first full pay period in July 2015, the salary range for each classification in the unit will receive a one and one-half percent (1.5%) salary increase, as reflected on Exhibit B.
Effective the first full pay period in July 2016, the salary range for each classification in the unit will receive a one-half (0.5%) salary increase as reflected on Exhibit C.”

IT IS FURTHER AGREED that except as expressly amended hereinabove, the terms of the Memorandum of Understanding shall remain unchanged.

Signed:

City of Scotts Valley:

Scotts Valley Municipal Employees
SEIU Local 521

Donna Lind, Mayor

Jesse Williams

Chuck Comstock, Interim City Manager

Rhonda Lieb

Approved as to form:
Kirsten Powell

Kimarie Jones

Carlos Flores

City of Scotts Valley INTEROFFICE MEMORANDUM

Date: January 06, 2015
To: Honorable Mayor and City Council Members
From: Corrie D. Kates, Community Development Director/Deputy City Manager
Subject: **Consider approval of ordinance adding Chapter 17.60 to the Scotts Valley Municipal Code prohibiting all commercial marijuana uses in the City and prohibiting cultivation for medical use by a qualified patient or primary caregiver and repealing Chapter 17.58 relating to medical marijuana dispensaries**

SUMMARY

On October 9, 2015, Governor Jerry Brown signed the "Medical Marijuana Regulation and Safety Act" ("Act") into law. The Act becomes effective January 1, 2016 and contains provisions that govern the cultivating, processing, transporting, testing, and distributing of medical marijuana to qualified patients throughout the state. The Act contains statutory provisions that allow local governments to enact ordinances prohibiting marijuana cultivation, processing, delivery, and dispensaries provide the ordinances are in effect by March 1, 2016. Currently, medical marijuana dispensaries are not permitted in the City. Currently the Scotts Valley Municipal Code does not expressly address the cultivation, processing, and distribution of medical marijuana. Proposed for consideration is an ordinance affirmatively banning all commercial marijuana activity, including cultivation and delivery of marijuana. The ordinance also bans cultivation of medical marijuana for personal use. The Planning Commission considered this ordinance on December 10, 2015, and recommended adoption of the ordinance.

DISCUSSION

Both Federal and California laws generally prohibit the use, possession, cultivation, transportation, and furnishing of marijuana. However, the Compassionate Use Act of 1996 ("CUA") and the Medical Marijuana Program ("MMP") removed certain state law obstacles from the ability of qualified patients to obtain and use marijuana for medical purposes. Among other things, these statutes exempt the "collective or cooperative cultivation" of medical marijuana by qualified patients and their designated caregivers from prosecution or abatement under specified state criminal and nuisance laws.

In 2013, the California Supreme Court held that cities could ban medical marijuana dispensaries under the police power and that such bans do not conflict with the CUA or MMP. This year, the state legislature enacted three bills comprehensively regulating, and reaffirming broad local control over, medical marijuana. (AB243, AB266, and SB643). Most pertinent for cities is AB266, which protects local control over

medical marijuana land uses while also establishing a statewide regulatory scheme headed by the Department of Consumer Affairs. AB266 expressly protects local licensing practices, zoning ordinances, and constitutional police power; and allows cities to ban medical marijuana businesses and land uses. Cities are also permitted to license such uses, if desired.

The newly enacted laws require cities that wish to prohibit delivery services and cultivation of marijuana to enact laws affirmatively banning such activities. Proposed for consideration is a law that expressly bans delivery and cultivation of medical marijuana, in addition to all other commercial cannabis activities and medical marijuana dispensaries. The ban is consistent with existing law, as the City has always prohibited medical marijuana land uses and businesses under its permissive zoning regulations and because medical marijuana land uses violate federal law. Nonetheless, because of the need to expressly ban cultivation and delivery, an affirmative ban of all commercial cannabis activity was prepared to prevent ambiguity.

