

111 E. COMMERCIAL STREET  
WILLITS, CALIFORNIA 95490  
(707) 459-4601 TEL  
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**WILLITS CITY COUNCIL  
SPECIAL MEETING AGENDA  
JUNE 7, 2016 ♦ 5:30 P.M. ♦ COUNCIL CHAMBERS**

1. **OPENING MATTERS** – a) Call to Order; b) Roll Call
2. **PROCLAMATION DESIGNATING WESTERN WEAR DAYS JUNE 23<sup>RD</sup> THROUGH JULY 4<sup>TH</sup>, 2016**
3. **ADOPT RESOLUTIONS PERTAINING TO NOVEMBER 8, 2016 ELECTION, AS FOLLOWS: 1) CALLING AND GIVING NOTICE OF GENERAL MUNICIPAL ELECTION FOR THE ELECTION OF CITY COUNCILMEMBERS; 2) CONSOLIDATING GENERAL MUNICIPAL ELECTION WITH STATEWIDE GENERAL ELECTION; AND 3) SETTING ELECTION REQUIREMENTS FOR CANDIDATES FOR ELECTIVE OFFICE REGARDING CANDIDATES STATEMENTS**
4. **PRESENTATION, DISCUSSION AND POSSIBLE DIRECTION/ACTION REGARDING PRELIMINARY MAIN STREET IMPROVEMENT PLANS AS THEY RELATE TO CALTRANS RELINQUISHMENT PROJECT**
5. **DISCUSSION AND POSSIBLE APPROVAL TO AUTHORIZE CITY MANAGER TO ISSUE A REQUEST FOR QUALIFICATIONS FOR ENGINEERING AND RELATED CONSULTING SERVICES**
6. **CONTINUED DISCUSSION AND DIRECTION TO STAFF CONCERNING CITY CODE ENFORCEMENT PROCEDURES AND THE ABATEMENT OF PUBLIC NUISANCES**
7. **CLOSED SESSION**
  - a. Conference with Legal Counsel Pursuant to Government Code §54956.9b – Anticipated Litigation
8. **ADJOURNMENT**

*I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the bulletin board at the main entrance of the City of Willits City Hall, located at 111 East Commercial Street, Willits, California, not less than 24 hours prior to the meeting set forth on this agenda.*

*Dated this 3<sup>d</sup> day of June, 2016.  
Cathy Moorhead, City Clerk*

**AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE**

*The meeting room is wheelchair accessible and disabled parking is available. If you are a person with a disability and need disability-related modifications or accommodations to participate in this meeting, please contact Cathy Moorhead at (707) 459-7121 or Fax (707) 459-1562. Requests for such modifications or accommodations must be made at least two full business days prior to the meeting.*

**ADDITIONAL MEETING INFORMATION FOR INTERESTED PARTIES**

*Materials related to an item on this Agenda submitted to the Willits City Council, Planning Commission, or Community Development Agency after distribution of the agenda packet are available for public inspection at City Clerk's office at 111 E. Commercial Street, Willits, during normal business hours.*



# *PROCLAMATION*

A PROCLAMATION OF THE WILLITS CITY COUNCIL  
DESIGNATING WILLITS WESTERN WEAR DAYS  
90<sup>TH</sup> ANNIVERSARY  
JUNE 23<sup>RD</sup> THROUGH JULY 4<sup>TH</sup>, 2016

WHEREAS, Willits Frontier Days is the oldest continuous rodeo in the state of California and this year, 2016, marks the 90<sup>th</sup> anniversary of Willits Frontier Days, which still continues to draw people from all over to come and not only celebrate Independence Day, but to celebrate as a community; and

WHEREAS, each year this event is run solely by volunteers, with many hours dedicated to putting together this traditional event; and

WHEREAS, this annual community event instills great pride in all of us who call Willits home, past and present.

NOW, THEREFORE, I, Bruce Burton, Mayor of the City of Willits, do hereby proclaim June 23<sup>rd</sup> through July 4<sup>th</sup>, 2016, as

***“WESTERN WEAR DAYS”***

in the City of Willits and encourage all who enter our community to join us in the rodeo spirit by wearing western apparel.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the Seal of the CITY OF WILLITS to be affixed this 7<sup>th</sup> day of June, 2016.

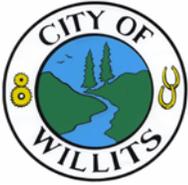
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Bruce Burton, Mayor

ATTEST:

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Cathy Moorhead, City Clerk



Item No. **3**

Meeting Date: **June 7, 2016**

### AGENDA SUMMARY REPORT

**To:** Honorable Mayor and Council Members

**From:** Cathy Moorhead, City Clerk

**Agenda Title:** ADOPT RESOLUTIONS PERTAINING TO NOVEMBER 8, 2016 ELECTION, AS FOLLOWS: 1) CALLING AND GIVING NOTICE OF GENERAL MUNICIPAL ELECTION FOR THE ELECTION OF CITY COUNCILMEMBERS; 2) CONSOLIDATING GENERAL MUNICIPAL ELECTION WITH STATEWIDE GENERAL ELECTION; AND 3) SETTING ELECTION REQUIREMENTS FOR CANDIDATES FOR ELECTIVE OFFICE REGARDING CANDIDATES STATEMENTS

**Type:**  Presentation  Consent  Regular Agenda  Public Hearing  Urgent Time: 5 min.

**Summary of Request:** Pursuant to State Elections Code, the City is required to adopt resolutions calling an election and requesting election services to be provided by the County Registrar of Voters. The City's General Municipal Election will be held on the same date as the November 8, 2016, statewide election.

Terms for three (3) Council members are expiring this year. The proposed resolutions have been prepared for the upcoming election, pursuant to State election laws and the City's Municipal Code, as follows:

1. Calling and Giving Notice of the Holding of a General Municipal Election to be Held on Tuesday, November 8, 2016, for the Election of City Council Members as Required by the Provisions of the Laws of the State of California Relating to General Law Cities.
2. Requesting that the Board of Supervisors of the County of Mendocino Consolidate a General Municipal Election to be Held on November 8, 2016, with the Statewide General Election to be Held on that Date Pursuant to Section 10403 of the Elections Code and to Render Specified Services to the City Relating to the Conduct of Said Election.
3. Setting Election Requirements for Candidates for Elective Office Regarding Candidates Statements Submitted to Voters at an Election.

**Recommended Action:** Adopt resolutions as presented by the City Clerk 1) Calling and Giving Notice of the Holding of a General Municipal Election to be Held on Tuesday, November 8, 2016, for the Election of City Council Members as Required by the Provisions of the Laws of the State of California Relating to General Law Cities; 2) Requesting that the Board of Supervisors of the County of Mendocino Consolidate a General Municipal Election to be Held on November 8, 2016, with the Statewide General Election to be Held on that Date Pursuant to Section 10403 of the Elections Code and to Render Specified Services to the City Relating to the Conduct of Said Election; and 3) Setting Election Requirements for Candidates for Elective Office Regarding Candidates Statements Submitted to Voters at an Election.

**Alternative(s):** Not applicable.

**Fiscal Impact:** Cost of election materials, publication of notices, and actual fees for County services. Consolidating with the County is an efficient, cost-effective way to manage the election process.

**Personnel Impact:** Staff time to coordinate paperwork with candidates, County and State.

**Reviewed by:**  City Manager  City Attorney  Finance Director  Human Resources  Risk

**Council Action:**  Approved  Denied  Other: \_\_\_\_\_

**Records:**  Agreement  Resolution # \_\_\_\_\_  Ordinance # \_\_\_\_\_  Other \_\_\_\_\_

**RESOLUTION NO. 2016-\_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLITS CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, FOR THE ELECTION OF CITY COUNCIL MEMBERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES**

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held on Tuesday, November 8, 2016, for the election of City Council Members; and

WHEREAS, the City, by separate resolution, will be requesting that the Mendocino County Board of Supervisors consolidate the City's municipal election with the Statewide General Election.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Willits does hereby resolve, declare, determine, and order as follows:

- 1) Pursuant to the requirements of the laws of the State of California relating to general law cities there is called and ordered to be held in the City of Willits, California, on Tuesday, November 8, 2016, a general municipal election for the purpose of electing three (3) members of the City Council for the full term of four (4) years.
- 2) The ballots to be used at the election shall be in form and content as required by law.
- 3) The City Clerk is authorized, instructed and directed to:
  - Furnish, distribute and receive all nomination papers;
  - Receive Candidate's Statements pursuant to Election Code §13307;
  - Receive Code of Fair Campaign Practice Statements; and
  - Receive Disclosure Statements as required by law.
- 4) The County Clerk, pursuant to Resolution 2016-\_\_\_, has been requested to and shall conduct the election pursuant to the appropriate provisions of State law.
- 5) The polls for the election shall be open at 7:00 a.m. of the date of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed, pursuant to Election Code §10242, except as provided in §14401 of the Elections Code of the State of California.
- 6) In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.
- 7) Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.
- 8) The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

The above and foregoing Resolution was introduced by Councilmember \_\_\_\_\_ seconded by Councilmember \_\_\_\_\_, and passed and adopted at a special meeting of the City Council of the City of Willits, held on the 22<sup>nd</sup> day of June, 2016, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
BRUCE BURTON, Mayor  
City Council of the City of Willits

ATTEST:

\_\_\_\_\_  
CATHY MOORHEAD, City Clerk

**RESOLUTION NO. 2016-\_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLITS REQUESTING THAT THE MENDOCINO COUNTY BOARD OF SUPERVISORS CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO §10403 OF THE ELECTIONS CODE AND TO RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF SAID ELECTION**

WHEREAS, the City Council of the City of Willits has called a general municipal election to be held on Tuesday, November 8, 2016, for the purpose of electing three (3) members of the City Council; and

WHEREAS, it is desirable that the general municipal election be consolidated with the Statewide General Election to be held on the same date and that within the City, the precincts, polling places and election officers of the two elections be the same, and that the County Election Department of the County of Mendocino ("County Election Department") canvass the returns of the general municipal election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Willits does hereby resolve, declare, determine and order as follows:

- 1) Pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of Mendocino is hereby requested to consent and agree to the consolidation of a general municipal election with the Statewide General Election on Tuesday, November 8, 2016, for the purpose of allowing the electorate of the City of Willits to elect three (3) members of the City Council.
- 2) The County Election Department is authorized to canvass the returns of the general municipal election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.
- 3) The Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election.
- 4) The City of Willits recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.
- 5) The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Mendocino.
- 6) The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

BE IT FURTHER RESOLVED that the County Clerk in conducting the City's election is requested to provide the following services:

- 1) Establish precinct boundaries to coincide with the Statewide Election.
- 2) Designate polling places and appoint election officers.

- 3) Notify election officers of their appointment and instruct inspectors concerning their duties.
- 4) Hire and pay election officers.
- 5) Arrange for the availability of polling places and all supplies necessary for casting ballots, and setting up voting booths.
- 6) Publish lists of precincts, election officers, polling places, and the hours that polls will be open.
- 7) Verify signatures appearing on candidates' nomination papers.
- 8) Provide sample ballots to each voter.
- 9) Receive absentee voter applications; supply absentee voter ballots to applicants; accept absentee voter ballot returns; retain custody of absentee voter ballots; count absentee voter ballots.
- 10) Provide Certificate of County Clerk as to Result of the Canvass, for approval by the Willits City Council.

BE IT FURTHER RESOLVED that the City Clerk in conducting the City's election shall provide the following services:

- 1) Publish the Notice of Election;
- 2) Publish Notice of Nominees as required by law;
- 3) Distribute and receive nomination papers;
- 4) Receive Candidate's Statement; and
- 5) Receive campaign statements and disclosure statements as required by law.

The above and foregoing Resolution was introduced by Councilmember \_\_\_\_\_ seconded by Councilmember \_\_\_\_\_, and passed and adopted at a special meeting of the City Council of the City of Willits, held on the 22<sup>nd</sup> day of June, 2016, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
BRUCE BURTON, Mayor  
City Council of the City of Willits

ATTEST:

\_\_\_\_\_  
CATHY MOORHEAD, City Clerk

**RESOLUTION NO. 2016 - \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLITS ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION**

WHEREAS, the City conducts elections from time to time; and

WHEREAS, Section 13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate's statement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Willits does hereby resolve, declare, determine and order as follows:

- 1) **GENERAL PROVISIONS.** Pursuant to §13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at an election to be held in the City of Willits may prepare a candidate's statement on an appropriate form provided by the City Clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than 400 words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in typewritten form in the office of the City Clerk at the time the candidate's nomination papers are filed. Except as provided in Elections Code §13309, the statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.
- 2) **FOREIGN LANGUAGE POLICY.**
  - a. Pursuant to the Federal Voting Rights Act, the City may be required to translate candidate's statements into the following language: Spanish.
  - b. Pursuant to Elections Code §13307(b), the candidate's statement must be translated and printed in Spanish at the candidate's request.
  - c. The City Clerk shall
    1. Translations:
      - (a) Have all candidates statements translated into Spanish.
    2. Printing:
      - (a) Print any translations of candidates who so request printing in the voters pamphlet.
- 3) **PAYMENT.**
  - a. Translations:
    1. The candidate shall be required to pay for the cost of translating the candidate's statement into any required foreign language as specified in (a) and/or (b) above pursuant to Federal and/or State law.
    2. The candidate shall be required to pay for the cost of translating the candidate's statement into any foreign language, other than Spanish, that is requested as an option by the candidate.
  - b. Printing:
    1. The candidate shall be required to pay of the cost of printing the candidate's statement in English in the voters' pamphlet.
    2. The candidate shall be required to pay for the cost of printing the candidate's statement in Spanish in the voters' pamphlet.

