

RESPONSE(S) TO COUNCIL QUESTION(S)

RE: 4/12/2016 AGENDA

Agenda Item #: 5

Title: Introduce an Ordinance Amending SMC 9.86 and Title 19 to Expressly Prohibit Medical Marijuana Cultivation, Commercial Activity, Distribution, and Delivery

Question(s): The definition of "Delivery" in 9.86.020 (d) appears incomplete.

Staff Response(s): The draft ordinance for medical marijuana ordinance (Item #5 on April 12, 2016 Agenda) contained a clerical error in which a portion of the definition of "delivery" was inadvertently dropped from section 9.86.020(d). The full definition is: "'Delivery' shall have the same meaning as provided in California Business & Professions Code §19300.5(m) as may be amended." A revised copy of the draft ordinance is attached.

Agenda Item #: 6

Title: Introduce an Ordinance Amending Section 3.80.040 of the SMC to Increase the City's Minimum Wage to \$15 by 2018

Question(s): The new statewide minimum wage that takes effect in 2022 has a CPI cap of 3.5%. Does our proposed ordinance impose a cap on the CPI increase?

Staff Response(s): No, the proposed ordinance does not impose a cap on the CPI increase. No other local ordinance has a cap; however, the City Council could include a CPI cap similar to the new statewide minimum wage.

Agenda Item #: 7

Title: Approve the Issuance of Request for Proposals to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15)

Question(s): The second paragraph on page 6 of the draft RFP says: "The housing portion of the project shall include at least some housing opportunities for special needs households ... as well as all-age households..." Does this mean that proposals must include some all-age households? In other words, an all-senior project would not qualify? Category 2 of the scoring sheet (page 14) does not mention all-age households.

Staff Response(s): Staff's intent in drafting the RFP was to indicate the City's general goals for the project without providing an overly narrow or restrictive project description that might create difficulties later in financing the project. It is typically somewhat more difficult to finance a project that includes only special needs units (elderly and/or other special needs categories), both in terms of the initial construction financing as well as creating a project that will be financially sustainable in its operations over the long term. Most units that are restricted to special needs households are only financially feasible over the long-term if there are project-based vouchers awarded for those units. The Housing Authority issues such vouchers on a competitive basis, so it is uncertain

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whether or not all special needs units at this site would be able to obtain vouchers. In addition, the Housing Authority does not issue vouchers for every type of special needs household the City may be interested in serving at this project. For instance, the Housing Authority recently declined to award vouchers to a local project for units reserved for developmentally disabled applicants. In addition, the need for affordable rental units for all-age households (i.e. “workforce housing”) is also very significant, and this location, close to many jobs in Sunnyvale’s downtown, El Camino Real corridor, and close to transit, is ideal as a site for some workforce housing units. For both of these reasons, staff included the language on page 6 with the intent of keeping the unit mix flexible to maintain its competitiveness for some of the key funding sources, and to recognize the significant local need for workforce housing and the ideal location of this site for workforce housing. Many housing advocates have noted that the reluctance of many cities to build affordable housing projects with units available to families, due to residents’ concerns about potential impacts to local schools, could potentially be construed as discrimination on the basis of familial status.

Agenda Item #: 7

Title: Approve the Issuance of Request for Proposals to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15)

Question(s): Page 3 of the draft RFP includes an objective of ensuring Sunnyvale applicants receive priority in the project’s units. I wonder if we should consider dropping that objective.

Staff Response(s): Staff has consulted with HUD and fair housing agencies in great detail to research the legality of “local preferences” in terms of fair housing laws. The current City priority provided to “Sunnyvale applicants” is not a residency requirement. The City’s definition of Sunnyvale applicants includes those who work in Sunnyvale but do not reside here, as well as those who reside in Sunnyvale (and may or may not work here, or in some cases may not be working at all, i.e., elderly applicants). Staff has discussed this matter in detail with HUD in the context of the demographics of City residents as well as those who work within the City limits. HUD has advised staff that as long as those who work in the City qualify for the priority to the same extent as those who reside here, there is no violation of fair housing laws, primarily because the demographics of those who work in the City is highly diverse (even more so than the demographics of City residents), and including this workforce group within the priority program ensures there is no disproportionate impact based on any protected classes. Furthermore, this preference is just a preference, it does not ensure that priority applicants always get into an affordable housing project, nor does it ensure that non-priority applicants do not get into these projects. There are many other eligibility requirements that factor into the tenant selection process, such as income, credit history, rental history, various programmatic preferences, household size, lottery