ENVIRONMENTAL REVIEW

The proposed Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the adoption of this Ordinance is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

FISCAL IMPACT

No direct financial impacts are expected with passage of the ordinance; however, the city may incur costs associated with enforcement of the ordinance.

STAFF RECOMMENDATION

That the City Council open the public hearing, take public testimony, and that the City approve first reading and introduction of Ordinance No. 16.128.4 to prohibit all commercial marijuana uses in the City of Scotts Valley and prohibit marijuana cultivation, marijuana processing, marijuana delivery and marijuana dispensaries in the City of Scotts Valley.

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ORDINANCE NO. 16.128.4

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SCOTTS VALLEY ADDING CHAPTER 17.60 TO THE SCOTTS VALLEY MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MARIJUANA USES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER AND REPEALING CHAPTER 17.58 RELATING TO MEDICAL MARIJUANA DISPENSARIES

The City Council of the City of Scotts Valley does hereby ordain as follows:

Section 1. Findings and Purpose. The City Council finds and declares as follows:

A. In 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code § 11362.5 and entitled “The Compassionate Use Act of 1996” or “CUA”).

B. The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.” The ballot arguments supporting Proposition 215 expressly acknowledged that “Proposition 215 does not allow unlimited quantities of marijuana to be grown anywhere.”

C. In 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP”) to clarify the scope of Proposition 215 and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances.

D. In City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729, the California Supreme Court held that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. . . .” Additionally, in Maral v. City of Live Oak (2013) 221 Cal.App.4th 975, the Court of Appeal held that “there is no right – and certainly no constitutional right – to cultivate medical marijuana. . . .” The Court in Maral affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.

E. The Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United State, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana. The Federal Controlled Substances Act contains no exemption for medical purposes, although there is recent case law that raises a question as to whether the Federal Government may enforce the Act where medical marijuana is allowed.

F. On October 9, 2015 Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereafter “MMRSA”). The MMRSA set up a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities.

G. The City Council finds that commercial medical marijuana activities, as well as cultivation for personal medical use as allowed by the CUA and MMP can adversely affect the health, safety, and well-being of City residents. Citywide prohibition is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities. Further, as recognized by the Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

H. The limited immunity from specified state marijuana laws provided by the Compassionate Use Act and Medical Marijuana Program does not confer a land use right or the right to create or maintain a public nuisance.

I. The MMRSA contains language that requires the city to prohibit cultivation uses by March 1, 2016 either expressly or otherwise under the principles of permissive zoning, or the State will become the sole licensing authority. The MMRSA also contains language that requires delivery services to be expressly prohibited by local ordinance, if the City wishes to do so. The MMRSA is silent as to how the City must prohibit other type of commercial medical marijuana activities.

J. Several California cities have reported negative impacts of marijuana cultivation, processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus and pests.

K. Marijuana plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors.

L. The strong smell of marijuana creates an attractive nuisance, alerting persons to the location of valuable plants, and creating a risk of fire which presents a clear and present danger to the building and its occupants.

M. Based on the experiences of other cities, these negative effects on the public health, safety and welfare are likely to occur and to continue to occur in the City due to the establishment and operation of cannabis activity.

N. While the City Council believes that cultivation and all commercial medical and recreational marijuana uses are prohibited under the City's permissive zoning regulations, it desires to enact this ordinance to expressly make clear that all such uses are prohibited in all zones throughout the City.

O. The Planning Commission held a duly noticed public hearing on December 10, 2015 at which time it considered all evidence presented, both written and oral and at the end of the hearing voted to adopt a resolution recommending that the City Council adopt this Ordinance.

P. The City Council held a duly noticed public hearing on this Ordinance on January 6, 2016, at which time it considered all evidence presented, both written and oral.

Section 2. Authority. This ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to Article XI, Section 7 of the California Constitution, the Compassionate Use Act, the Medical Marijuana Program, and The Medical Marijuana Regulation and Safety Act.