The City Clerk shall estimate the total cost of printing, handling, translating, and mailing the candidate's statement filed pursuant to this section, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended), and require each candidate filing a statement to pay in advance to the local agency his or her estimated pro rata share as a condition of having his or her statement included in the voter's pamphlet. In the event the estimated payment is required, the estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the clerk is not bound by the estimate and may, on a pro rata basis, bill the candidate for additional actual expenses or refund any excess paid depending on the final actual cost. In the event of an underpayment, the clerk may require the candidate to pay the balance of the cost incurred. In the event of an overpayment, the clerk shall prorate the excess amount among the candidates and refund the excess amount paid within 30 days of the election.

- 4) ADDITIONAL MATERIALS. No candidate will be permitted to include additional materials in the sample ballot package.
- 5) The City Clerk shall provide each candidate or the candidate's representative a copy of this Resolution at the time the nomination petitions are issued.
- 6) All candidate statements filed with the City Clerk pursuant to this Resolution and Elections Code §13307 shall remain confidential until the expiration of the filing deadline. After the expiration of the filing deadline, the City Clerk shall make copies of candidate statements available for public examination at the City Clerk's office for a period of 10 calendar days immediately following the filing deadline.
- 7) All previous resolutions establishing council policy on payment for candidate's statements are repealed.
- 8) This resolution shall apply at the next ensuing municipal election and at each municipal election after that time.
- 9) The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

The above and foregoing Resolution was introduced by Councilmember \_\_\_\_\_ seconded by Councilmember \_\_\_\_\_, and passed and adopted at a special meeting of the City Council of the City of Willits, held on the 22<sup>nd</sup> day of June, 2016, by the following vote:

AYES:  
NOES:  
ABSENT:

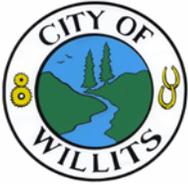
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BRUCE BURTON, Mayor  
City Council of the City of Willits

ATTEST:

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CATHY MOORHEAD, City Clerk



**AGENDA SUMMARY REPORT**

**To:** Honorable Mayor and Council Members

**From:** Adrienne Moore, City Manager

**Agenda Title:** PRESENTATION, DISCUSSION AND POSSIBLE DIRECTION / ACTION REGARDING PRELIMINARY MAIN STREET IMPROVEMENT PLANS AS THEY RELATE TO CALTRANS RELINQUISHMENT PROJECT

**Type:**  Presentation  Consent  Regular Agenda  Public Hearing  Urgent Time: 60 min.

**Summary of Request:** At the City Council meeting of May 25, 2016, discussion was initiated regarding the City's desired Main Street improvement design concepts to be submitted to Caltrans for incorporation into their relinquishment project. The design team of WRT, Fehr & Peers, and GHD have been working at an accelerated pace since the Main Street Planning Fair, held in mid-April, in order to bring forward a conceptual design for the portion of Main Street to be relinquished. At tonight's meeting, John Gibbs/WRT will present the conceptual design for Council's review, comments, and direction before Council authorization to submit said design to Caltrans. Alison Pernell/LGC will also be on hand to respond to questions and comments. The following attachments are provided for your review:

- Willits Main Street Conceptual Design (9 design sheets specific to the relinquishment portion)
- Draft Technical Memorandum prepared by GHD
- Opinion of Probable Construction Costs, divided into four zones

In addition to reviewing cost estimates, the Council will need to discuss potential funding sources, which include the half-cent sales tax (approximately \$2.6 million at present), D1 funds (approximately \$228k at present), grant opportunities, and long-term financing options. City staff requests Council's determination of funding commitments for additions beyond the scope of the relinquishment project.

Upon Council direction, City staff will continue working with Caltrans regarding coordination of our plans with the relinquishment project and a draft cooperative agreement for additions desired by the City.

**Recommended Action:** Provide direction regarding prioritization of design elements and related funding commitments for "additions" beyond the scope of the Caltrans relinquishment project; and authorize submittal of *Willits Main Street Conceptual Design* to Caltrans for project coordination.

**Alternative(s):** N/A

**Fiscal Impact:** TBD

**Personnel Impact:** N/A

**Reviewed by:**  City Manager  City Attorney  Finance Director  Human Resources  Risk

**Council Action:**  Approved  Denied  Other: \_\_\_\_\_

**Records:**  Agreement  Resolution # \_\_\_\_\_  Ordinance # \_\_\_\_\_  Other \_\_\_\_\_























## DRAFT TECHNICAL MEMORANDUM

May 27, 2016

To: WRT

Cc: Bill Silva, GHD

From: Matt Wargula, GHD

Tel: 707-523-1010

Subject: Willits Main Street Planning Level Opinion of Probable Construction Cost

Job no.: 11121532

### Introduction and Background

This technical memorandum summarizes the work performed for the Willits Main Street Project (project). GHD was tasked with preparing a planning level opinion of probable construction cost. Project development, environmental, right-of-way, permit and other costs are not included.

The project was divided into to four zones for the purposes of the opinion of construction cost breakdown, including:

- A. North (Commercial Street to northern project limits near State Street)
- B. Downtown Core (Commercial Street to Wood Street)
- C. Downtown Core – South (Wood Street to Valley Street)
- D. South (Valley Street to State Route (Hwy) 20)

The project was further divided into the “Base Project,” “Main Street Add” and “Options” to compare the anticipated construction costs for the project being completed by Caltrans (Base Project), additional design elements conceived from public input and design charrettes (Main Street Add) and supplemental features such as changes to finishes or value engineering items (Options).

The “Base Project” preliminary construction costs were developed based on preliminary plans with plot date February 9, 2016 for the relinquishment of US 101 to the City of Willits, prepared by Caltrans. These preliminary plans are estimated to be approximately 15 to 25 percent complete. In addition, the Caltrans project approval document, *Project Report to Authorize Project Approval* (Caltrans, May 18, 2015) was reviewed. Information gathered from this source was utilized to capture costs for items that were not readily apparent in the preliminary plans.

The “Main Street Add” and “Options” preliminary construction costs were developed from supplemental design work prepared by the WRT team. Elements such as street trees, rain gardens, sidewalk bulb-outs and curb extensions, intersection realignment, buffered bike lanes, lighting and site furnishings were developed based on public comment, feedback and recommendations during the public design charrette the week of April 18, 2016. The WRT team prepared preliminary level design line work dated May 27, 2016, which was used in preparation of the preliminary opinion of probable construction cost.

Some construction scope items were assumed for each zone that are typical for this type of project and measurement of work quantities were approximated from available plans, utility mapping and online sources, such as Google Earth. Topographic survey, boundary survey, geotechnical information, and other resources were not available at this stage to complete the planning level opinion of probable construction cost. Based on this cursory approach, both scope and quantities of work could vary significantly, and a 35% contingency has been applied.

There seems to be potential for underground and/or above ground utility adjustments on this project. It is not known which underground utilities would be impacted or the exact extent of the work. Existing underground utilities may be impacted, potentially including underground storm drain and electrical utilities. Underground storm drain conflicts at intersection curb returns have been identified and

approximate costs have been included. Other potential utility conflicts have not been directly addressed or included in the preliminary opinion of probable construction cost.

### **Planning Level Opinion of Probable Construction Cost**

Planning (preliminary) opinion of probable construction costs were developed based on the above discussion. These costs are based on a Class 4 (concept evaluation) estimate of probable construction cost as defined by the Association for the Advancement of Cost Engineering, International (AACE). AACE defines the "Class 4" estimate as follows:

*Generally prepared based on limited information and subsequently have fairly wide accuracy ranges. They are typically used for project screening, determination of feasibility, concept evaluation, and preliminary budget approval. Typically, engineering is from 1% to 15% complete. Class 4 estimates are prepared for a number of purposes, such as but not limited to, detailed strategic planning, business development, project screening at more developed stages, alternative scheme analysis, confirmation of economic and/or technical feasibility, and preliminary budget approval or approval to proceed to the next stage. The typical accuracy range for this class estimate are -15% to -30% on the low side, and +20% to +50% on the high side, depending on the technical complexity of the project, appropriate reference information, and the inclusion of an appropriate contingency determination.*

Note: Contingency (set at 35-percent) is not directly related to the stated accuracy range for a Class 4 estimate. Determination of construction cost contingency is intended to cover unforeseen aspects of construction, including changes in quantities of work, which have not been evaluated during this preliminary investigation.

The following Table 1 on the following page summarizes the planning level opinion of probable construction cost.

### **Attachments**

- Opinion of Probable Construction Costs.

**Table 1: City of Willits Main Street Planning Level Opinion of Probable Construction Cost**

ZONE	ZONE DESCRIPTION	BASE PROJECT SUBTOTAL	MAIN STREET ADD SUBTOTAL	OPTIONS SUBTOTAL	TOTAL CONSTRUCTION COST
A	NORTH: COMMERCIAL TO NORTHERN PROJECT LIMITS NEAR STATE	\$ 692,550	\$ 353,700	\$ 70,200	\$ 1,116,450
B	DOWNTOWN CORE: COMMERCIAL TO WOOD	\$ 1,567,350	\$ 1,283,850	\$ 143,100	\$ 2,994,300
C	DOWNTOWN CORE - SOUTH: WOOD TO VALLEY	\$ 947,000	\$ 646,000	\$ 17,000	\$ 1,610,000
D	SOUTH: VALLEY TO HWY 20	\$ 2,084,000	\$ 1,251,000	\$ 76,000	\$ 3,411,000
	<b>TOTAL CONSTRUCTION COST</b>	<b>\$ 5,290,900</b>	<b>\$ 3,534,550</b>	<b>\$ 306,300</b>	<b>\$ 9,131,750</b>

Note: \*Construction cost based on Class 4 opinion of probable construction costs.

\*\*\$25,000 assumed minimum RW cost where potential for RW exist



# Opinion of Probable Construction Costs

## City of Willits Main Street

PRELIMINARY COMPARISON CONSTRUCTION COSTS

DATE PREPARED: 5/27/2016

ENR Cost Index March 2016 (San Francisco, CA): 11,557.90

BID ITEM	ITEM CODE	DESCRIPTION	UNIT PRICE	BASE PROJECT		MAIN STREET ADD		OPTIONS	
				QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
<b>A. NORTH: COMMERCIAL TO NORTHERN PROJECT LIMITS NEAR STATE</b>									
1	70030	LEAD COMPLIANCE PLAN (PER ZONE)	\$ 1,500.00	1	LS \$ 1,500	0	LS \$ -	0	LS \$ -
2	120090	CONSTRUCTION AREA SIGNS	\$ 20,000.00	1	LS \$ 20,000	0	LS \$ -	0	LS \$ -
3	120100	TRAFFIC CONTROL SYSTEM	\$ 39,000.00	1	LS \$ 39,000	0	LS \$ -	0	LS \$ -
4	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	\$ 1.00	3,500	LF \$ 3,500	0	LF \$ -	0	LF \$ -
5	128652	PORTABLE CHANGEABLE MESSAGE SIGN	\$ 8,000.00	1	LS \$ 8,000	0	LS \$ -	0	LS \$ -
6	130100	JOB SITE MANAGEMENT	\$ 20,000.00	1	LS \$ 20,000	0	LS \$ -	0	LS \$ -
7	130300-130900	STORM WATER POLLUTION PREVENTION CONTROL	\$ 15,000.00	1	LS \$ 15,000	0	LS \$ -	0	LS \$ -
8	1507XX	REMOVE THERMO/PAINTED TRAFFIC STRIPE/MARKERS	\$ 10,000.00	1	LS \$ 10,000	0	LS \$ -	0	LS \$ -
9	150742/152320	REMOVE AND RESET ROADSIDE SIGN	\$ 550.00	7	EA \$ 3,850	0	EA \$ -	0	EA \$ -
10	152469	ADJUST UTILITY COVER TO GRADE	\$ 700.00	15	EA \$ 10,500	0	LS \$ -	0	LS \$ -
11	152438	ADJUST FRAME AND COVER TO GRADE	\$ 675.00	5	EA \$ 3,375	0	EA \$ -	0	EA \$ -
12	152440	ADJUST MANHOLE TO GRADE	\$ 875.00	6	EA \$ 5,250	0	EA \$ -	0	EA \$ -
13	153103	COLD PLANE ASPHALT CONCRETE PAVEMENT	\$ 5.50	2,926	SY \$ 16,093	0	SY \$ -	0	SY \$ -
14	153103	REMOVE ASPHALT CONCRETE PAVEMENT	\$ 2.50	0	SF \$ -	247	SF \$ 618	0	SF \$ -
15		ASPHALT DIGOUT AND REPAIR	\$ 5.50	2,673	SF \$ 14,704	0	SF \$ -	0	SF \$ -
16	153215	REMOVE CONCRETE	\$ 4.00	11,065	SF \$ 44,260	0	SF \$ -	0	SF \$ -
17	190101	ROADWAY EXCAVATION	\$ 100.00	9	CY \$ 900	0	CY \$ -	0	CY \$ -
18	198250	ROADSIDE CLEARING - REMOVE TREE	\$ 2,500.00	0	EA \$ -	8	EA \$ 20,000	0	EA \$ -
		REMOVE EXISTING LIGHT STANDARDS	\$ 3,500.00	0	EA \$ -	2	EA \$ 7,000	0	EA \$ -
19	204003	PLANTING	\$ 30.00	0	SF \$ -	1,866	SF \$ 55,980	0	SF \$ -
20	204035	PLANT TREE WITH TREE WELL	\$ 2,500.00	0	EA \$ -	19	EA \$ 47,500	0	EA \$ -
21	204099	PLANT ESTABLISHMENT WORK	\$ 5,000.00	0	LS \$ -	1	LS \$ 5,000	0	LS \$ -
22	206XXX	IRRIGATION	\$ 20,000.00	0	LS \$ -	1	LS \$ 20,000	0	LS \$ -
		OPTION: TEMPORARY WATERING BAGS	\$ 70.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
23	XXXXXX	SITE FURNISHINGS (BENCH PUBLIC ROW)	\$ 3,200.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
24	390132	HOT MIX ASPHALT (TYPE A)	\$ 115.00	414	TON \$ 47,653	0	TON \$ -	0	TON \$ -
25	397005	TACK COAT	\$ 2,500.00	2	TON \$ 5,000	0	TON \$ -	0	TON \$ -
26	566011	ROADSIDE SIGN - ONE POST	\$ 500.00	6	EA \$ 3,000	0	EA \$ -	0	EA \$ -
27	6XXXXX	STORM DRAIN MODIFICATIONS	\$ 15,000.00	2	EA \$ 30,000	0	EA \$ -	0	EA \$ -
28	730010	MINOR CONCRETE (CURB)	\$ 32.00	0	LF \$ -	61	LF \$ 1,952	0	LF \$ -
29	730070	DETECTABLE WARNING SURFACE	\$ 70.00	0	SF \$ -	0	SF \$ -	0	SF \$ -
30	731504	MINOR CONCRETE (CURB AND GUTTER)	\$ 40.00	933	LF \$ 37,320	0	LF \$ -	0	LF \$ -
31	731511	MINOR CONCRETE (ISLAND PAVING)	\$ 14.00	0	SF \$ -	247	SF \$ 3,458	0	SF \$ -
32	731516	MINOR CONCRETE (DRIVEWAY)	\$ 14.00	3,330	SF \$ 46,620	0	SF \$ -	0	SF \$ -
33	731521	MINOR CONCRETE (SIDEWALK)	\$ 12.00	5,899	SF \$ 70,788	0	SF \$ -	-1,539	SF \$ (18,468)
		OPTION: CONCRETE UNIT PAVER (CURBSIDE STRIP)	\$ 27.00	0	SF \$ -	0	SF \$ -	1,539	SF \$ 41,553
		OPTION: MINOR CONCRETE (ENHANCED CONCRETE)	\$ 20.00	0	SF \$ -	0	SF \$ -	0	SF \$ -
34	731623	MINOR CONCRETE (CURB RAMP)	\$ 5,500.00	2	EA \$ 11,000	0	EA \$ -	0	EA \$ -
35	750030	INLET FRAME AND GRATE	\$ 1,000.00	3	EA \$ 3,000	0	EA \$ -	0	EA \$ -
36	760090	MOBILIZATION, DEMOBILIZATION AND FINAL CLEANUP	\$ 35,000.00	1	LS \$ 35,000	0	LS \$ -	0	LS \$ -
37	840515	THERMOPLASTIC PAVEMENT MARKING	\$ 5.50	300	SF \$ 1,650	0	SF \$ -	0	SF \$ -
38	840501	THERMOPLASTIC TRAFFIC STRIPE	\$ 1.50	3,500	LF \$ 5,250	0	LF \$ -	0	LF \$ -
39	860806	INDUCTIVE LOOP DETECTOR (REPLACE)	\$ 750.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
40	860401	LIGHT STANDARDS (TRENCHING, CONDUIT, CONTROLS)	\$ 10,000.00	0	EA \$ -	10	EA \$ 100,000	0	EA \$ -
41	870400	SIGNAL AND LIGHTING SYSTEM (TRAFFIC SIGNAL MOD)	\$ 150,000.00	0	LS \$ -	0	LS \$ -	0	LS \$ -
		OPTION: ENHANCED PEDESTRIAN CROSSING AT STATE	\$ 28,000.00	0	LS \$ -	0	LS \$ -	1	LS \$ 28,000
A. NORTH SUBTOTAL (ROUNDED)					\$ 513,000		\$ 262,000		\$ 52,000
35% CONTINGENCY					\$ 179,550		\$ 91,700		\$ 18,200
<b>A. NORTH SUBTOTAL WITH CONTINGENCY (ROUNDED)</b>					<b>\$ 692,550</b>		<b>\$ 353,700</b>		<b>\$ 70,200</b>
<b>A. NORTH (BASE + MAIN STREET ADD) (ROUNDED)</b>					<b>\$1,046,250.00</b>				
<b>A. NORTH (BASE + MAIN STREET ADD + OPTIONS) (ROUNDED)</b>					<b>\$1,116,450.00</b>				