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number, and so on. In the City's BMR programs, it is not uncommon that non-priority applicants get into some BMR units. The prevalence of this occurrence varies with the cycles of the local housing market. When BMR rental vacancies are higher and demand is lower for the for-sale BMR program, it is more common for non-priority applicants to get into BMR units, and less common when vacancies are lower and demand for for-sale units is higher. For subsidized projects, it is not uncommon for a significant percentage of the units to be offered to non-priority applicants. For units with project-based vouchers, there is no preference applied whatsoever due to the Housing Authority's procedures based on federal regulations for the Section 8 program (or VASH, etc.).

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Title: Approve the Issuance of Request for Proposals to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15)

Question(s): The process presented in December shows several closed sessions. If there is some way for neighbors to give general input to Council prior to the closed sessions, without revealing confidential RFP results, it might help them feel more included in the process. And as a decision-maker I would like to know what they think. I had not considered that aspect of the process when Council discussed the properties in December.

Staff Response(s): The staff report will provide more information on the public review process. There will be multiple opportunities for public input similar to any proposed development project. The closed sessions will be on the business terms for the lease of the property. Discussion of the proposed project itself will involve public hearings with the Housing and Human Services Commission, Planning Commission and City Council.

Agenda Item #: 7

Title: Approve the Issuance of Request for Proposals to Develop a New Affordable Housing Project on City Property Located on Charles Street (Block 15)

Question(s): 1. Can we include "homeless veterans" or other similar language in the various lists of at-risk populations? 2. Does the RFP request any information about an applicant's ability to fund ongoing operational costs, such as on-site counseling services? If an application includes the provision of such services, do we have some way to vet the provider's ability to provide those services on an ongoing basis? 3. So how does this affect the city budget? Can you explain again how we handle the accounting of the money that we spent to purchase the additional property? Once we agree to an RFP and it gets built, can we then repay our general fund expenditure for this property (and maybe even the property we owned before the recent purchase) with affordable housing funds? 4. This seems like a very short clock for a proposal like this.

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An agency has to, in effect, fully develop a plan for a new affordable housing project in a month and a half, even assuming we can issue the RFP the on the 15th. Is that enough time to get a good selection of proposals, given the extent to which these outside agencies are going to have to work with even more agencies to figure out their funding and services? Would a longer clock on this potentially generate even more bids, and potentially more creative or thoughtful proposals?

Staff Response(s): 1. Yes, staff can add language in the RFP to specify homeless veterans in particular if that is Council's direction. The RFP currently includes homeless people (which includes homeless veterans) in several places in reference to special needs groups. 2. Yes, staff would expect that any proposals that include provision of special supportive services on site would include an explanation of how those services would be funded long-term, and which agency would provide those services. This information would typically be provided in the operating pro-forma and mentioned in the project description narrative. Staff would review the information provided and verify that any proposed funding sources are available for the indicated purpose, and that the proposed services provider is appropriate and capable of providing such services, and include the results of that analysis in the project scoring under Category 4: Budget and Financial Capacity. 3. Issuance of this RFP in itself does not directly impact the City's budget, as it is more of an exploratory step and does not commit the City to doing anything with the property at this time. However, assuming that a long-term lease of the property were to occur, the proceeds from that lease payment would be returned to the City fund (i.e., General Fund or other) that paid for the property included in the sale, on a proportional basis based on the particular parcel's percentage of the project site being leased. How the eventual developer pays for the lease will be up to the developer, which could pursue financing from a variety of possible sources, including possibly some City financing from one or more of the City's housing funds, or the developer may have its own funds available for the lease payment. 4. Staff feels that the 45-day window for proposals is adequate, because the RFP does not require proposals that are highly detailed or with any kind of funding or services commitments in place, and the most important parts of the proposals will be the development team's qualifications and proposed public outreach process, which should not take the applicant too long to describe in a proposal. The project concept is very likely to evolve somewhat as the public outreach and ENA negotiation processes are implemented, and no proposer will be able to fully predict in advance the outcome of those processes. For that reason, the proposals are expected to be very conceptual, rather than highly vetted or detailed at this point. Staff feels confident that the most highly qualified and highly experienced affordable housing developers will be able to submit responsive, high-quality conceptual proposals as required by this RFP in the 45-day window. Adding additional time for response may slightly increase the number of proposals received, but may also increase the number of lower quality proposals that then will require more time for the