Section 3. Chapter 17.60 is hereby added to the Scotts Valley Municipal Code to read as follows:

Chapter 17.60

MARIJUANA AND CULTIVATION

17.60.010 Definitions

"Cannabis" shall have the same meaning as set forth in Business & Professions Code § 19300.5(f) as the same may be amended from time to time.

"Caregiver" or "primary caregiver" shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.

“Commercial cannabis activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or medical cannabis or a cannabis or medical cannabis product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

“Cooperative” shall mean two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering or making available medical marijuana, with or without compensation.

“Cultivation” shall have the same meaning as set forth in Business & Professions Code § 19300.5(l) as the same may be amended from time to time.

“Cultivation site” means a facility where cannabis or medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

“Delivery” shall have the same meaning as set forth in Business & Professions Code § 19300.5(m) as the same may be amended from time to time.

“Dispensary” shall have the same meaning as set forth in Business & Professions Code § 19300.5(n) as the same may be amended from time to time. For purposes of this Chapter, “Dispensary” shall also include a cooperative. “Dispensary” shall not include the following uses: (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, (5) a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

“Dispensing” shall have the same meaning as set forth in Business & Professions Code § 19300.5(o) as the same may be amended from time to time.

“Distribution” shall have the same meaning as set forth in Business & Professions Code § 19300.5(p) as the same may be amended from time to time.

“Distributor” shall have the same meaning as set forth in Business & Professions Code § 19300.5(q) as the same may be amended from time to time.

“Manufacturer” shall have the same meaning as set forth in Business & Professions Code § 19300.5(y) as the same may be amended from time to time.

“Manufacturing site” shall have the same meaning as set forth in Business & Professions Code § 19300.5(af) as the same may be amended from time to time.

“Marijuana Processing” shall mean any method used to prepare cannabis or its byproducts for commercial, retail or wholesale use including, but not limited to, drying, cleaning, curing, packaging and extraction of active ingredients to create cannabis related products and concentrate.

“Medical cannabis,” “medical cannabis product,” or “cannabis product” shall have the same meanings as set forth in Business & Professions Code § 19300.5(ag) as the same may be amended from time to time.

“Medical Marijuana Regulation and Safety Act” or “MMRSA” shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

“Nursery” shall have the same meaning as set forth in Business & Professions Code § 19300.5(ah) as the same may be amended from time to time.

“Qualifying patient” or “Qualified patient” shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.

“Testing laboratory” shall have the same meaning as set forth in Business & Professions Code § 19300.5(z) as the same may be amended from time to time.

“Transport” shall have the same meaning as set forth in Business & Professions Code § 19300.5(am) as the same may be amended from time to time.

“Transporter” shall have the same meaning as set forth in Business & Professions Code § 19300.5(aa) as the same may be amended from time to time.

17.60.020 Prohibition.

- A. Commercial cannabis activities of all types are expressly prohibited in all zoning districts in the City of Scotts Valley. No person shall establish, operate, conduct or allow a commercial cannabis activity anywhere within the City.
- B. To the extent not already covered by subsection A above, all deliveries of cannabis and/or medical cannabis are expressly prohibited within the City of Scotts Valley. No person shall conduct any deliveries that either originate or terminate within the City.
- C. To the extent not already covered in subsection A above, all marijuana processing is expressly prohibited within the City of Scotts Valley.

- D. Dispensing cannabis is prohibited. No person shall dispense cannabis in the City. Cannabis dispensaries are prohibited. No person shall own, manage, operate or work in, whether as an employee or independent contractor, a cannabis dispensary in the City.
- E. Cultivation of cannabis for commercial or non-commercial purposes, including cultivation by a qualified patient or a primary caregiver, is expressly prohibited in all zoning districts in the City of Scotts Valley. No person, including a qualified patient or primary caregiver, shall cultivate any amount of cannabis in the City, even for medical purposes.
- F. This section is meant to prohibit all activities for which a State license is required. Accordingly, the City shall not issue any permit, license or other entitlement for any activity for which a State license is required under the MMRSA.

17.60.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 17.60 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

17.60.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 17.60, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Title 4 of this Code against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party."