# Opinion of Probable Construction Costs

## City of Willits Main Street

PRELIMINARY COMPARISON CONSTRUCTION COSTS

DATE PREPARED: 5/27/2016

ENR Cost Index March 2016 (San Francisco, CA): 11,557.90

BID ITEM	ITEM CODE	DESCRIPTION	UNIT PRICE	BASE PROJECT		MAIN STREET ADD		OPTIONS	
				QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
<b>B. DOWNTOWN CORE: COMMERCIAL TO WOOD</b>									
1	70030	LEAD COMPLIANCE PLAN (PER ZONE)	\$ 1,500.00	1	LS \$ 1,500	0	LS \$ -	0	LS \$ -
2	120090	CONSTRUCTION AREA SIGNS	\$ 44,000.00	1	LS \$ 44,000	0	LS \$ -	0	LS \$ -
3	120100	TRAFFIC CONTROL SYSTEM	\$ 88,000.00	1	LS \$ 88,000	0	LS \$ -	0	LS \$ -
4	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	\$ 1.00	6,000	LF \$ 6,000	0	LF \$ -	0	LF \$ -
5	128652	PORTABLE CHANGEABLE MESSAGE SIGN	\$ 18,000.00	1	LS \$ 18,000	0	LS \$ -	0	LS \$ -
6	130100	JOB SITE MANAGEMENT	\$ 44,000.00	1	LS \$ 44,000	0	LS \$ -	0	LS \$ -
7	130300-130900	STORM WATER POLLUTION PREVENTION CONTROL	\$ 15,000.00	1	LS \$ 15,000	0	LS \$ -	0	LS \$ -
8	1507XX	REMOVE THERMO/PAINTED TRAFFIC STRIPE/MARKERS	\$ 10,000.00	1	LS \$ 10,000	0	LS \$ -	0	LS \$ -
9	150742/152320	REMOVE AND RESET ROADSIDE SIGN	\$ 550.00	18	EA \$ 9,900	0	EA \$ -	0	EA \$ -
10	152469	ADJUST UTILITY COVER TO GRADE	\$ 700.00	44	EA \$ 30,800	0	LS \$ -	0	LS \$ -
11	152438	ADJUST FRAME AND COVER TO GRADE	\$ 675.00	16	EA \$ 10,800	0	EA \$ -	0	EA \$ -
12	152440	ADJUST MANHOLE TO GRADE	\$ 875.00	7	EA \$ 6,125	0	EA \$ -	0	EA \$ -
13	153103	COLD PLANE ASPHALT CONCRETE PAVEMENT	\$ 5.50	5,600	SY \$ 30,800	0	SY \$ -	0	SY \$ -
14	153103	REMOVE ASPHALT CONCRETE PAVEMENT	\$ 2.50	0	SF \$ -	5,403	SF \$ 13,508	0	SF \$ -
15		ASPHALT DIGOUT AND REPAIR	\$ 5.50	5,161	SF \$ 28,387	0	SF \$ -	0	SF \$ -
16	153215	REMOVE CONCRETE	\$ 4.00	21,300	SF \$ 85,200	0	SF \$ -	0	SF \$ -
17	190101	ROADWAY EXCAVATION	\$ 100.00	15	CY \$ 1,500	0	CY \$ -	0	CY \$ -
18	198250	ROADSIDE CLEARING - REMOVE TREE	\$ 2,500.00	0	EA \$ -	11	EA \$ 27,500	0	EA \$ -
		REMOVE EXISTING LIGHT STANDARDS	\$ 3,500.00	0	EA \$ -	5	EA \$ 17,500	0	EA \$ -
19	204003	PLANTING	\$ 30.00	0	SF \$ -	4,101	SF \$ 123,030	0	SF \$ -
20	204035	PLANT TREE WITH TREE WELL	\$ 2,500.00	0	EA \$ -	64	EA \$ 160,000	0	EA \$ -
21	204099	PLANT ESTABLISHMENT WORK	\$ 15,000.00	0	LS \$ -	1	LS \$ 15,000	0	LS \$ -
22	206XXX	IRRIGATION	\$ 32,000.00	0	LS \$ -	1	LS \$ 32,000	0	LS \$ -
		OPTION: TEMPORARY WATERING BAGS	\$ 70.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
23	XXXXXX	SITE FURNISHINGS (BENCH PUBLIC ROW)	\$ 3,200.00	0	EA \$ -	12	EA \$ 38,400	0	EA \$ -
24	390132	HOT MIX ASPHALT (TYPE A)	\$ 115.00	800	TON \$ 92,000	0	TON \$ -	0	TON \$ -
25	397005	TACK COAT	\$ 2,500.00	3	TON \$ 7,500	0	TON \$ -	0	TON \$ -
26	566011	ROADSIDE SIGN - ONE POST	\$ 500.00	6	EA \$ 3,000	0	EA \$ -	0	EA \$ -
27	6XXXXX	STORM DRAIN MODIFICATIONS	\$ 15,000.00	4	EA \$ 60,000	6	EA \$ 90,000	0	EA \$ -
28	730010	MINOR CONCRETE (CURB)	\$ 32.00	0	LF \$ -	10	LF \$ 320	0	LF \$ -
29	730070	DETECTABLE WARNING SURFACE	\$ 70.00	0	SF \$ -	128	SF \$ 8,960	0	SF \$ -
30	731504	MINOR CONCRETE (CURB AND GUTTER)	\$ 40.00	1,600	LF \$ 64,000	175	LF \$ 7,000	0	LF \$ -
31	731511	MINOR CONCRETE (ISLAND PAVING)	\$ 14.00	0	SF \$ -	128	SF \$ 1,792	0	SF \$ -
32	731516	MINOR CONCRETE (DRIVEWAY)	\$ 14.00	500	SF \$ 7,000	0	SF \$ -	0	SF \$ -
33	731521	MINOR CONCRETE (SIDEWALK)	\$ 12.00	15,700	SF \$ 188,400	1,285	SF \$ 15,420	-5,855	SF \$ (70,260)
		OPTION: CONCRETE UNIT PAVER (CURBSIDE STRIP)	\$ 27.00	0	SF \$ -	0	SF \$ -	4,425	SF \$ 119,475
	731519	OPTION: MINOR CONCRETE (ENHANCED CONCRETE)	\$ 20.00	0	SF \$ -	0	SF \$ -	1,430	SF \$ 28,600
34	731623	MINOR CONCRETE (CURB RAMP)	\$ 5,500.00	12	EA \$ 66,000	0	EA \$ -	0	EA \$ -
35	750030	INLET FRAME AND GRATE	\$ 1,000.00	8	EA \$ 8,000	0	EA \$ -	0	EA \$ -
36	760090	MOBILIZATION, DEMOBILIZATION AND FINAL CLEANUP	\$ 88,000.00	1	LS \$ 88,000	0	LS \$ -	0	LS \$ -
37	840515	THERMOPLASTIC PAVEMENT MARKING	\$ 5.50	3,000	SF \$ 16,500	0	SF \$ -	0	SF \$ -
38	840501	THERMOPLASTIC TRAFFIC STRIPE	\$ 1.50	6,000	LF \$ 9,000	0	LF \$ -	0	LF \$ -
39	860806	INDUCTIVE LOOP DETECTOR (REPLACE)	\$ 750.00	28	EA \$ 21,000	0	EA \$ -	0	EA \$ -
40	860401	LIGHT STANDARDS (TRENCHING, CONDUIT, CONTROLS)	\$ 10,000.00	0	EA \$ -	20	EA \$ 200,000	0	EA \$ -
41	870400	SIGNAL AND LIGHTING SYSTEM (TRAFFIC SIGNAL MOD)	\$ 200,000.00	0.50	LS \$ 100,000	1	LS \$ 200,000	0	LS \$ -
	870400	OPTION: ENHANCED PEDESTRIAN CROSSING AT VAN LANE	\$ 28,000.00	0	LS \$ -	0	LS \$ -	1	LS \$ 28,000
B. DOWNTOWN CORE SUBTOTAL (ROUNDED)					\$ 1,161,000		\$ 951,000		\$ 106,000
35% CONTINGENCY					\$ 406,350		\$ 332,850		\$ 37,100
<b>B. DOWNTOWN CORE SUBTOTAL WITH CONTINGENCY (ROUNDED)</b>					<b>\$ 1,567,350</b>		<b>\$ 1,283,850</b>		<b>\$ 143,100</b>
<b>B. DOWNTOWN CORE (BASE + MAIN STREET ADD) (ROUNDED)</b>					<b>\$2,851,200.00</b>				
<b>B. DOWNTOWN CORE (BASE + MAIN STREET ADD + OPTIONS) (ROUNDED)</b>					<b>\$2,994,300.00</b>				