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City to sift through and respond to, without increasing the overall quality of the proposals. Also, if staff determines that not enough responses have been received within the allowed time frame, and/or many applicants complain about the length of response time provided, the RFP (on page 9 and 13) allows for the deadline to be adjusted if necessary, in the City's sole discretion.



Office of the City Attorney

Memorandum

TO: CITY COUNCIL

FROM: CITY ATTORNEY *MT*

**SUBJECT: MEDICAL MARIJUANA
REGULATION & SAFETY ACT -
CHAPTER 9.86- AGENDA ITEM 5**

DATE: April 11, 2016

The draft ordinance for medical marijuana ordinance (Item #5 on April 12, 2016 Agenda) contained a clerical error in which a portion of the definition of "delivery" was inadvertently dropped from section 9.86.020(d). The full definition is: "'Delivery' shall have the same meaning as provided in California Business & Professions Code §19300.5(m) as may be amended."

A revised copy of the draft ordinance is attached.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE TO AMEND CHAPTER 9.86 OF TITLE 9
(PUBLIC PEACE, SAFETY OR WELFARE) AND VARIOUS
SECTIONS OF TITLE 19 (ZONING) OF THE SUNNYVALE
MUNICIPAL CODE RELATING TO AN EXPRESS
PROHIBITION ON MEDICAL MARIJUANA
CULTIVATION, COMMERCIAL ACTIVITY,
DISTRIBUTION AND DELIVERY**

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

WHEREAS, the intent of the CUA was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use when deemed beneficial for health by a physician. The CUA specifically provides that the law shall not be construed to allow individuals to engage in conduct that endangers others, or to condone the use of marijuana for non-medical purposes; and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code § 11362.7 et seq. and referred to as the “Medical Marijuana Program” or “MMP”) to permit qualified patients and primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subject to prosecution under specified State criminal statutes. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly authorize and cities to adopt local ordinances regulating cooperatives or collectives; 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 cities have the authority to ban medical marijuana land uses and that the CUA and MMP do not preempt local ordinances; and

WHEREAS, under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., the use, possession, and cultivation of marijuana are currently unlawful and subject to federal prosecution without regard to medical need or use.

WHEREAS, on October 9, 2015, Governor Brown signed 3 bills (AB 266, AB 243, and SB 643), collectively known as the Medical Marijuana Regulation and Safety Act (“MMRSA”), which governs cultivation, processing, transporting, testing, and distribution of medical marijuana to qualified patients.

WHEREAS, Sunnyvale Municipal Code Chapter 9.86 currently contains an express prohibition on fixed and mobile medical marijuana dispensaries in all zones of the City. Further, the City has interpreted its zoning regulations, which disallow uses not specifically articulated, to prohibit other medical marijuana activities, including cultivation, processing and delivery; and

WHEREAS, commercial medical marijuana activities as allowed by the CUA and MMP can adversely affect the health, safety, and well-being of City residents. According to 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 without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity, including but not limited to loitering or crime.

