

ORDINANCE NO. 2017-06

**ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SAN JUAN BAUTISTA ADDING CHAPTER
5-14.6 TO THE SAN JUAN BAUTISTA MUNICIPAL
CODE TO BAN MARIJUANA DISPENSARIES, SALES, PRIVATE OUTDOOR
CULTIVATION AND DELIVERIES**

-o0o-

WHEREAS, State Law recognizes the authority of local governments to adopt reasonable cultivation regulations, which may include a complete ban on dispensaries and private outdoor cultivation. (Health and Safety Code § 11362.2); and,

WHEREAS, this Council has determined that it is in the best interests of the City of San Juan Bautista, its citizens, and its visitors, that marijuana dispensaries, sales, cultivation and deliveries should be prohibited within the City until such time as the matter can be studied and it can be determined whether marijuana related uses are permissible in the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY ORDAINS AS FOLLOWS:

SECTION 1. A new Chapter 5-14.6 is hereby added to the San Juan Bautista Municipal Code, to read as follows:

**Chapter 5-14.6 PROHIBITION OF MARIJUANA DISPENSARIES, SALES,
CULTIVATION AND DELIVERY.**

5-14.6-010 Definition of "Marijuana Dispensary."

(A) "Marijuana Dispensary" is defined as any facility; clinic; cooperative; club; business; retail facility; group or location, whether fixed or mobile; including any type of operation which could be licensed for commercial adult-use cannabis activity and/or commercial medicinal cannabis activity, including those operations for which licenses may be obtained as set forth in California Business and Professions Code Sections 26050 and 26061; and, where marijuana, or any marijuana infused product is produced, made available to, sold, exchanged, or distributed to any person. A marijuana dispensary shall not include the following uses, as long as the location of such use is otherwise in accordance with this code 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, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.

(6) Personal use, cultivation or exchange of marijuana, as legally permitted by Health and Safety Code Section 11018.

5-14.6-020 Marijuana Dispensaries Prohibited.

(A) Marijuana dispensaries are prohibited in the City of San Juan Bautista. No person shall locate; operate; own; suffer; allow to be operated; or aid, abet or assist in the operation of any fixed or mobile marijuana dispensary, including any type of operation for which a license could be obtained from the State of California for commercial adult-use cannabis activity and/or commercial medicinal cannabis activity, inclusive of those operations for which licenses may be obtained such as set forth in California Business and Professions Code Sections 26050 and 26061; within the City in any zone. The operation of a Marijuana Dispensary in the City of San Juan Bautista shall constitute a public nuisance.

5-14.6-030 Marijuana Cultivation Prohibited.

Marijuana Cultivation is prohibited in the City of San Juan Bautista, in all zones, except that not more than six (6) living marijuana plants may be planted, cultivated, harvested, dried, or processed by a person over the age of twenty one (21) inside a private residence, or inside an accessory building to a private residence that is fully enclosed and secure and located upon the grounds of the private residence, as an incidental use to the primary private residential use, as permitted by the Adult Use of Marijuana Act.

5-14.6-040 Marijuana Deliveries to locations inside the City of San Juan Bautista.

(A) Delivery of Marijuana or marijuana infused products for retail purposes or to exchange for goods or services, to locations inside of the City of San Juan Bautista, is prohibited.

SECTION 2. Severability. The City Council declares that each section, subsection, paragraph, subparagraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this ordinance. If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this ordinance is held invalid, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

SECTION 3. Environmental assessment. The City Council declares that the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") because pursuant to CEQA Guidelines Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and, 15060 (c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively the approval of this ordinance is not a

“Project” under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

SECTION 4. Effective date. This ordinance shall go into effect thirty days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the San Juan Bautista City Council on the 19th day of September, 2017, and was adopted at a regular meeting of the San Juan Bautista City Council on the 21st day of November, 2017, by the following vote:

AYES: Martorana, Freeman, Boch, DeVries, West

NOES: None

ABSENT: None


ABSTAIN: None



Christopher Martorana, Mayor

ATTEST:


Mackenzie Quaid, City Clerk

APPROVED AS TO FORM:


Deborah Mall, City Attorney