# Opinion of Probable Construction Costs

## City of Willits Main Street

PRELIMINARY COMPARISON CONSTRUCTION COSTS

DATE PREPARED: 5/27/2016

ENR Cost Index March 2016 (San Francisco, CA): 11,557.90

BID ITEM	ITEM CODE	DESCRIPTION	UNIT PRICE	BASE PROJECT		MAIN STREET ADD		OPTIONS	
				QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
<b>C. DOWNTOWN CORE - SOUTH: WOOD TO VALLEY</b>									
1	70030	LEAD COMPLIANCE PLAN (PER ZONE)	\$ 1,500.00	1	LS \$ 1,500	0	LS \$ -	0	LS \$ -
2	120090	CONSTRUCTION AREA SIGNS	\$ 27,000.00	1	LS \$ 27,000	0	LS \$ -	0	LS \$ -
3	120100	TRAFFIC CONTROL SYSTEM	\$ 53,000.00	1	LS \$ 53,000	0	LS \$ -	0	LS \$ -
4	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	\$ 1.00	3,000	LF \$ 3,000	0	LF \$ -	0	LF \$ -
5	128652	PORTABLE CHANGEABLE MESSAGE SIGN	\$ 11,000.00	1	LS \$ 11,000	0	LS \$ -	0	LS \$ -
6	130100	JOB SITE MANAGEMENT	\$ 27,000.00	1	LS \$ 27,000	0	LS \$ -	0	LS \$ -
7	130300-130900	STORM WATER POLLUTION PREVENTION CONTROL	\$ 15,000.00	1	LS \$ 15,000	0	LS \$ -	0	LS \$ -
8	1507XX	REMOVE THERMO/PAINTED TRAFFIC STRIPE/MARKERS	\$ 10,000.00	1	LS \$ 10,000	0	LS \$ -	0	LS \$ -
9	150742/152320	REMOVE AND RESET ROADSIDE SIGN	\$ 550.00	7	EA \$ 3,850	0	EA \$ -	0	EA \$ -
10	152469	ADJUST UTILITY COVER TO GRADE	\$ 700.00	38	EA \$ 26,600	0	LS \$ -	0	LS \$ -
11	152438	ADJUST FRAME AND COVER TO GRADE	\$ 675.00	14	EA \$ 9,450	0	EA \$ -	0	EA \$ -
12	152440	ADJUST MANHOLE TO GRADE	\$ 875.00	2	EA \$ 1,750	0	EA \$ -	0	EA \$ -
13	153103	COLD PLANE ASPHALT CONCRETE PAVEMENT	\$ 5.50	4,300	SY \$ 23,650	0	SY \$ -	0	SY \$ -
14	153103	REMOVE ASPHALT CONCRETE PAVEMENT	\$ 2.50	0	SF \$ -	4,063	SF \$ 10,158	0	SF \$ -
15		ASPHALT DIGOUT AND REPAIR	\$ 5.50	3,871	SF \$ 21,291	0	SF \$ -	0	SF \$ -
16	153215	REMOVE CONCRETE	\$ 4.00	14,800	SF \$ 59,200	0	SF \$ -	0	SF \$ -
17	190101	ROADWAY EXCAVATION	\$ 100.00	13	CY \$ 1,300	0	CY \$ -	0	CY \$ -
18	198250	ROADSIDE CLEARING - REMOVE TREE	\$ 2,500.00	0	EA \$ -	7	EA \$ 17,500	0	EA \$ -
		REMOVE EXISTING LIGHT STANDARDS	\$ 3,500.00	0	EA \$ -	5	EA \$ 17,500	0	EA \$ -
19	204003	PLANTING	\$ 30.00	0	SF \$ -	2,869	SF \$ 86,070	0	SF \$ -
20	204035	PLANT TREE WITH TREE WELL	\$ 2,500.00	0	EA \$ -	22	EA \$ 55,000	0	EA \$ -
21	204099	PLANT ESTABLISHMENT WORK	\$ 15,000.00	0	LS \$ -	1	LS \$ 15,000	0	LS \$ -
22	206XXX	IRRIGATION	\$ 26,700.00	0	LS \$ -	1	LS \$ 26,700	0	LS \$ -
		OPTION: TEMPORARY WATERING BAGS	\$ 70.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
23	XXXXXX	SITE FURNISHINGS (BENCH PUBLIC ROW)	\$ 3,200.00	0	EA \$ -	2	EA \$ 6,400	0	EA \$ -
24	390132	HOT MIX ASPHALT (TYPE A)	\$ 115.00	600	TON \$ 69,000	0	TON \$ -	0	TON \$ -
25	397005	TACK COAT	\$ 2,500.00	2	TON \$ 5,000	0	TON \$ -	0	TON \$ -
26	566011	ROADSIDE SIGN - ONE POST	\$ 500.00	6	EA \$ 3,000	0	EA \$ -	0	EA \$ -
27	6XXXXX	STORM DRAIN MODIFICATIONS	\$ 15,000.00	3	EA \$ 45,000	3	EA \$ 45,000	0	EA \$ -
28	730010	MINOR CONCRETE (CURB)	\$ 32.00	0	LF \$ -	182	LF \$ 5,824	0	LF \$ -
29	730070	DETECTABLE WARNING SURFACE	\$ 70.00	0	SF \$ -	0	SF \$ -	0	SF \$ -
30	731504	MINOR CONCRETE (CURB AND GUTTER)	\$ 40.00	1,500	LF \$ 60,000	78	LF \$ 3,120	0	LF \$ -
31	731511	MINOR CONCRETE (ISLAND PAVING)	\$ 14.00	0	SF \$ -	805	SF \$ 11,270	0	SF \$ -
32	731516	MINOR CONCRETE (DRIVEWAY)	\$ 14.00	1,900	SF \$ 26,600	81	SF \$ 1,134	0	SF \$ -
33	731521	MINOR CONCRETE (SIDEWALK)	\$ 12.00	9,100	SF \$ 109,200	2,244	SF \$ 26,928	-1,173	SF \$ (14,076)
		OPTION: CONCRETE UNIT PAVER (CURBSIDE STRIP)	\$ 27.00	0	SF \$ -	0	SF \$ -	353	SF \$ 9,531
		OPTION: MINOR CONCRETE (ENHANCED CONCRETE)	\$ 20.00	0	SF \$ -	0	SF \$ -	820	SF \$ 16,400
34	731623	MINOR CONCRETE (CURB RAMP)	\$ 5,500.00	4	EA \$ 22,000	0	EA \$ -	0	EA \$ -
35	750030	INLET FRAME AND GRATE	\$ 1,000.00	3	EA \$ 3,000	0	EA \$ -	0	EA \$ -
36	760090	MOBILIZATION, DEMOBILIZATION AND FINAL CLEANUP	\$ 53,000.00	1	LS \$ 53,000	0	LS \$ -	0	LS \$ -
37	840515	THERMOPLASTIC PAVEMENT MARKING	\$ 5.50	1,000	SF \$ 5,500	0	SF \$ -	0	SF \$ -
38	840501	THERMOPLASTIC TRAFFIC STRIPE	\$ 1.50	3,000	LF \$ 4,500	0	LF \$ -	0	LF \$ -
39	860806	INDUCTIVE LOOP DETECTOR (REPLACE)	\$ 750.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
40	860401	LIGHT STANDARDS (TRENCHING, CONDUIT, CONTROLS)	\$ 10,000.00	0	EA \$ -	15	EA \$ 150,000	0	EA \$ -
41	870400	SIGNAL AND LIGHTING SYSTEM (TRAFFIC SIGNAL MOD)	\$ 150,000.00	0	LS \$ -	0	LS \$ -	0	LS \$ -
		OPTION: ENHANCED PEDESTRIAN CROSSING	\$ 28,000.00	0	LS \$ -	0	LS \$ -	0	LS \$ -
C. DOWNTOWN CORE - SOUTH SUBTOTAL (ROUNDED)					\$ 701,000		\$ 478,000		\$ 12,000
35% CONTINGENCY					\$ 245,350		\$ 167,300		\$ 4,200
<b>C. DOWNTOWN CORE - SOUTH SUBTOTAL WITH CONTINGENCY (ROUNDED)</b>					<b>\$ 947,000</b>		<b>\$ 646,000</b>		<b>\$ 17,000</b>
<b>C. DOWNTOWN CORE - SOUTH (BASE + MAIN STREET ADD) (ROUNDED)</b>					<b>\$1,593,000.00</b>				
<b>C. DOWNTOWN CORE - SOUTH (BASE + MAIN STREET ADD + OPTIONS) (ROUNDED)</b>					<b>\$1,610,000.00</b>				



# Opinion of Probable Construction Costs

## City of Willits Main Street

PRELIMINARY COMPARISON CONSTRUCTION COSTS

DATE PREPARED: 5/27/2016

ENR Cost Index March 2016 (San Francisco, CA): 11,557.90

BID ITEM	ITEM CODE	DESCRIPTION	UNIT PRICE	BASE PROJECT		MAIN STREET ADD		OPTIONS	
				QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
<b>C. SOUTH: VALLEY TO HWY 20</b>									
1	70030	LEAD COMPLIANCE PLAN (PER ZONE)	\$ 1,500.00	1	LS \$ 1,500	0	LS \$ -	0	LS \$ -
2	120090	CONSTRUCTION AREA SIGNS	\$ 59,000.00	1	LS \$ 59,000	0	LS \$ -	0	LS \$ -
3	120100	TRAFFIC CONTROL SYSTEM	\$ 117,000.00	1	LS \$ 117,000	0	LS \$ -	0	LS \$ -
4	120159	TEMPORARY TRAFFIC STRIPE (PAINT)	\$ 1.00	2,500	LF \$ 2,500	0	LF \$ -	0	LF \$ -
5	128652	PORTABLE CHANGEABLE MESSAGE SIGN	\$ 24,000.00	1	LS \$ 24,000	0	LS \$ -	0	LS \$ -
6	130100	JOB SITE MANAGEMENT	\$ 59,000.00	1	LS \$ 59,000	0	LS \$ -	0	LS \$ -
7	130300-130900	STORM WATER POLLUTION PREVENTION CONTROL	\$ 15,000.00	1	LS \$ 15,000	0	LS \$ -	0	LS \$ -
8	1507XX	REMOVE THERMO/PAINTED TRAFFIC STRIPE/MARKERS	\$ 10,000.00	1	LS \$ 10,000	0	LS \$ -	0	LS \$ -
9	150742/152320	REMOVE AND RESET ROADSIDE SIGN	\$ 550.00	12	EA \$ 6,600	0	EA \$ -	0	EA \$ -
10	152469	ADJUST UTILITY COVER TO GRADE	\$ 700.00	50	EA \$ 35,000	0	LS \$ -	0	LS \$ -
11	152438	ADJUST FRAME AND COVER TO GRADE	\$ 675.00	30	EA \$ 20,250	0	EA \$ -	0	EA \$ -
12	152440	ADJUST MANHOLE TO GRADE	\$ 875.00	10	EA \$ 8,750	0	EA \$ -	0	EA \$ -
13	153103	COLD PLANE ASPHALT CONCRETE PAVEMENT	\$ 5.50	9,599	SY \$ 52,795	0	SY \$ -	0	SY \$ -
14	153103	REMOVE ASPHALT CONCRETE PAVEMENT	\$ 2.50	0	SF \$ -	8,000	SF \$ 20,000	0	SF \$ -
15		ASPHALT DIGOUT AND REPAIR	\$ 5.50	9,290	SF \$ 51,097	0	SF \$ -	0	SF \$ -
16	153215	REMOVE CONCRETE	\$ 4.00	33,593	SF \$ 134,372	950	SF \$ 3,800	0	SF \$ -
17	190101	ROADWAY EXCAVATION	\$ 100.00	33	CY \$ 3,300	0	CY \$ -	0	CY \$ -
18	198250	ROADSIDE CLEARING - REMOVE TREE	\$ 2,500.00	0	EA \$ -	1	EA \$ 2,500	0	EA \$ -
		REMOVE EXISTING LIGHT STANDARDS	\$ 3,500.00	0	EA \$ -	14	EA \$ 49,000	0	EA \$ -
19	204003	PLANTING	\$ 30.00	0	SF \$ -	4,349	SF \$ 130,470	0	SF \$ -
20	204035	PLANT TREE WITH TREE WELL	\$ 2,500.00	0	EA \$ -	11	EA \$ 27,500	0	EA \$ -
21	204099	PLANT ESTABLISHMENT WORK	\$ 10,000.00	0	LS \$ -	1	LS \$ 10,000	0	LS \$ -
22	206XXX	IRRIGATION	\$ 70,000.00	0	LS \$ -	1	LS \$ 70,000	0	LS \$ -
		OPTION: TEMPORARY WATERING BAGS	\$ 70.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
23	XXXXXX	SITE FURNISHINGS (BENCH PUBLIC ROW)	\$ 3,200.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
24	390132	HOT MIX ASPHALT (TYPE A)	\$ 115.00	1,440	TON \$ 165,600	0	TON \$ -	0	TON \$ -
25	397005	TACK COAT	\$ 2,500.00	4	TON \$ 10,000	0	TON \$ -	0	TON \$ -
26	566011	ROADSIDE SIGN - ONE POST	\$ 500.00	9	EA \$ 4,500	0	EA \$ -	0	EA \$ -
27	6XXXXX	STORM DRAIN MODIFICATIONS	\$ 15,000.00	10	EA \$ 150,000	8	EA \$ 120,000	0	EA \$ -
28	730010	MINOR CONCRETE (CURB)	\$ 32.00	0	LF \$ -	1,200	LF \$ 38,400	0	LF \$ -
29	730070	DETECTABLE WARNING SURFACE	\$ 70.00	0	SF \$ -	0	SF \$ -	0	SF \$ -
30	731504	MINOR CONCRETE (CURB AND GUTTER)	\$ 40.00	1,935	LF \$ 77,400	295	LF \$ 11,800	0	LF \$ -
31	731511	MINOR CONCRETE (ISLAND PAVING)	\$ 14.00	0	SF \$ -	500	SF \$ 7,000	0	SF \$ -
32	731516	MINOR CONCRETE (DRIVEWAY)	\$ 14.00	8,148	SF \$ 114,072	0	SF \$ -	0	SF \$ -
33	731521	MINOR CONCRETE (SIDEWALK)	\$ 12.00	17,366	SF \$ 208,392	2,950	SF \$ 35,400	-2,080	SF \$ (24,960)
		OPTION: CONCRETE UNIT PAVER (CURBSIDE STRIP)	\$ 17.00	0	SF \$ -	0	SF \$ -	0	SF \$ -
		OPTION: MINOR CONCRETE (ENHANCED CONCRETE)	\$ 25.00	0	SF \$ -	0	SF \$ -	2,080	SF \$ 52,000
34	731623	MINOR CONCRETE (CURB RAMP)	\$ 5,500.00	12	EA \$ 66,000	0	EA \$ -	0	EA \$ -
35	750030	INLET FRAME AND GRATE	\$ 1,000.00	10	EA \$ 10,000	0	EA \$ -	0	EA \$ -
36	760090	MOBILIZATION, DEMOBILIZATION AND FINAL CLEANUP	\$ 117,000.00	1	LS \$ 117,000	0	LS \$ -	0	LS \$ -
37	840515	THERMOPLASTIC PAVEMENT MARKING	\$ 5.50	600	SF \$ 3,300	0	SF \$ -	0	SF \$ -
38	840501	THERMOPLASTIC TRAFFIC STRIPE	\$ 1.50	10,500	LF \$ 15,750	0	LF \$ -	0	LF \$ -
39	860806	INDUCTIVE LOOP DETECTOR (REPLACE)	\$ 750.00	0	EA \$ -	0	EA \$ -	0	EA \$ -
40		BANNER MAST POLES	\$ 15,000.00	0	EA \$ -	2	EA \$ 30,000	0	EA \$ -
41	860401	LIGHT STANDARDS (TRENCHING, CONDUIT, CONTROLS)	\$ 10,000.00	0	EA \$ -	37	EA \$ 370,000	0	EA \$ -
42	870400	SIGNAL AND LIGHTING SYSTEM (TRAFFIC SIGNAL MOD)	\$ 150,000.00	0	LS \$ -	0	LS \$ -	0	LS \$ -
		OPTION: ENHANCED PEDESTRIAN CROSSING AT MONROE	\$ 28,000.00	0	LS \$ -	0	LS \$ -	1	LS \$ 28,000
D. SOUTH SUBTOTAL (ROUNDED)					\$ 1,543,000		\$ 926,000		\$ 56,000
35% CONTINGENCY					\$ 540,050		\$ 324,100		\$ 19,600
<b>D. SOUTH SUBTOTAL WITH CONTINGENCY (ROUNDED)</b>					<b>\$ 2,084,000</b>		<b>\$ 1,251,000</b>		<b>\$ 76,000</b>
<b>D. SOUTH (BASE + MAIN STREET ADD) (ROUNDED)</b>					<b>\$3,335,000.00</b>				
<b>D. SOUTH (BASE + MAIN STREET ADD + OPTIONS) (ROUNDED)</b>							<b>\$3,411,000.00</b>		