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;

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. This condition also 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, when marijuana is grown and/or processed indoors, growing and processing equipment can have the potential to cause harm to persons or property by creating fire hazards. Many cities in the state have reported or responded to fires resulting from marijuana activity. Indoor cultivation operations are frequently unattended and utilize high wattage grow lamps, generators, or other equipment, or may be illegally wired to allow such equipment to function. This excessive energy use can overload electrical systems and cause fires. Notable recent fires associated with marijuana related activities include a December 2015 explosion at a home in Petaluma associated with production of marijuana oil, an October 2015 fire at a home with an indoor grow in Rialto started by an electrical panel that burst, a May 2015 fire at a commercial building in Sun Valley with an indoor marijuana grow house, and an explosion/fire in April 2015 at a Silver Lake home caused by an indoor marijuana operation; and

WHEREAS, criminal activity is also associated with mobile marijuana dispensaries and deliveries, which are targets for armed robbery; 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, distribution, and other commercial activities are permitted to operate or if permits, licenses, or similar entitlements were issued for such operation, and that such operation poses a current threat to the public health, safety, and welfare in the City due to the negative impacts of such activities as described above;

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

WHEREAS, the MMRSA requires the city to prohibit cultivation uses, either expressly or otherwise under the principles of permissive zoning, or the State will become the licensing authority. The MMRSA also requires delivery services to be expressly prohibited by local ordinance, if the City desires to prohibit delivery. The MMRSA is silent as to how the City must prohibit other type of commercial medical marijuana activities; and

WHEREAS, while the City Council believes that cultivation and all commercial medical marijuana uses are prohibited under the City's permissive zoning regulations, it desires to enact this ordinance to express its intent to prohibit commercial medical marijuana activity consisted with the MMRSA, expressly make clear that all such uses are prohibited in all zones throughout the City, preserve local control over such uses, and protect the public from the health and safety risks described above; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 11, 2016, at which time it considered all evidence presented, both written and oral and at the end of the hearing recommended that the Council adopt the recommended changes to the City's zoning code; and

WHEREAS, the City Council held a duly noticed public hearing on this ordinance on _____, 2016, at which time it considered all evidence presented, both written and oral.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 9.86 AMENDED. Chapter 9.86 (Medical Marijuana Distribution Facilities) of Title 9 (Public Peace, Safety or Welfare) of the Sunnyvale Municipal Code is hereby amended and renumbered to read as follows:

Chapter 9.86.

MEDICAL MARIJUANA ~~DISTRIBUTION FACILITIES.~~

9.86.010. Purposes

9.86.020. Definitions.

9.86.020030. ~~Operation of medical distribution facilities~~ Prohibited activities.

9.86.030040. Violation – Penalty.

9.86.040050. Public Nuisance.

9.86.050060. Severability.

9.86.010. Definitions.Purpose.

The purpose of this chapter is to reflect the intent of the City of Sunnyvale to (1) expressly prohibit cultivation, delivery, distribution and other commercial activity related to medical marijuana; (2) not administer a conditional permit program for marijuana cultivation under the Medical Marijuana Regulation and Safety Act (Health & Safety Code §11362.777); (3) exercise its local authority to regulate and enforce commercial activities related to medical marijuana, including prohibitions on cultivation and delivery; and (4) exercise its police power to enact and enforce regulations to benefit the health, safety and welfare of the Sunnyvale community.

9.86.020. Definitions.

(a) “Commercial cannabis activity” means and includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical marijuana or a medical marijuana product, and as provided in California Business & Professions Code §19300.5(k) as may be amended.

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

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

(d) “Delivery” shall have the same meaning as provided in California Business & Professions Code §19300.5(m) as may be amended.

(e) “Distribution” means the procurement, sale and transport of medical marijuana or medical marijuana products between entities licensed pursuant to the Medical Marijuana Regulation and Safety Act.

(f) “Marijuana” or “Cannabis” shall have the same definition as set forth in Business & Professions Code § 19300.5(f), as may be amended from time to time. ~~A “medical marijuana distribution facility” is any facility or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides marijuana to two or more persons with identification cards or qualified patients, as defined in California Health and Safety Code Section 11362.5 et seq., or any facility where qualified patients, persons with identification cards and primary caregivers meet or congregate collectively and cooperatively to cultivate or distribute marijuana for medical purposes under the purported authority of California Health and Safety Code Section 11362.5 et seq.~~

(g) “Medical marijuana distribution facility” dispensary” shall have the same definition as set forth in Business & Professions Code § 19300.5(n), as may be amended from time to time. For purposes of this Chapter, “dispensary” shall also include a cooperative. “Dispensary” shall not include the following uses, so long as such uses comply with this Code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

(1) - (5) [Text unchanged]

(h) “Processing” means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale including but not limited to drying, cleaning, curing, packaging, or extracting active ingredients to create marijuana related products or concentrates, including but not limited to edible or topical products.

