

City Council Meeting: November 14, 2023

Santa Monica, California

ORDINANCE NUMBER 2765 (CCS)  
(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SECTION 6.203.010 OF THE SANTA MONICA MUNICIPAL CODE TO ALLOW MEDICINAL CANNABIS RETAILERS WITH MEDICINAL CANNABIS PERMITS ISSUED BEFORE OCTOBER 10, 2023 TO DELIVER, CULTIVATE, AND SELL ADULT-USE CANNABIS OR ADULT-USE CANNABIS PRODUCTS TO PERSONS 21 YEARS OF AGE AND OVER, SUBJECT TO SANTA MONICA MUNICIPAL CODE SECTION 9.31.185

WHEREAS, the State of California has a long history of regulating cannabis uses within the State; and

WHEREAS, in 1996, California voters approved Proposition 215 (codified at Health and Safety Code section 11362.5 and titled the “Compassionate Use Act of 1996”), which provides criminal immunity for patients and primary caregivers for the cultivation and possession of cannabis if a doctor has recommended the cannabis for medical purposes; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified at Health and Safety Code section 11362.7 et seq. and titled the “Medical Marijuana Program Act”) to clarify the scope of the Compassionate Use Act of 1996; and

WHEREAS, the Medical Marijuana Program Act allows cities and other governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in 2015, Assembly Bills 243 and 266 and Senate Bill 643 were enacted (codified at Business and Professions Code section 19300 et seq. and titled the “Medical Marijuana Regulation and Safety Act”) and provided for enhanced statewide marijuana regulations; and

WHEREAS, In November 2016, voters approved Proposition 64, the Adult Use of Marijuana Act (“AUMA”), which allows adults 21 years of age or older to legally grow, possess, and use cannabis for nonmedicinal purposes, with certain restrictions; and

WHEREAS, beginning on January 1, 2018, AUMA authorizes the sale and distribution of cannabis for nonmedicinal purposes through a licensed business; and

WHEREAS, in 2017, the State legislature enacted Senate Bill 94 which created the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) which establishes a robust set of regulations for the medicinal and adult use cannabis markets, aligns all permit types, and authorizes certain state agencies to establish rules governing cannabis operations and to implement the law; and

WHEREAS, MAUCRSA continues to preserve local control over cannabis-related uses by: (1) requiring medicinal cannabis businesses to obtain both a state license and a local license or permit, if required, to operate legally in California, (2) terminating the ability of a medicinal cannabis business to operate if its local license or permit is terminated, (3) continuing to authorize local governments to enforce local cannabis-related laws, (4) providing for penalties for unlicensed activities, and (5) expressly protecting local licensing practices, zoning and business regulation laws, and local actions taken under the constitutional police power; and

WHEREAS, consistent with State actions, the City Council, when adopting its comprehensive update to its Zoning Ordinance in 2015, contemplated authorizing two medicinal cannabis retailers within the City to serve local needs; and

WHEREAS, the City has commenced a prolonged medicinal cannabis retailer selection process and issued two permits for the operation of a medicinal cannabis

retailers in the City; and

WHEREAS, the City has an important governmental interest in maintaining a thriving business community and protecting the health, safety, and economic welfare of its citizens and businesses; and

WHEREAS, on May 10, 2022, City Council requested that the City Manager schedule a study session as soon as practicable regarding whether to allow for the sale of nonmedicinal cannabis in the City of Santa Monica; and

WHEREAS, on July 26, 2022, in line with potential economic recovery efforts, the City Council voted to place a cannabis business license tax measure (Measure HMP) on the November 2022 ballot, imposing a tax on all commercial cannabis activities; and

WHEREAS, in the November 2022 election, the voters approved Measure HMP; and

WHEREAS, on June 13, 2023, City Council held a discussion session where it: (1) considered key policy considerations for allowing adult-use cannabis businesses and other non-retail cannabis business types within the City of Santa Monica; (2) discussed options for allowing adult-use cannabis sales and associated regulatory restrictions as may be appropriate; and (3) provided direction to staff on bringing back changes to the Municipal Code to allow for adult-use cannabis retail businesses and non-retail cannabis business types within the City; and

WHEREAS, at the June 13, 2023, study session, City Council approved allowing the previously approved medicinal cannabis retailers to also sell, cultivate, and deliver adult-use cannabis while the permanent adult-use cannabis updates are pending; and

WHEREAS, Section 6.203.010 of the Santa Monica Municipal Code currently

prohibits commercial cannabis sales in the City; and

WHEREAS, the City desires to amend Section 6.203.010 of the Santa Monica Municipal Code to allow medicinal cannabis retailers with medicinal cannabis permits issued before October 10, 2023 to deliver, cultivate, and sell adult-use cannabis or adult-use cannabis products to persons 21 years of age and over subject to the Santa Monica Municipal Code Section 9.31.185.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Commercial Nonmedicinal Cannabis Uses. Santa Monica Municipal Code Section 6.203.010 is amended as follows:

**6.203.01 Commercial Nonmedicinal Cannabis Uses**

a. Except as provided in subsection b, below, it shall be unlawful to undertake, establish, operate, maintain, or permit any commercial nonmedicinal cannabis use in the City. Except as provided in this subsection b, below, no use permit, business license, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued. The possession of a State license for commercial nonmedicinal cannabis use shall not be sufficient to authorize the operation of such a use within the City.

b. Notwithstanding the prohibitions set forth in subsection a, above, a medicinal cannabis retailer that has been issued a medicinal cannabis permit pursuant to Chapter 6.203 of the Santa Monica Municipal Code prior to October 10, 2023, and subject to Santa Monica Municipal Code Section 9.31.185, shall be permitted to deliver, cultivate, or sell adult-use cannabis or adult-use cannabis products, as licensed and regulated by

Business and Professions Code Section 26000 *et seq.* and as amended from time to time, to persons 21 years of age and over. The authority to operate under this subsection will be limited to each annual business license term or renewal and will be subject to any additional requirements the City may adopt by ordinance, or administrative regulations or conditions in accordance with Santa Monica Municipal Code Section 6.200.040, including, but not limited to, any requirements related to social equity or community benefits.

SECTION 2. Any provision of the Santa Monica Municipal Code or any appendix thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance 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 Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective thirty days after its adoption.

APPROVED AS TO FORM:

DocuSigned by:  
*DOUGLAS SLOAN*  
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DOUGLAS SLOAN  
City Attorney

Approved and adopted this 14<sup>th</sup> day of November, 2023.

DocuSigned by:  
*Gleam Davis*  
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Gleam Davis, Mayor

State of California )  
County of Los Angeles ) ss.  
City of Santa Monica )

I, Esterlina Lugo, acting City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2765 (CCS) had its introduction on October 24, 2023 and was adopted at the Santa Monica City Council meeting held on November 14, 2023, by the following vote:

AYES: Councilmembers Zwick, Parra, Brock, Torosis, de la Torre  
Mayor Davis

NOES: None

ABSENT: Mayor Pro Tem Negrete

ATTEST:

DocuSigned by:  
*Esterlina Lugo*  
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Esterlina Lugo, Acting City Clerk

11/16/2023  
Date

A summary of Ordinance No. 2765 (CCS) was duly published pursuant to California Government Code Section 40806.