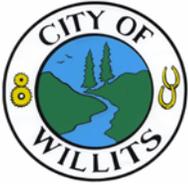
## Opinion of Probable Construction Costs

### City of Willits Main Street

PRELIMINARY COMPARISON CONSTRUCTION COSTS  
 DATE PREPARED: 5/27/2016  
 ENR Cost Index March 2016 (San Francisco, CA): 11,557.90

ZONE	ZONE DESCRIPTION	BASE PROJECT SUBTOTAL	MAIN STREET ADD SUBTOTAL	OPTIONS SUBTOTAL	TOTAL CONSTRUCTION COST
A	NORTH: COMMERCIAL TO NORTHERN PROJECT LIMITS NEAR STATE	\$ 692,550	\$ 353,700	\$ 70,200	\$ 1,116,450
B	DOWNTOWN CORE: COMMERCIAL TO WOOD	\$ 1,567,350	\$ 1,283,850	\$ 143,100	\$ 2,994,300
C	DOWNTOWN CORE - SOUTH: WOOD TO VALLEY	\$ 947,000	\$ 646,000	\$ 17,000	\$ 1,610,000
D	SOUTH: VALLEY TO HWY 20	\$ 2,084,000	\$ 1,251,000	\$ 76,000	\$ 3,411,000
	<b>TOTAL CONSTRUCTION COST</b>	<b>\$ 5,290,900</b>	<b>\$ 3,534,550</b>	<b>\$ 306,300</b>	<b>\$ 9,131,750</b>

- NOTES:
- 1.) Construction cost based on Class 4 opinion of probable construction cost, as defined by AACE.
  - 2.) Construction cost includes 35% contingency intended to cover unforeseen aspects of construction, including changes in quantities of the work, which have not been evaluated during this preliminary investigation.
  - 3.) Base Project based on Caltrans preliminary plans with plot date February 2016
  - 4.) Main Street Add and Options based on WRT team preliminary plans dated May 27, 2016.



Item No. 5

Meeting Date: June 7, 2016

### AGENDA SUMMARY REPORT

**To:** Honorable Mayor and Council Members

**From:** Adrienne Moore, City Manager

**Agenda Title:** DISCUSSION AND POSSIBLE APPROVAL TO AUTHORIZE CITY MANAGER TO ISSUE A REQUEST FOR QUALIFICATIONS FOR ENGINEERING AND RELATED CONSULTING SERVICES

**Type:**  Presentation  Consent  Regular Agenda  Public Hearing  Urgent Time: 10 min.

**Summary of Request:** With the impending departure of the City's Public Works Director, City staff recommends that the City engage a qualified engineering firm to provide engineering and related consulting services on an as-needed basis, including but not limited to the following:

- Civil Engineering services related to water and wastewater systems, including both the distribution and collection systems, respectively;
- Engineer of Record for improvement plans for water and wastewater maintenance projects;
- Engineer of Record for improvement plans for street improvement projects that include grading, drainage and utility coordination;
- General consulting on project and construction management;
- Assist with project planning, scheduling, and budgeting;
- Provide ongoing support, and oversight when necessary, to engineering staff and department supervisors;
- Attend project and planning meetings and meetings with regulatory agencies as requested by the City Manager;
- Review, approve, and sign technical reports related to wastewater and water regulatory permits;
- General public works and engineering consultation.

The City Manager is requesting authorization from the City Council to issue a Request for Qualifications (RFQ) to solicit responses from qualified firms for Fiscal Year 2016-2017. If approved, the RFQ will be issued on June 8, 2016, for two weeks, with a recommendation back to the City Council on June 29, 2016.

**Recommended Action:** Authorize City Manager to issue a Request for Qualifications for engineering and related consulting services for Fiscal Year 2016-2017.

**Alternative(s):** None recommended.

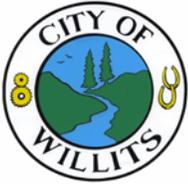
**Fiscal Impact:** It is not anticipated that a Professional Services Contract will increase the budget, as it will be in lieu of the budgeted Public Works Director position.

**Personnel Impact:** Provide necessary resources to the City, particularly the City's Engineering staff.

**Reviewed by:**  City Manager  City Attorney  Finance Director  Human Resources  Risk

**Council Action:**  Approved  Denied  Other: \_\_\_\_\_

**Records:**  Agreement  Resolution # \_\_\_\_\_  Ordinance # \_\_\_\_\_  Other \_\_\_\_\_



Item No. 6

Meeting Date: June 7, 2016

## AGENDA SUMMARY REPORT

**To:** Honorable Mayor and Council Members

**From:** James Lance, City Attorney

**Agenda Title:** CONTINUED DISCUSSION AND DIRECTION TO STAFF CONCERNING CITY CODE ENFORCEMENT PROCEDURES AND THE ABATEMENT OF PUBLIC NUISANCES

**Type:**  Presentation  Consent  Regular Agenda  Public Hearing  Urgent Time: 30 min.

**Summary of Request:** This matter is continued from the May 25, 2016 City Council meeting where the Council reviewed and considered a new proposed code enforcement ordinance. Among other things, the proposed ordinance utilizes an administrative citation procedure for minor code violations and creates a hearing body to conduct appeals. The Council expressed concern that the proposed ordinance would not materially streamline the existing procedures of abating unlawful, outdoor marijuana cultivation. Some members of the Council expressed the view that marijuana cultivation is so offensive to neighboring residents that “summary abatement” is warranted. Summary abatement refers to a procedure that allows City staff to enter private property, without prior notice or consent, in order to make emergency repairs or otherwise eliminate a public nuisance. As explained in the meeting, it is the City Attorney’s view that summary abatement is only permissible in rare circumstances in which a public nuisance on private property poses an imminent threat to human health or safety and in which there is no time to seek a court order to enter the property. Absent such emergency circumstances, the City must obtain consent or a court order to enter private property and must afford due process of law.

The Council directed the City Attorney to review the code enforcement ordinances of other California cities that regulate or ban the outdoor cultivation of marijuana. This report will summarize that review.

**Enforcement procedures of cities that ban or regulate marijuana cultivation:** There are likely scores of California cities that have ordinances either banning or regulating marijuana cultivation. Rather than looking at the codes of all of those cities, the City Attorney reviewed 12 sample city ordinances posted on the League of California website that ban or regulate cultivation to determine the enforcement methods used. Those cities are: Sacramento, Eastvale, Capitola, Etna, Live Oak, Ceres, Cloverdale, Lodi, Newport Beach, San Marcos, and San Jose. Each of these 12 ordinances declares that violation of the cultivation ordinance constitutes a public nuisance. Each ordinance either states that the public nuisance violation is enforced pursuant to that city’s code enforcement ordinance, or the cultivation ordinance identifies the available enforcement remedies. Those listed remedies are limited to the typical procedures found in any code enforcement ordinance: filing of a civil action for injunctive relief, damages, and order of abatement and recovery of attorney fees and costs; criminal prosecution as a misdemeanor offense; administrative enforcement and assessment of fines and penalties. There were no innovated, streamlined remedies unique to cultivation and, instead, all identified remedies are the standard ones for abating any public nuisance.

The cultivation ordinances of the cities of Ceres, Lodi, and Capitola are attached as typical of the ordinances reviewed. Also attached is the medical marijuana ordinance of the City of Cloverdale. The Cloverdale ordinance is different from the others in that it uses a combination of licensing for non-commercial cultivation that is confined within an approved structure, and a separate category for personal cultivation of up to three plants that is exempt from the license requirement.

**Legal requirements for summary abatement:** As noted previously, entry onto private property for nuisance abatement in the absence of an emergency ordinarily requires consent or a court order. The following legal authorities support that view:

*“Entries onto private property by administrative functionaries of the government, like searches pursuant to a criminal investigation, are governed by the warrant requirement of U.S. Const., Amend. 4 Where there is a legitimate privacy interest in the property entered, a nonconsensual entry without a warrant is permissible only where exigent circumstances justify the intrusion, and, depending on the circumstances, a reasonable expectation of privacy may be recognized in certain of the areas surrounding one's home which are, perforce, protected from nonexigent intrusions without a search warrant by governmental officers. A search within the meaning of the Fourth Amendment occurs whenever one's reasonable expectation of privacy is violated by unreasonable governmental intrusion. Thus, in the absence of consent or exigent circumstances, government officials engaged in the abatement of a public nuisance must have a warrant to enter any private property where such entry would invade a constitutionally protected privacy interest. Gleaves v. Waters, 175 Cal. App. 3d 413, 220 Cal. Rptr. 621 (3rd Dist. 1985). “ Miller and Starr, California Real Estate Digest, 3d, Nuisances, section 21, Summary Abatement by Public Officials.; and*

*“Except in emergency situations justifying summary abatement, it is prudent practice either to (1) obtain written consent to enter and abate from the property owner(s) and any tenants, or (2) apply to the court for an inspection warrant authorizing entry onto the property to effectuate the necessary abatement work, especially if the abatement encompasses areas where the property owner or tenant has a reasonable expectation of privacy. See Conner v City of Santa Ana (9<sup>th</sup> Cir 1990) 897 F2d 1487, 1490.” California Municipal Law Handbook, League of California Cities, 2015 edition at section 12.69.*

The objective in any public nuisance matter on private property is to obtain compliance as soon as possible. In non-emergency situations that do not justify use of summary abatement, the City may seek issuance of an enforceable court order to enjoin or abate a nuisance through the filing of a civil action. To prevail, City staff will need satisfactory proof of the existence of a nuisance. If that proof cannot be met without entry onto a private area of the property, and if consent is withheld, it may first be necessary to obtain an inspection warrant from the court based upon sworn witness declarations or other evidence of the probable existence of a violation, such as complaints of odor. Following issuance of a warrant and inspection and verification of the nuisance, the City would then seek an order from the court allowing the City to abate the nuisance at the expense of the occupant, or an order enjoining the violator from allowing the nuisance to continue. The City would seek a judgment including recovery of all of its attorney fees and costs incurred in that process.

**Recommended Action:** Upon review and discussion of the information presented, provide direction to staff concerning City code enforcement procedures and the abatement of public nuisances.

**Alternative(s):** N/A

**Fiscal Impact:** TBD

**Personnel Impact:** TBD

**Reviewed by:**  City Manager  City Attorney  Finance Director  Human Resources  Risk

**Council Action:**  Approved  Denied  Other: \_\_\_\_\_

**Records:**  Agreement  Resolution # \_\_\_\_\_  Ordinance # \_\_\_\_\_  Other \_\_\_\_\_

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## Chapter 9.61 MEDICAL MARIJUANA PROCESSING AND CULTIVATION

### Sections:

- 9.61.010 Findings.
- 9.61.020 Purpose and intent.
- 9.61.030 Definitions.
- 9.61.040 Prohibited activities.
- 9.61.050 Prohibited activities declared a public nuisance.
- 9.61.060 Penalties for violation.
- 9.61.070 Severability.

### 9.61.010 Findings.

The city council of the city makes the following findings:

- A. In 1996, the voters of the State of California approved Proposition 215, also known as the Compassionate Use Act (CUA), codified at California Health and Safety Code Section 11362.5 et seq.
- B. On January 1, 2004, S.B. 240, known as the “Medical Marijuana Program” (MMP) (codified at Health and Safety Code Sections 11362.7 through 11362.83) went into effect to clarify the scope of the CUA.
- C. The CUA is limited in scope in that it only provides a defense from criminal prosecution for possession and cultivation of marijuana to qualified patients and their primary caregivers. The MMP is also limited in scope in that it establishes a statewide identification program and affords qualified patients, persons with identification cards and their primary caregivers an affirmative defense to certain enumerated criminal sanctions that would otherwise apply to transporting, processing, administering or distributing marijuana.
- D. Neither the CUA nor the MMP require or impose an affirmative duty or mandate upon local governments, such as the city of Capitola, to allow, authorize or sanction the establishment and the operation of facilities cultivating or processing medical marijuana within its jurisdiction.
- E. The CUA expressly anticipates the enactment of additional local legislation, providing: “[n]othing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for non-medical purposes.” (California Health and Safety Code, Section 11362.5(b)(2).)
- F. On May 6, 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, holding that cities have the authority to ban medical marijuana uses within their boundaries and prohibit any use that constitutes a violation of state or federal law.
- G. Marijuana remains an illegal substance under the Federal Controlled Substances Act, 21 U.S.C. 801 et seq., which makes it unlawful 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 statutory exemption for the cultivation of marijuana for medical purposes. In addition, the possession, possession for sale, cultivation, processing, transportation, importation, and distribution of marijuana generally still constitutes a crime in California pursuant to California Health and Safety Code

Sections 11357 through 11361.