9.86.020030. Operation of medical marijuana distribution facilities
pProhibited activities.

Medical marijuana distribution facilities ~~Marijuana cultivation, marijuana processing, marijuana delivery or distribution, marijuana dispensaries, and any other commercial cannabis activities, as defined in this chapter, are prohibited activities and uses in all zoning districts in the city of Sunnyvale. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation, marijuana processing, marijuana delivery or distribution, establishment or operation of a marijuana dispensary, or any other commercial cannabis activity, and no person shall otherwise establish or conduct such activities in the City, except as otherwise expressly allowed by federal or state law.~~

9.86.030040. Violation—Penalty.

(a) – (b) [Text unchanged]

(c) In addition to any other enforcement remedies described in this code, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.20 of this code against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney’s fees and costs to the prevailing party.

9.86.040050. Public nuisance.

[Renumbered text unchanged]

9.86.050060. Severability.

[Renumbered; text unchanged]

SECTION 2. TABLE 19.18.030 AMENDED. TABLE 19.18.030 of Chapter 19.18 (Residential Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.18.030
Permitted, Conditionally Permitted and Prohibited Uses in Residential
Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use

MPP = Miscellaneous Plan Permit required

UP = Use Permit required

SDP = Special Development Permit required

N = Not permitted, prohibited

RESIDENTIAL ZONING DISTRICTS	R-0/R-1	R-1.5	R-1.7/PD	R-2	R-3	R-4	R-5	R-MH
1. – 6. [Text unchanged.]								
7. Other uses.								
A. – M. [Text unchanged.]								
N. Medical Marijuana Distribution Facility.	N	N	N	N	N	N	N	N
O. [Text unchanged.]								

¹⁻⁶ [Text unchanged.]

SECTION 3. TABLE 19.20.030 AMENDED. Table 19.20.030 of Chapter 19.20 (Commercial Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.20.030
Permitted, Conditionally Permitted and Prohibited Uses in Commercial Zoning Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use

UP = Use permit required

MPP = Miscellaneous plan permit

N = Not permitted, prohibited

COMMERCIAL ZONING DISTRICTS	C-1	C-2	C-3	C-4
1. – 9. [Text unchanged.]				
10. Other				
A. – J. [Text unchanged.]				
K. Medical Marijuana Distribution Facility.	N	N	N	N
L. [Text unchanged.]				

¹⁻⁹ [Text unchanged.]

SECTION 4. TABLE 19.22.030 AMENDED. TABLE 19.22.030 of Chapter 19.22 (Industrial Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.22.030
Permitted, Conditionally Permitted and Prohibited Uses in Industrial Districts

In the table, the letters and symbols are defined as follows:

P = Permitted use
MPP = Miscellaneous plan permit required
UP = Use permit required
N = Not permitted, prohibited
FAR = Floor area ratio restrictions
> = Greater than
N/A = FAR does not apply

Use Regulations by Zoning District USE	M-S Zoning Districts FAR ³	M-S Zoning Districts	M-S/POA Zoning Districts	M-3 Zoning Districts FAR ³	M-3 Zoning Districts
<i>1. – 5. [Text unchanged.]</i>					
6. Other					
<i>A. – Q. [Text unchanged.]</i>					
R. Medical Marijuana Distribution Facility	N/A	N	N	N/A	N
S. [Text unchanged; renumbered.]					

¹⁻⁴ [Text unchanged.]

SECTION 5. TABLE 19.24.030 AMENDED. TABLE 19.24.030 of Chapter 19.24 (Office and Public Facilities Zoning Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.24.030
Permitted, conditionally permitted and prohibited uses in office, public facilities and civic center zones.

In the table, the letters and symbols are defined as follows:

P = Permitted use
UP = Use permitted required
MPP = Miscellaneous plan permit required
N = Not permitted, prohibited

OFFICE AND PUBLIC FACILITIES ZONING DISTRICTS	O	P-F
1. – 5. [Text unchanged.]		
6. Other		
A. – L. [Text unchanged.]		
M. Medical Marijuana Activities-Distribution Facilities	N	N
N. [Text unchanged.]		