Section 4. Chapter 17.58 of the Scotts Valley Municipal Code is hereby repealed.

Section 5. CEQA. This ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, this ordinance is not a project under CEQA Guideline section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment. The City's permissive zoning provisions already prohibits all uses that are being expressly prohibited by this ordinance. Therefore, this ordinance has no impact on the physical environment as it will not result in any changes.

Section 6. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 7. To the extent the provisions of the Scotts Valley Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 8. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

This Ordinance was introduced on the 6th day of January, 2016, and passed and adopted by the City Council of the City of Scotts Valley on the _____ day of _____, 2016, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____
Donna Lind, Mayor

ATTEST:

Tracy A. Ferrara, City Clerk

APPROVED AS TO FORM:

Kirsten Powell, City Attorney

West's Annotated California Codes

Business and Professions Code ([Refs & Annos](#))

Division 8. Special Business Regulations ([Refs & Annos](#))

Chapter 3.5. Medical Marijuana Regulation and Safety Act ([Refs & Annos](#))

Article 1. Definitions ([Refs & Annos](#))

Effective: January 1, 2016

West's Ann.Cal.Bus. & Prof.Code § 19300.5

§ 19300.5. Definitions

Currentness

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

(a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

(b) "Applicant," for purposes of Article 4 (commencing with [Section 19319](#)), means the following:

(1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.

(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(c) "Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(d) "Bureau" means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

(f) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the 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. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by [Section 11018 of the Health and Safety Code](#) as enacted by Chapter 1407 of the Statutes of 1972.

“Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, “cannabis” does not mean “industrial hemp” as defined by [Section 81000 of the Food and Agricultural Code](#) or [Section 11018.5 of the Health and Safety Code](#).

(g) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible medical cannabis product is not considered food, as defined by [Section 109935 of the Health and Safety Code](#), or a drug, as defined by [Section 109925 of the Health and Safety Code](#).

(h) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in [Section 11362.7 of the Health and Safety Code](#).

(i) “Certificate of accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

(j) “Chief” means Chief of the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

(k) “Commercial cannabis activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in [Section 19319](#), related to qualifying patients and primary caregivers.

(l) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(m) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in [Section 11362.7 of the Health and Safety Code](#), or a testing laboratory.

“Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) “Dispensary” means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) “Dispensing” means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

- (p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.
- (q) "Distributor" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.
- (r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by [Section 109935 of the Health and Safety Code](#) or a drug as defined by [Section 109925 of the Health and Safety Code](#).
- (t) "Fund" means the Medical Marijuana Regulation and Safety Act Fund established pursuant to [Section 19351](#).
- (u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.
- (v) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.
- (w) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the license.
- (x) "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.
- (y) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its

container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(z) “Testing laboratory” means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.

(2) Registered with the State Department of Public Health.

(aa) “Transporter” means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

(ab) “Licensee” means a person issued a state license under this chapter to engage in commercial cannabis activity.

(ac) “Live plants” means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ad) “Lot” means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, “lot” means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

(ae) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(af) “Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ag) “Medical cannabis,” “medical cannabis product,” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at [Section 11362.5 of the Health and Safety Code](#). For the purposes of this chapter, “medical cannabis” does not include “industrial hemp” as defined by [Section 81000 of the Food and Agricultural Code](#) or [Section 11018.5 of the Health and Safety Code](#).

(ah) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ai) "Permit," "local license," or "local permit" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(aj) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ak) "State license," "license," or "registration" means a state license issued pursuant to this chapter.

(al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by [Section 109925 of the Health and Safety Code](#).

(am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

Credits

(Added by [Stats.2015, c. 689 \(A.B.266\)](#), § 4, eff. Jan. 1, 2016.)

West's Ann. Cal. Bus. & Prof. Code § 19300.5, CA BUS & PROF § 19300.5

Current with all 2015 Reg.Sess. laws, and Ch. 1 of 2015-2016 2nd Ex.Sess.