H. On June 6, 2005, the United States Supreme Court held, in *Gonzales v. Raich*, that Congress has the authority under the Commerce Clause of the United States Constitution, and has the power under the Federal Controlled Substances Act, to prohibit local cultivation, processing and use of **marijuana** even though it would be in compliance with California law.

I. Some of the documented problems with the cultivation and processing of **marijuana** include offensive odors, illegal sales and distribution of **marijuana**, trespassing, theft, violent encounters between growers and persons attempting to steal plants, fire hazards and problems associated with mold, fungus, and pests. In a small (1.676 square miles), densely developed city such as the city of Capitola, comprised for the most part of small parcels with minimum setbacks, a proportionally significant number of mobile home spaces, and industrial, commercial, public facility and residential land uses in extremely close proximity to one another with few buffer areas of separation, the nuisance impacts of the type herein delineated would be substantially intensified to the detriment of the city's residents, workers, businesses and visitors.

J. The city has experienced firsthand the secondary impacts associated with **marijuana** cultivation and processing when, in September 2004, the Capitola police department investigated an attempted murder which included a robbery and an assault on a person with a firearm over a large amount of processed **marijuana** and **marijuana** under cultivation found within a city residence. Most recently, on December 27, 2013, the city experienced impacts associated with **marijuana** cultivation and distribution when the Capitola police department investigated an attempted murder with a firearm during a **marijuana** sale on Capitola Road. During that incident, a noncity resident, who was apparently attempting to sell **marijuana**, was shot twice and transported by helicopter to a hospital.

K. Due to the city's small size and the proximity of various uses to one another, any public nuisance within the city has the potential to adversely impact the entire community regardless of where the nuisance occurs.

L. On December 16, 2013, a building permit application was submitted on behalf of the 200 Kennedy Drive property owner seeking city authorization to proceed with structural, electrical and plumbing improvements to a warehouse building on those premises intended to facilitate the warehouse's use as an industrial/commercial medical **marijuana** cultivation, processing and warehouse facility which the property owner contends is a principally permitted agricultural use of the warehouse in the industrial zone in which the warehouse is located. For the reasons set forth in the foregoing findings the proposed medical **marijuana**-related use of the warehouse is both illegal and a public nuisance. The city council finds that the public nuisance threatened by that proposed use is particularly accentuated in this instance in light of the fact that Cabrillo Mobile Home Estates, a tightly compacted mobile home community, comprised of over fifty mobile home residences, directly abuts the 200 Kennedy Drive property and the community's numerous residents would be immediately and adversely impacted by the public nuisance posed by this particular cultivation/processing/warehouse use. In December 20, 2013, correspondence with the property owner as well as in other verbal communications with the property owner, community development department staff members have advised the property owner that the proposed medical **marijuana**-related use is prohibited by the city's municipal code. The property owner, in response, contends, based upon his consultation with legal counsel, that the proposed use is sanctioned by both the city's municipal code and state law and that accordingly he intends to proceed with his intended use of the property.

M. Because the potential risks posed by the proposed medical **marijuana**-related use to the health, safety and welfare of city residents, especially those residents in the mobile homes located in the adjacent Cabrillo Mobile Home Estates mobile home park, are so great, current and immediate, the city council finds that there is an urgent need to adopt an ordinance which will go into effect immediately and which will unequivocally and clearly provide that medical **marijuana** cultivation and processing in the city in the manner here proposed by the property owner, already generally prohibited as illegal activity and a public nuisance, is also specifically and explicitly prohibited in the city of Capitola. (Ord. 989 § 1 (part), 2014)

### 9.61.020 Purpose and intent.

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A. It is the purpose and intent of this chapter to promote the health, safety, and general welfare of the residents and businesses within the city by regulating the cultivation and processing of medical **marijuana**.

B. Nothing in this chapter shall be construed to:

1. Allow persons to engage in conduct that endangers others or causes a public nuisance;
2. Allow the use or cultivation of **marijuana** for nonmedical purposes; or
3. Allow any activity relating to the cultivation, processing, or distribution of **marijuana** that is illegal under state or federal law. (Ord. 989 § 1 (part), 2014)

### 9.61.030 Definitions.

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

A. "Collective or cooperative cultivation" means the association within California of qualified patients, persons with valid identification cards, and designated primary caregivers to cultivate **marijuana** for medical purposes as defined in strict accordance with California Health and Safety Code Sections 11362.5 et seq.

B. "Cultivate" or "cultivation" is the planting, growing, harvesting, drying, processing, or storage of one or more **marijuana** plants or any part thereof in any location.

C. "Medical **marijuana**" is defined in strict accordance with California Health and Safety Code Sections 11362.5 et seq.

D. "Processing" is defined as any method used to prepare **marijuana** or its byproducts for commercial sale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create **marijuana** related products and concentrates.

E. "Primary caregiver" is defined in strict accordance with California Health and Safety Code Section 11362.5 et seq. (Ord. 989 § 1 (part), 2014)

### 9.61.040 Prohibited activities.

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A. Indoor and outdoor cultivation of medical **marijuana** is prohibited in all areas of the city, except as outlined below in subsection (A)(1) of this section.

1. Medical **marijuana** for personal use may be cultivated in conformance with the following standards:

- a. An individual qualified patient may cultivate medical **marijuana** indoors on the parcel where the qualified patient resides. Outdoor cultivation is prohibited.
  - b. A primary caregiver may cultivate medical **marijuana** indoors for a qualified patient for whom he/she is the primary caregiver. Outdoor cultivation is prohibited.
  - c. Medical **marijuana** cultivation is permitted only on parcels with residential units. Medical **marijuana** cultivation is permitted only within a residential unit, a garage, or a self-contained outside accessory building that is secured, locked, and fully enclosed.
  - d. The medical **marijuana** cultivation area shall not exceed fifty square feet per residence.
  - e. The use of gas products (CO<sub>2</sub>, butane, etc.) for medical **marijuana** cultivation or processing is prohibited.
  - f. Medical **marijuana** cultivation for sale is prohibited. Notwithstanding this prohibition, a primary caregiver may recover from his or her qualified patient the actual costs incurred by the primary caregiver in cultivating the medical **marijuana** he or she delivers to the qualified patient.
  - g. From the public right-of-way, there shall be no exterior evidence of medical **marijuana** cultivation.
  - h. The qualified patient and/or primary caregiver shall not participate in medical **marijuana** cultivation in any other location within the city.
  - i. The residence shall maintain kitchens, bathrooms, and primary bedrooms for their intended use and these rooms shall not be used for medical **marijuana** cultivation.
  - j. Any medical **marijuana** cultivation area located within a residence shall not create a humidity, mold or other nuisance condition.
  - k. The medical **marijuana** cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, excessive light, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.
- B. Processing **marijuana** for commercial sale is prohibited in all areas of the city. (Ord. 989 § 1 (part), 2014)

#### **9.61.050 Prohibited activities declared a public nuisance.**

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Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the city or subject to any available legal remedies, including but not limited to civil injunctions. (Ord. 989 § 1 (part), 2014)

#### **9.61.060 Penalties for violation.**

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A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a maximum penalty of six months imprisonment in county jail, or a fine of one thousand dollars. 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.

B. Each day a violation is allowed to continue and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies.

C. In the event any civil suit or action is brought by the city to enforce the provisions of this chapter, the prevailing party shall be entitled to recover the amount of its reasonable costs incurred in the action or proceeding, including, but not limited to, attorney's fees. (Ord. 989 § 1 (part), 2014)

### **9.61.070 Severability.**

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If any part or subsection of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter. (Ord. 989 § 1 (part), 2014)

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#### **The Capitola Municipal Code is current through Ordinance 1004, passed September 24, 2015.**

Disclaimer: The City Clerk's Office has the official version of the Capitola Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

**ORDINANCE NO. 2015 -1035**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CERES ADDING CHAPTER 9.120, MARIJUANA CULTIVATION AND DELIVERY, TO TITLE IX, PUBLIC PEACE, SAFETY AND MORALS, OF THE CERES MUNICIPAL CODE**

**WHEREAS**, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code § 11362.5, also known as “The Compassionate Use Act of 1996” or “CUA”); and

**WHEREAS**, 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. However, the CUA also states 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;” and

**WHEREAS**, the limited immunity from specified state marijuana laws provided by the CUA and the Medical Marijuana Program (“MMP”) does not confer a land use right or the right to create or maintain a public nuisance; and

**WHEREAS**, 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...”; and

**WHEREAS**, 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...” affirming the ability of a local government to prohibit the cultivation of marijuana under its land use and police power authority; and

**WHEREAS**, the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, 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; and

**WHEREAS**, on October 9, 2015 Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643), collectively referred to as the Medical Marijuana Regulation and Safety Act (the “Act”); and

**WHEREAS**, the Act becomes effective January 1, 2016, and contains provisions that govern cultivation, processing, transport, testing, and distribution of medical cannabis to qualified patients. The Act contains new statutory provisions that:

- Allow local governments to enact ordinances expressing their intent to prohibit the cultivation of marijuana and their intent not to administer a conditional permit program pursuant to Health & Safety Code Section 11362.777 for the cultivation of marijuana (Health & Safety Code § 11362.777(c)(4)); and
- Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances, or enforcement of local permit or licensing requirements regarding marijuana (Business & Professions Code § 19315(a)); and
- Expressly provide that the Act does not limit the authority or remedies of a local government under any provision of law regarding marijuana, including but not limited to a local government's right to make and enforce within its limits all police regulations not in conflict with general laws (Business & Professions Code § 19316(c)); and
- Require a local government that wishes to prevent marijuana delivery activity, as defined in Business & Professions Code section 19300.5(m) of the Act, from operating within the local government's boundaries to enact an ordinance affirmatively banning such delivery activity (Business & Professions Code § 19340(a)); and

**WHEREAS**, 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; and

**WHEREAS**, 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; and

**WHEREAS**, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery; and

**WHEREAS**, the indoor cultivation of marijuana has potential adverse effects to the structural integrity of the building, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire which presents a clear and present danger to the building and its occupants; and

**WHEREAS**, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

**WHEREAS**, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City if marijuana cultivation, processing and distribution activities are allowed; and

**WHEREAS**, the Act allows cities to maintain local control of marijuana cultivation, provided that cities must take certain action prior to March 1, 2016 either expressly or otherwise under the principles of permissive zoning, or the State will become the sole licensing authority; and

**WHEREAS**, the City Council finds that (1) medical marijuana activities can adversely affect the health, safety, and well-being of City residents; (2) 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; and (3) 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; and

**WHEREAS**, while the City Council finds that medical marijuana dispensaries are prohibited under Section 18.46.020 of the City Code, and that delivery and commercial cultivation of marijuana is prohibited within City limits under the City's permissive zoning regulations, the City Council desires to enact this ordinance to make clear that such uses are expressly prohibited throughout City limits; and

**WHEREAS**, the City Council of the City of Ceres finds that this ordinance is

consistent with the City's current prohibitions and banning cultivation, deliveries, and dispensaries of marijuana is in the best interest of the health, welfare and safety of the public.

**THE CITY COUNCIL OF THE CITY OF CERES DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Title 9, Public Peace, Safety and Morals, of the Ceres Municipal Code is amended to add Chapter 9.120, Marijuana Cultivation and Delivery, which shall read as follows:**

**Chapter 9.120 – MARIJUANA CULTIVATION AND DELIVERY.**

**9.120.010 - DECLARATION OF PURPOSE.**

The City finds and declares that:

- A. The commercial cultivation and delivery of marijuana, and marijuana dispensary locations can adversely affect the health, safety, and well-being of City residents by increasing the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities.
- B. 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.
- C. The above conditions may create significant hazards and nuisances to the public such that a Citywide prohibition of such activities is proper and necessary.

**9.120.020 - DEFINITIONS.**

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY:** the City of Ceres, California.

**COMMERCIAL CANNABIS ACTIVITY:** cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, as defined by Business & Professions Code § 19300.5.

**CULTIVATION:** any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

**DELIVERY:** 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.

#### **9.120.030 - ENFORCEMENT AUTHORITY.**

The Chief of Police or his or her designated agents and designated code enforcement officers shall have the authority and powers necessary to determine whether a violation of this Chapter exists and to take appropriate action to gain compliance with the provisions of this Chapter. These powers include the power to issue administrative citations and to inspect public and private property in accordance with State and Federal law. It also includes the power to impose civil penalties for any violation of this Chapter as provided in Title 19 of this Code.

#### **9.120.040 - AUTHORITY TO INSPECT.**

The Chief of Police or his or her designated agents and designated Code Enforcement Officers are authorized to enter upon any property or premises in accordance with State and Federal law to ascertain whether the provisions of this Chapter are being obeyed, and to make any examinations as may be necessary in the performance of their enforcement duties. All inspections, entries, and examinations shall be done in a reasonable manner as allowed by State and Federal law. If an owner, tenant, occupant or agent or other responsible party refuses to grant the City permission to enter or inspect, the City may seek an inspection warrant pursuant to the procedures provided for in the California Code of Civil Procedure.

#### **9.120.050 – PROHIBITION OF MARIJUANA CULTIVATION.**

All commercial cannabis activity and cultivation, as these activities are defined in section 9.120.020, shall be deemed a nuisance and prohibited in all areas and planned developments within the City. No permit or business license shall be issued for any commercial cannabis activity or cultivation of marijuana within City limits.