¹⁻² [Text unchanged.]

SECTION 6. TABLE 19.28.070 AMENDED. TABLE 19.28.070 of Chapter 19.28 (Downtown Specific Plan Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.28.070

Permitted, Conditionally Permitted and Prohibited Uses in Mixed Use, Commercial and Office DSP Blocks

In the table, the letters and symbols are defined as follows:

P = Permitted use

SDP = Special development permit required

MPP = Miscellaneous plan permit required

UP = Use permit required

N = Not permitted, prohibited

DSP MIXED USE, COMMERCIAL AND OFFICE BLOCKS	1	1a	2	3	7	13	18	20	21	22
1. – 6. [Text unchanged.]										
7. Other Uses										
A. – M. [Text unchanged.]										
N. Medical Marijuana Activities-Distribution Facility.	N	N	N	N	N	N	N	N	N	N
O. [Text unchanged.]										

¹⁻³ [Text unchanged.]

SECTION 7. TABLE 19.28.080 AMENDED. TABLE 19.28.080 of Chapter 19.28 (Downtown Specific Plan Districts) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.28.080
Permitted, Conditionally Permitted and Prohibited Uses in Residential DSP
Blocks

In the table, the letters and symbols are defined as follows:

P = Permitted use
SDP = Special development permit required
MPP = Miscellaneous plan permit required
UP = Use permit required
N = Not permitted, prohibited

DSP RESIDENTIAL BLOCKS	4, 5, 14, 15, 16, 23	6, 10a	8, 9, 10, 11, 12, 17	8a	8b, 9a
<i>1. – 5. [Text unchanged.]</i>					
<i>6. Other Uses</i>					
<i>A. – K. [Text unchanged.]</i>	N	N	N	N	N
<i>L. Medical Marijuana Activities Distribution Facility.</i>					

¹⁻³ [Text unchanged.]

SECTION 8. TABLE 19.29.050 AMENDED. TABLE 19.29.050 of Chapter 19.29 (Moffett Park Specific Plan District) of the Sunnyvale Municipal Code is hereby amended to read as follows:

Table 19.29.050
Permitted, Conditionally Permitted and Prohibited Uses
in MPSP Subdistricts

In the table, the letters and symbols are defined as follows:

P = Permitted use. A Moffett Park Design Review Permit is required pursuant to Section 19.29.050(c). Development exceeding the standard FAR limit must be reviewed through a major permit.
SDP = Special development permit. A Moffett Park Special Development Permit is required.
MPP = Miscellaneous Plan Permit. A Miscellaneous Plan Permit is required.
N = Not permitted. Prohibited.

Use			Specific Plan Subdistrict		
			MP-TOD	MP-I	MP-C
1. – 7.		<i>[Text unchanged.]</i>			
8.		<i>Other</i>			
	A. – S.	<i>[Text unchanged.]</i>			
	T.	<i>Medical Marijuana Activities-Distribution Facility.</i>	N	N	N
	U.	<i>[Text unchanged.]</i>			

SECTION 9. TITLE of CHAPTER 19.62 AMENDED. Chapter 19.62 (Distribution of Medical Marijuana) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

CHAPTER 19.62. ~~DISTRIBUTION OF MEDICAL MARIJUANA.~~

SECTION 10. SECTION 19.62.010 AMENDED. Section 19.62.010 of Chapter 19.62 (Distribution of Medical Marijuana) of Title 19 (Zoning) of the Sunnyvale Municipal Code is hereby amended to read as follows:

19.62.010. Medical marijuana ~~distribution facilities.~~

All medical marijuana activities~~Medical marijuana distribution facilities,~~ as defined in Chapter 9.86 and described in section 9.86.030, are prohibited uses in all zoning districts in the city of Sunnyvale.

SECTION 11. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15060(c)(2), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and section 15061(b)(3) because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 12. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions 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 section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 13. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 14. POSTING AND PUBLICATION. The City Clerk is directed to cause

copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSAL:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

City Attorney