ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SANTA CLARA, CALIFORNIA, AMENDING CHAPTERS 18.06 ("DEFINITIONS") AND 18.102 ("REGULATION OF MARIJUANA") OF TITLE 18 ("ZONING") OF "THE CODE OF THE CITY OF SANTA CLARA, CALIFORNIA" TO IMPOSE A BAN ON ALL COMMERCIAL CANNABIS ACTIVITIES

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, on November 21, 2017, the City Council adopted Ordinance No. 1973 amending Chapter 18.102 ("Regulation of Marijuana") to temporarily ban all commercial cannabis activity in the City until January 1, 2019;

WHEREAS, on November 27, 2018, the City Council adopted Ordinance No. 1990 amending Chapter 18.102 ("Regulation of Marijuana") to temporarily ban all commercial cannabis activity in the City until June 30, 2019;

WHEREAS, on May 7, 2019, the City Council adopted Ordinance No. 2000 amending Chapter 18.102 ("Regulation of Marijuana") to temporarily ban all commercial cannabis activity in the City until June 30, 2020;

WHEREAS, the temporary ban was intended to provide the City with adequate time to develop a robust framework of local regulations compliant with the various updated State regulations and tailored to address the unique needs of the City;

WHEREAS, it came to the City's attention that cities of similar sizes that had implemented commercial cannabis programs were generating much less tax revenue than originally projected and experiencing significant delays with cannabis businesses starting operations; and

WHEREAS, under its police powers to preserve the health, safety and welfare of its

residents through zoning and planning regulations, the City Council hereby determines that at this time the code amendment set forth below is necessary and in the best interests of the City.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

SECTION 1: That Subsection "C" ("'C' definitions") of Section 18.06.010 ("Definitions") of Title 18 (entitled "Zoning") of "The Code of the City of Santa Clara, California" ("SCCC") is hereby amended by renumbering existing paragraphs (1) through (8) as new paragraphs (2) through (9).

SECTION 2: That Subsection "C" ("'C' definitions") of Section 18.06.010 ("Definitions") of Title 18 (entitled "Zoning") of the SCCC is hereby amended by adding a new paragraph (1) to read as follows:

"(1) (A) "Cannabis" shall be interchangeable with the word "marijuana" for all purposes, and refers to any or all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not, whether in whole or in part, the seeds thereof, the resin, whether crude or purified, extracted from any part of the plant, and every compound, extract, manufacture, salt, derivative, mixture, or preparation of any part of the plant, its seeds, or resin.

(B) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and/or cannabis products as provided for in Division 10 ("Cannabis") of the Business and Professions Code, and whether for medical or nonmedical uses."

SECTION 3: That Chapter 18.102 (entitled "Regulation of Marijuana") of Title 18 (entitled "Zoning") of the SCCC is hereby renamed "Regulation of Cannabis" and amended to read as follows:

"**Chapter 18.102**

REGULATION OF CANNABIS

18.102.010 Commercial cannabis activity prohibited.

In accordance with Business and Professions Code Section 26200, all commercial cannabis activity as defined in SCCC 18.06.010(m)(2)(B) is prohibited, whether temporary or permanent in nature, and whether for medical or nonmedical purposes.

18.102.020 Cultivation of cannabis for personal use.

No more than six living cannabis plants, whether mature or immature, may be planted, cultivated, harvested, dried, or processed for personal use within the confines of a single private residence. Any such indoor cultivation for personal use must comply with the following requirements:

(a) Cannabis cultivation, including but not limited to any lighting, plumbing, building, or electrical components used for cultivation, must comply with current requirements in SCCC Title 15.

(b) In addition to the requirements set forth in SCCC Title 15, indoor cultivation of cannabis must comply with the following requirements:

(1) Lighting used for cannabis cultivation may not exceed one thousand (1,000) watts per light, unless certified by a licensed electrical contractor. High intensity discharge (HID) lighting – including, but not limited to, mercury-vapor lamps, high-pressure sodium (HPS) lamps, metal-halide (MH) lamps, ceramic MH lamps, sodium-vapor lamps, high-pressure

sodium-vapor lamps, and xenon short-arc lamps – are prohibited in cultivation areas.

(2) The use of gas products including, but not limited to, carbon dioxide and butane, carbon dioxide and ozone generators, or other flammable solvents or chemicals, for cannabis cultivation, processing or manufacturing is prohibited.

(3) Area(s) where cannabis is cultivated, processed, or manufactured must contain adequate ventilation and filtration systems to ensure that odors from such activities are not detectable by a person with reasonable sensitivity from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence.

(4) Cannabis cultivation may not be conducted in a manner that constitutes a public nuisance. A public nuisance may exist if the cultivation produces light, glare, heat, noise, vibration, odors, smells, or other stimulus that is, or whose effect is, either detrimental to public health, safety, or welfare, or interferes with the reasonable enjoyment of property.

(5) Materials or products used for cannabis cultivation, processing or manufacturing shall not be stored inside habitable areas of the residence or within public view from neighboring properties or public rights-of-way, or in a manner detrimental to public health, safety, or welfare.

(6) The residential structure shall remain at all times a residence, with legal and fully functional cooking, sleeping, and sanitation facilities with proper ingress and egress. These rooms shall not be used for cannabis cultivation. The premises shall not be used primarily or exclusively for cannabis cultivation. The owner of the cannabis plants shall reside full-time in the residence where the cultivation occurs.

(7) The cannabis cultivation area shall be located within a fully enclosed and secured

structure, area, or room, inaccessible to minors, and shall not be visible from the public right-of-way. The cannabis plant(s) cannot come within twelve (12) inches of the ceiling or any source of heat or lighting in the enclosed area or room in which it is grown.

(c) Nothing in this chapter is intended to prohibit property owners from more strictly regulating indoor and outdoor cultivation of cannabis upon their property, including complete prohibition.

18.102.030 Transport and delivery of cannabis.

Nothing in this chapter shall be deemed to prevent transportation of cannabis or cannabis products on public roads by a State licensee acting in compliance with all applicable State and local laws and regulations, except that cannabis deliveries originating in the City are prohibited.

18.102.040 Restrictions on the use of cannabis.

Consumption of cannabis in any form or manner is prohibited in all places where tobacco smoking is prohibited under State and local law. The provisions of Chapter 8.37 SCCC ("Smoking Lounges") are inapplicable to commercial cannabis activity.

Any conduct otherwise permitted under Health and Safety Code Section 11362.1 is prohibited within any buildings owned, leased or occupied by the City.

18.102.045 Violation – Penalty.

Pursuant to SCCC 1.05.070, the City, in its prosecutorial discretion, may enforce violation(s) of the provisions of this chapter as a criminal, civil and/or administrative action. In addition, the City may pursue any and all remedies available under any applicable law including, but not limited to, a criminal action pursuant to the Health and Safety Code or the Revenue and Taxation Code, and/or a civil action pursuant to the Business and

Professions Code.

18.102.050 Public nuisance.

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 pursuant to any applicable enforcement procedures set forth in SCCC Titles 1, 8 and/or 18, as determined by the City."

SECTION 4: Ordinances Repealed. Ordinance No. 2000 and all ordinances amendatory thereto, and with exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

SECTION 5: **Savings clause**. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

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SECTION 6: **Effective date**. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this XX day of XXXXXX, 2020, by the following vote:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST:

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NORA PIMENTEL, MMC
ASSISTANT CITY CLERK
CITY OF SANTA CLARA