#### **9.120.060 – PROHIBITION OF MARIJUANA DELIVERIES.**

The delivery of medical marijuana, as defined in section 9.120.020, shall be prohibited in all areas and planned developments within the City. No permit or business license shall be issued for any marijuana delivery within City limits.

#### **9.120.070 - PENALTY.**

Any person who violates any of the provisions of Sections 9.120.050 or 9.120.060 may be subject to administrative enforcement remedies set forth in Title 19 of this Code for violations of this Section.

**SECTION 2.** This ordinance shall take effect thirty (30) days after its passage by the City Council, and following the affirmative vote of a majority of the members of the City Council. Within 15 days of its adoption, a summary of the ordinance shall be published in the Ceres Courier, a newspaper of general circulation, circulated and published in the City of Ceres, State of California, which summary shall include the names of those Council Members voting for and against the ordinance. A certified copy of the full text of such adopted ordinance or amendment shall be on file in the office of the City Clerk.

**SECTION 3. CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL.** This Ordinance was introduced and approved by Ordinance No. 2015 - 1035 at a regular meeting of the City Council of the City of Ceres held on the (date of afore-mentioned council meeting) by the following vote:

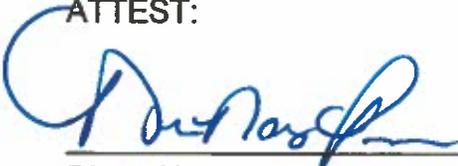
AYES: 5 COUNCIL MEMBERS: Durossette, Kline, Lane, Ryno, Virerra  
NOES: COUNCIL MEMBERS: None  
ABSENT: COUNCIL MEMBERS: None  
ABSTAIN: COUNCIL MEMBERS: None

APPROVED:



Chris Vierra  
Mayor of the City of Ceres

ATTEST:



Diane Nayares-Perez  
City Clerk

ORDINANCE NO. 1919

AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF LODI AMENDING LODI MUNICIPAL CODE  
TITLE 9 – PUBLIC PEACE, MORALS, AND WELFARE –  
BY REPEALING CHAPTER 9.30, “MEDICAL MARIJUANA  
DISPENSARIES” IN ITS ENTIRETY, AND ENACTING  
CHAPTER 9.30, “MEDICAL MARIJUANA”

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – is hereby amended by repealing Chapter 9.30, “Medical Marijuana Dispensaries” in its entirety, and enacting Chapter 9.30, “Medical Marijuana” to read as follows:

CHAPTER 9.30

MEDICAL MARIJUANA

SECTIONS:

- 9.30.010 Definitions
- 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited
- 9.30.030 Delivery of Medical Marijuana as a Prohibited Use and/or Activity
- 9.30.040 Processing of Medical Marijuana as a Prohibited Use and/or Activity
- 9.30.050 Public Nuisance
- 9.30.060 Civil Penalties

Section 9.30.010 Definitions.

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

A. “Medical Marijuana” is marijuana authorized in strict compliance with Health and Safety Code Section 11362.5, et seq.

B. “Medical Marijuana Dispensary” means any facility or location, whether fixed or mobile, where medical marijuana is cultivated or by any means made available to, distributed by, or distributed to two (2) or more of the following: a qualified patient, a person with an identification card, or a primary caregiver in strict accordance with Health and Safety Code Sections 11362.5, et seq., and 11362.7, et seq.

A medical marijuana dispensary shall not include the following uses, so long as such uses comply with this code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.

3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
5. A hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

C. "Marijuana Delivery" or "Delivery" means the commercial delivery, transfer or transport, or arranging for the delivery, transfer or transport, or the use of any technology platform to arrange for or facilitate the commercial delivery, transfer or transport of medical marijuana, marijuana edibles, and/or any marijuana products to or from any location within the jurisdictional limits of the City of Lodi, and any and all associated business and/or operational activities.

D. "Marijuana Processing" or "Processing" means any method used to prepare medical marijuana, marijuana edibles and/or marijuana byproducts for commercial retail and/or wholesale sales, including, but not limited to: cleaning, curing, preparation, laboratory testing, manufacturing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

E. "Person with an identification card" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

F. "Primary caregiver" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

G. "Qualified patient" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

**Section 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited.**

No person shall establish, operate, or permit the establishment or operation of a medical marijuana dispensary in or upon any premises in the City of Lodi.

**Section 9.30.030 Delivery of Marijuana as a Prohibited Use and/or Activity.** Marijuana Delivery by any person or entity, including, but not limited to, clinics, collectives, cooperatives and dispensaries, is prohibited in the City. No permit, license, use permit or variance, whether conditional or otherwise, shall be issued for the establishment of such activity. Any Delivery that takes place in violation of any provision of this Chapter is unlawful, and is hereby declared a public nuisance. Nothing in this Chapter is intended to, nor shall it be construed to, make legal any Delivery activity that is otherwise prohibited under California law.

**Section 9.30.040 Processing of Marijuana as a Prohibited Use and/or Activity.** Marijuana Processing by any person or entity, including, but not limited to, clinics,

collectives, cooperatives and dispensaries, is prohibited in all zones within the City's jurisdictional limits. No permit, license, use permit or variance, whether conditional or otherwise, shall be issued for the establishment of such activity. Any Processing that takes place in violation of any provision of this Chapter is unlawful, and is hereby declared a public nuisance. Nothing in this Chapter is intended to, nor shall it be construed to, make legal any Processing activity that is otherwise prohibited under California law.

Section 9.30.050 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 9.30 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.

Section 9.30.060 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 9.30, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.10 of this code against any person or entity that violates this Chapter 9.30. In any civil action brought pursuant to this Chapter 9.30, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party.

SECTION 2. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 20<sup>th</sup> day of January, 2016.



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MARK CHANDLER  
Mayor

Attest:



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JENNIFER M. FERRAILOLO  
City Clerk

State of California  
County of San Joaquin, ss.

I, Jennifer M. Ferraiolo, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1919 was introduced at a regular meeting of the City Council of the City of Lodi held January 6, 2016, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held January 20, 2016, 2016, by the following vote:

AYES: COUNCIL MEMBERS – Johnson, Kuehne, Nakanishi, and  
Mayor Chandler

NOES: COUNCIL MEMBERS – None

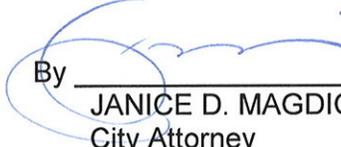
ABSENT: COUNCIL MEMBERS – Mounce

ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1919 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

  
JENNIFER M. FERRAIOLO  
City Clerk

Approved as to Form:

By 

\_\_\_\_\_  
JANICE D. MAGDICH  
City Attorney

**CITY OF CLOVERDALE  
CITY COUNCIL  
ORDINANCE NO. 701-2016**

**AN ORDINANCE OF THE CITY COUNCIL OF CLOVERDALE AMENDING  
CLOVERDALE MUNICIPAL CODE TITLE 18 (ZONING ORDINANCE), CHAPTER  
18.09, TO ADD "ARTICLE III. MARIJUANA," SECTION 18.09.300, "MEDICAL  
MARIJUANA," PROHIBITING COMMERCIAL MARIJUANA (CANNABIS)  
ACTIVITIES AND REGULATING THE CULTIVATION OF MEDICAL MARIJUANA  
BY QUALIFIED PATIENTS AND PRIMARY CAREGIVERS AND THE DELIVERY OF  
MEDICAL MARIJUANA WITHIN THE CITY**

**WHEREAS**, in 1996 voters in the State of California approved Proposition 215 (codified as California Health and Safety Code section 11362.5 and entitled "The Compassionate Use Act of 1996" or the "CUA"); and

**WHEREAS**, the primary purpose of the CUA was to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief; and

**WHEREAS**, in 2004, the State of California also enacted Senate Bill 420 (codified as California Health and Safety Code section 11362.7 et seq. and referred to as "The Medical Marijuana Program" or the "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 ("AB") 2650 (2010), and Assembly Bill 1300 (2011), amended the MMP 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; and

**WHEREAS**, despite voter approval of the CUA, various problems and uncertainties in the Act impeded law enforcement's ability to interpret and enforce the law, and the uncertainties also hindered persons eligible to use marijuana for medical purposes from accessing marijuana, while many persons took advantage of the Act to use marijuana for recreational and not medical purposes; and

**WHEREAS**, the CUA is limited in scope, in that it only provides a defense from State criminal prosecution for possession and cultivation of marijuana to qualified patients and their primary caregivers; and

**WHEREAS**, neither the CUA nor the MMP require or impose an affirmative duty or mandate upon local governments to allow, authorize or sanction the establishment and the operation of facilities cultivating, distributing, or processing medical marijuana; and

**WHEREAS**, in 2008, the City Council adopted Ordinance 660-2008, adding Chapter 9.36 to the City of Cloverdale's Municipal Code, which prohibited outdoor cultivation within the City limits of Cloverdale. Chapter 9.36 was adopted to promote the public health, safety and welfare by protecting City residents from the offensive odor and unreasonable risk of crime from outdoor cultivation of

marijuana. Chapter 9.36 also prohibited dispensaries within the City limits of Cloverdale. The Ordinance was written to protect citizens from the secondary impacts associated with medical marijuana dispensaries, including, but not limited to, increased public consumption of marijuana and the potential for increased marijuana DUIs, illegal resale of marijuana obtained at low cost from dispensaries, loitering, fraud in obtaining or using medical marijuana identification cards, robbery, assaults, and other crimes; also preventing increased demands for police response resulting from activities at medical marijuana dispensaries and parcels where outdoor marijuana cultivation occurs, thereby avoiding reduction of the ability of the City's public safety officers to respond to other calls for service; and

**WHEREAS**, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4<sup>th</sup> 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; and

**WHEREAS**, in October of 2015, the State of California enacted AB 243, AB 266, and Senate Bill (“SB”) 643 in 2015 (commonly and collectively referred to as the Medical Marijuana Regulation and Safety Act or the “MMRSA”). The MMRSA establishes regulation of medical cannabis cultivation, manufacturing, and transportation, as well as create local and state-level licensing systems in California. The MMRSA allows a city to prohibit, through land use regulations or ordinances, the cultivating, delivering, distributing, or processing medical marijuana; and

**WHEREAS**, the City Council finds that commercial medical marijuana (cannabis) activities, as well as cultivation for personal medical use as allowed by the CUA, MMP and the MMRSA can adversely affect the health, safety, and well-being of City residents. Citywide prohibition of commercial cultivation and regulation of personal cultivation 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; and

**WHEREAS**, under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., the use possession and cultivation of marijuana, medical or otherwise, is unlawful and subject to federal prosecution; and

**WHEREAS**, the limited immunity from specified State marijuana laws provided by the CUA and the MMP does not confer a land use right or the right to create or maintain a public nuisance; and

**WHEREAS**, the MMRSA contains language that requires a 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 a city wishes to prohibit deliveries; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on December 16, 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 the Ordinance with recommendations for changes to Section 18.09.300 E (d) (allow cultivation in R-3 zones on parcels with detached single-family dwelling) and 18.09.300 F(1) (cultivation of three (3) plants per parcel) and 18.09.300 F(3)(allow cultivation in R-3 zones on parcels with detached single-family dwelling); and

**WHEREAS**, the City Council held a duly noticed public hearing to consider this Ordinance on January 12, 2016, at which time the City Council considered all evidence presented, both written and oral.

**NOW, THEREFORE**, the City Council of the City of Cloverdale does ordain as follows:

**SECTION 1. Amendment.** Amendment of Title 18, Zoning Regulations: Chapter 18.09 is amended to add 18.09.300 and read as follows:

**“Article III. Marijuana**

**18.09.300. Medical Marijuana**

**A. Purpose and Intent.**

It is the purpose and intent of this ordinance to:

1. Assist law enforcement agencies in performing their duties effectively and in accordance with California law.
2. Acknowledge that the cultivation of medical marijuana is illegal under Federal law while granting limited immunity from local prosecution to those medical marijuana cultivation activities that do not violate the restrictions and limitations set forth in this Ordinance.
3. Ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets.
4. Implement State law by providing an equitable approach for regulating the cultivation of medical marijuana in a manner that is consistent with State law and balances the needs of medical patients and their caregivers with the health, safety, morals and general welfare of the residents and businesses within the City.
5. Require that medical marijuana be cultivated in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the public domain, to provide for the health, safety and welfare of the public, to prevent odor created by marijuana plants from impacting adjacent properties, and to ensure that marijuana grown for medical purposes remains secure and does not find its way to non-patients or illicit markets.

**B. Definitions.**

1. "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.
2. "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.
3. "Commercial marijuana activity" shall have the same meaning as that set forth in Business & Professions Code § 19300.5(k) as the same may be amended from time to time.
4. "Cooperative/Collective" shall mean two (2) or more persons collectively or cooperatively cultivating, distributing, using, transporting, possessing, administering, delivering or making available medical marijuana (cannabis), with or without compensation.
5. "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.
6. "Cultivation site" shall have the same meaning as set forth in Business & Professions Code § 19300.5(x) as the same may be amended from time to time.
7. "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.
8. "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/collective.
9. "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.
10. "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.
11. "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.
12. "Manufacturer" or "Manufacturing" 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.
13. "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.
14. "Marijuana" shall have the same meaning as cannabis as set forth in Business & Professions Code § 19300.5(f) as the same may be amended from time to time.

15. "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.

16. "Medical Marijuana Regulation and Safety Act" or the "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.

17. "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.

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

19. "Personal cultivation" or "Cultivation for Personal Use" shall mean cultivation by a qualified patient or primary caregiver for the personal use by the qualified patient or the patients cared for by the primary caregiver.

20. "Parcel" shall mean property assigned a separate parcel number by the Sonoma County assessor.

21. "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.

22. "School" shall mean any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

23. "Structure" shall mean a building completely enclosed and detached from a residence that complies with the California Building Code, as adopted by the City, and has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roof must be constructed of solid materials that cannot be easily broken through. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

24. "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.

25. "Transportation" or "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.

26. "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.

**C. Commercial Marijuana Activity Prohibited**

Commercial marijuana activities or commercial medical marijuana activities of all types including, but not limited to, dispensaries, collectives, cooperatives, transportation, distribution, cultivation, manufacturing, testing and processing are expressly prohibited in all zoning districts, planned developments and all specific and master plan areas in the City of Cloverdale. However, deliveries of medical marijuana conducted in compliance with subsection 18.09.300(H) of this Section shall be exempt.

**D. Cultivation of Marijuana Prohibited**

All cultivation of marijuana and medical marijuana, both indoor and outdoor, is prohibited in all zoning districts, planned developments and all specific master plan areas in the City, except as authorized under Section 18.09.300(E) and Section 18.09.300(F) for qualified patients and primary caregivers.

**E. Qualified Patient/Primary Caregiver Cultivation in Detached Structure – Cultivation Permit Required**

1. A qualified patient or primary caregiver may cultivate medical marijuana in a detached structure subject to all of the following requirements:

a. Cultivation shall occur inside one (1) detached structure (as defined in Section 18.09.300(B)(23)) in an area not exceeding one-hundred (100) square feet.

b. Cultivation inside the detached structure shall not exceed thirty (30) marijuana plants (three (3) pounds processed marijuana) regardless of how many qualified patients or primary caregivers reside on the parcel.

c. Cultivation of marijuana shall only occur on parcels with a detached single-family dwelling. Parcels containing duplexes or multi-family dwellings, such as apartment buildings, shall not be allowed to cultivate medical marijuana.

d. Cultivation of marijuana shall only occur on parcels with a detached single-family dwelling, located in an area of the City zoned for Residential Use, Planned Development, and Planned Unit Development (R-1, R-2, R-3, R-R, PD and PUD as set forth in Title 18).

e. The qualified patient or primary caregiver shall reside full-time on the premises where the cultivation of marijuana occurs.

f. If the qualified patient or primary caregiver is a tenant on the parcel where he/she wishes to cultivate marijuana, the qualified patient or primary caregiver shall obtain written permission with a signature of the owner of the property authorizing the qualified patient or primary caregiver to cultivate marijuana on the property.

g. No cultivation of marijuana shall occur within six hundred (600) feet of any school. The six hundred (600) feet shall be measured from the closest property line of the school to the closest property line of the cultivating parcel.

h. The detached structure in which cultivation of marijuana will occur must comply with all of the following:

i. All applicable California Building, Electrical and Fire Codes as adopted by the City.

ii. No gas products, including without limitation, CO<sub>2</sub>, butane, propane and natural gas) or generators shall be used within the structure.

iii. Structure shall maintain a minimum of a ten (10) foot setback from any property line.

iv. Structure shall not utilize grow lights that exceed 1200 Watts.

v. Structure shall be locked whenever the person responsible for cultivating is not present.

i. No marijuana growth shall be visible from the right of way.

j. Any qualified patient or primary caregiver cultivating marijuana shall maintain an identification card with the State of California for medical marijuana use.

k. Cultivation shall be for personal use (“cultivation for personal use”) and no commercial cultivation of marijuana shall be permitted in any zones.

l. All cultivated marijuana shall use only certified organic residual pesticides, herbicides, and fungicides.

2. Any qualified patient or primary caregiver cultivating marijuana as allowed in this Section 18.09.300(E) of this Chapter (cultivation in detached structure) shall obtain a Cultivation Permit from the Chief of Police, or his/her designee pursuant to Section 18.09.300(G) of this Chapter.

#### **F. Qualified Patient/Primary Caregiver Cultivation – Small Grow Exception – No Cultivation Permit Required**

Any qualified patient or primary caregiver who cultivates three (3) or less marijuana plants for medical purposes shall not be subject to the provisions of Section 18.09.300(E) of this Chapter and shall not be required to obtain a Cultivation Permit from the Chief of Police, or his/her designee pursuant to Section 18.09.300(G) if all of the following requirements are met:

1. Cultivation of three (3) or less marijuana plants, per parcel, either indoors or outdoors, regardless of how many qualified patients or primary caregivers reside on the parcel.

2. Cultivation of marijuana shall only occur on parcels with a detached single-family dwelling. Parcels containing duplexes or multi-family dwellings, such as apartment buildings, shall not be allowed to cultivate medical marijuana.

3. Cultivation of marijuana shall only occur on parcels with a detached single-family dwelling, located in an area of the City zoned for Residential Use, Planned Development, and Planned Unit Development (R-1, R-2, R-3, R-R, PD and PUD, as set forth in Title 18).

4. The qualified patient or primary caregiver shall reside full-time on the premises where the cultivation of marijuana occurs.

5. If the qualified patient or primary caregiver is a tenant on the parcel where he/she wishes to cultivate marijuana, the qualified patient or primary caregiver shall obtain written permission with a signature of the owner of the property authorizing the qualified patient or primary caregiver to cultivate marijuana on the property.

6. No marijuana growth shall be visible from the right of way.

7. Any outdoor cultivation shall maintain a minimum of a ten (10) foot setback from any property line.

8. If cultivation occurs inside the residence, the residence must be in full compliance with all City codes and regulations, including the Building Code and Fire Code.

9. Cultivation shall remain at all times a secondary or accessory use of the residence and the primary purpose of the residence shall at all times be as a dwelling.

10. Any qualified patient or primary caregiver cultivating marijuana shall maintain an identification card with the State of California for medical marijuana use.

11. Cultivation shall be for personal use (“cultivation for personal use”) and no commercial cultivation of marijuana shall be permitted in any zones.

12. All cultivated marijuana shall use only certified organic residual pesticides, herbicides, and fungicides.

**G. Cultivation Permit from Chief of Police – Only for Cultivation Under Section 18.09.300(E)**

Any qualified patient or primary caregiver wishing to cultivate marijuana pursuant Section 18.09.300(E) this Chapter shall obtain a Cultivation Permit from the Chief of Police, or his/her designee.

1. The Cultivation Permit Application shall include the following and the Chief of Police, or his/her designee shall consider:

a. The name of each qualified patient or primary caregiver who participates in the cultivation and their identification number and expiration date of all identification cards issued by the State of California and/or Sonoma County for medical marijuana use.

b. The qualified patient or primary caregiver shall show proof of ownership of the parcel where cultivation is to occur or if the qualified patient or primary caregiver is a tenant, written consent of the owner, which has been notarized by a public notary.

- c. The physical site address where the cultivation will occur.
- d. The number of plants and square footage of the area that will be cultivated.
- e. A waste disposal plan that conforms to the requirements of this Chapter.
- f. A signed consent form, authorizing inspections by the Cloverdale Police Department or City Code Enforcement to enter and inspect the structure where marijuana cultivation occurs.
- g. The potential risk of crime or violence associated with the location and cultivation.
- h. If the qualified patient or primary caregiver cannot meet the regulations set forth in Section 18.09.300 (E) of this Chapter, the Chief of Police may consider additional information and may issue a Permit for Cultivation with specific exemptions.

2. The Chief of Police, or his/her designee, shall charge a fee according to the City's master fee schedule, for the Cultivation Permit. The fee shall be paid at the time the Application for Cultivation Permit is provided to the Chief of Police, or his/her designee.

3. The Permit shall be issued in two (2) year increments and can be renewed thereafter unless the Permit is suspended or revoked.

4. The Cultivation Permit may be suspended or revoked for any violation of local or State law. If the Permittee is issued a Notice of Violation ("NOV"), the following process may occur to suspend or revoke the Cultivation Permit which shall conform to the appeal process set forth in Chapter 1.14 of the Cloverdale Municipal Code:

a. The Chief of Police, or his designee, shall send written notice of the suspension or revocation which shall be served on the Permittee whose Cultivation Permit is to be revoked or suspended by certified mail with the legal violation and supporting facts. The notice shall contain an advisement of the right to request an appeal pursuant to Cloverdale Municipal Code 1.14.070.

b. Any appeal requested pursuant to Cloverdale Municipal Code 1.14.070 shall include an appeal processing fee as set forth in the City's master fee schedule, as that schedule shall be amended from time to time, and shall include a deposit in advance the amount of any penalty. No appeal shall proceed without payment of the fee and deposit of the penalty with the City Clerk at the time the appeal is filed; provided, however, that the City Manager may waive or defer the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the notice of violation, and other factors indicating good faith attempts to comply.

c. Suspension or revocation issued pursuant to subsection (4) shall be stayed pending the appeal which is properly and timely filed, unless the City obtains an order from a court of competent jurisdiction requiring or authorizing the abatement of the condition that is the subject of the City's enforcement efforts pursuant to Cloverdale Municipal Code 1.14.080.

d. The appeal hearing shall be conducted in conformance with Cloverdale Municipal Code 1.14.090.

e. The decision and order of the hearing officer shall be issued in conformance with Cloverdale Municipal Code 1.14.100.

f. Any responsible party who is aggrieved by a decision of a hearing officer and who has exhausted the administrative remedies provided in the Cloverdale Municipal Code, or any other applicable law, shall have the right to seek judicial review of such decision by filing a petition for writ of mandate in accordance with Code of Civil Procedure Section 1094.5 in conformance with Cloverdale Municipal Code 1.14.110.

#### **H. Delivery of Marijuana**

Deliveries of marijuana into the City of Cloverdale shall be permitted so long as the delivering dispensary obtains a business license pursuant to Chapter 5.04 of the Cloverdale Municipal Code for delivery of marijuana and shall be in conformance with all of the following:

1. The delivery of marijuana shall be to a qualified patient or primary caregiver.
2. The amount of marijuana delivered to any qualified patient or primary caregiver shall not exceed eight (8) ounces for any single delivery.
3. Deliveries can only be conducted between the hours of 8 a.m. to 8 p.m.
4. Deliveries shall be from a point of origin outside of the City to a residence in the City.
5. A dispensary wishing to make deliveries must obtain a State license issued pursuant to Business and Professions Code Chapter 3.5, when such license is made available by the State, to conduct deliveries.
6. Deliveries shall be made by an employee of the dispensary and said employee shall carry with him/her at all times a physical copy of the City Business License and State license issued pursuant to Business and Professions Code Chapter 3.5, when such a license is available, and the shipping manifest pursuant to Business and Professions Code Section 11362.777, when such manifests are available.

#### **I. Marijuana Dispensaries Prohibited**

The establishment, operation or maintenance of medical marijuana dispensaries in the City of Cloverdale is unlawful and prohibited pursuant to this Section and Chapter 9.36 of the Municipal Code. No permit or any other applicable license or entitlement for use, including but not limited to the issuance of a business license, shall be approved or issued for the establishment, maintenance or operation of a medical marijuana dispensary at any permanent location within the city limits of the city of Cloverdale.

#### **J. Disposal of Marijuana Related Substances**

1. All excess marijuana not utilized by the qualified patient or primary caregiver must be disposed of in accordance with the applicable State and local statutes and regulations.

2. Marijuana solid and liquid waste must be stored, secured, managed and disposed of in accordance with the applicable State and local statutes and regulations.

3. Marijuana plant matter waste must be rendered unusable prior to leaving a Permittee's premises. Allowable methods are by grinding and incorporating the marijuana waste with non-consumable, solid waste so the resulting mixture is at least fifty percent (50%) non-marijuana waste.

#### **K. Nuisance**

Any use that does not conform with this Chapter, within the City limits of the City of Cloverdale, is unlawful and hereby declared a public nuisance.

1. It is hereby declared to be unlawful and a public nuisance for any person or persons owning, leasing, occupying, or having charge or possession of any legal parcel or premises within any zoning district in the City to cultivate medical marijuana except as provided for in this Chapter. Such violations may be abated in accordance with the procedures and remedies in Title 1, Chapter 6 of this code, including the appeal procedure contained therein.

2. Any person who violates a provision of this Chapter is subject to administrative penalties (pursuant to Title 1, Chapter 6 of this code), and any available civil remedies.

3. Any person who violates a provision of this chapter is liable for civil penalties of not less than Two Hundred Fifty Dollars (\$250.00) or more than Twenty-Five Thousand Dollars (\$25,000.00) for each day the violation continues.

#### **L. Enforcement**

Any violation of this Chapter shall be enforced by any applicable laws or ordinances, including, but not limited to, Chapter 8.02 of the Cloverdale Municipal Code.

#### **SECTION 2. California Environmental Quality Act ("CEQA").**

The City Council hereby finds that the adoption of this Ordinance is exempt from California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15061(b)(3) of the State CEQA Guidelines. Specifically, this Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment because it does not authorize the construction of any new large structures or other physical changes resulting in impacts to the environment. This Ordinance would also limit the number of outdoor plants to a limited amount so there will be no potential for significant water impacts and pesticide application impacts. The larger amounts would need to be in a detached structure therefore would also not result any water impacts or pesticide application impacts. Further, cultivation in detached structures would not be visible and would not result in significant odor issues.

#### **SECTION 3. No Mandatory Duty of Care.**

This Ordinance is not intended to, and shall not be construed or given effect in a manner that imposes upon the City or any officer, agent, employee or volunteer, thereof a mandatory duty of care towards

persons and property, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 4. Severability.**

If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed the ordinance codified in this Chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this Chapter would be subsequently declared invalid or unconstitutional.

**SECTION 5. Effective Date.**

This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Council Members voting for or against the same, in a newspaper of general circulation published in the County of Sonoma, State of California.

I hereby certify that the foregoing is a true and complete copy of an ordinance duly and regularly adopted by the City at a regular meeting thereof held on \_\_\_\_\_, 2016, by the following vote:

**PASSED, APPROVED AND ADOPTED this \_\_\_ day of \_\_\_\_\_ 2016 by the following roll call vote:**

**AYES:  
NOES:  
ABSTAIN:  
ABSENT:**

**APPROVED:**

**ATTEST:**

\_\_\_\_\_,  
**MaryAnn Brigham, Mayor**

\_\_\_\_\_,  
**Paul Cayler, City Clerk**