

**ORDINANCE NO. 2541**

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DAVIS  
AMENDING SECTION 40.26B.080 OF THE DAVIS MUNICIPAL CODE TO LIMIT  
THE TOTAL NUMBER OF NON-STOREFRONT, DELIVERY-ONLY CANNABIS  
RETAILERS TO A MAXIMUM OF FOUR (4) FOR THE IMMEDIATE  
PRESERVATION OF THE PUBLIC PEACE, HEALTH AND SAFETY, AND  
DECLARING SAME TO BE AN URGENCY MEASURE TO TAKE EFFECT  
IMMEDIATELY**

WHEREAS, the City Council adopted Ordinance No. 2514 on September 12, 2017, to authorize certain cannabis retail stores in the City, subject to reasonable land use and zoning regulations to mitigate adverse impacts associated with commercial retail sales of cannabis; and

WHEREAS, Ordinance No. 2514 limited cannabis retailers to a total of no more than 4 in the City for the first 18 months following the adoption of the ordinance, later increased by Ordinance No. 2531 to a total of 5 cannabis retailers; and

WHEREAS, the restriction on the total number of cannabis retailers was intended to prevent an overconcentration of cannabis retailers and associated adverse impacts on the community that could result from an unrestricted number of commercial retail sales of cannabis; and

WHEREAS, notwithstanding the restriction on the total number of cannabis retailers, retailers that are not open to the public and which perform sales exclusively by delivery (“non-storefront, delivery-only retailers”), do not count for purposes of the maximum allowable retailers; and

WHEREAS, non-storefront, delivery-only retailers are therefore permitted in unrestricted numbers, and the City has thus received, and continues to receive, numerous applications for non-storefront, delivery-only retailers to locate in the City; and

WHEREAS, non-storefront, delivery-only retailers pose many of the same security and safety concerns associated with traditional retail stores due to the nature of commercial retail sales of cannabis, including potential for high volumes of cash and high-value product stored on site and subject to increased risk of theft or other criminal activity; and

WHEREAS, commercial cannabis retail sales have only recently been authorized in the City, and many approved cannabis retailers are not yet open and operating, and therefore the cumulative public health and safety impacts on the community of all already-authorized retailers, including existing non-storefront, delivery-only retailers, is not yet fully known; and

WHEREAS, the City Council desires to ensure that the City remains a socially and economically diverse community, which requires an ongoing assessment of cannabis uses and the intensity of such uses in the City to avoid an overconcentration of any particular use; and

WHEREAS, the City Council therefore finds that there is an immediate need to set a maximum total limit on the number of allowable non-storefront, delivery-only retailers in the City, subject to future discretion of the City Council to allow additional cannabis retailers at a future date; and

WHEREAS, the City Council has determined that establishing a maximum total limit on the number of non-storefront, delivery-only retailers will avoid the unintended consequence of having an overconcentration of the use in the City and any associated known and unknown impacts on the City and its residents, and will further allow the City to adequately assess and respond to potential adverse impacts of the newly-approved cannabis retailers that are not yet open and operating; and

WHEREAS, the City Council finds that establishing a maximum total limit on delivery-only retailers will further uphold the balance between the interests of cannabis users, including those with a medical need to access safe and convenient cannabis for medical purposes, with the interests of non-cannabis users in the community who may be concerned about unknown potential long-term health and safety impacts of cannabis use; and

WHEREAS, absent this Ordinance, applications for additional non-storefront, delivery-only cannabis retailers will continue to be allowed in unrestricted numbers, contrary to the stated goals and interests of the City in authorizing limited and balanced amounts of cannabis retail sales in the City; and

WHEREAS, the City Council therefore finds, pursuant to the authority granted by Government Code section 36937(b), that this Ordinance is necessary for the immediate preservation of the health, safety or welfare of the City, and therefore shall constitute an urgency measure to take effect immediately.

NOW, THEREFORE, the City Council of the City of Davis does hereby ordain as follows:

SECTION 1. Recitals; Declaration of Urgency. The City Council finds that the above recitals are true and correct, and hereby adopts them as urgency findings in support of this Ordinance, to be incorporated herein as though set forth in this section. Pursuant to Government Code section 36937(b), the City Council hereby declares that this Ordinance is necessary for the immediate preservation of the public peace, health or safety. Based on the facts as set forth in the above recitals, there is an immediate need to avoid an overconcentration of non-storefront, delivery-only cannabis retailers in the City and any associated known and unknown adverse impacts, which may result if an unrestricted number of such stores are allowed. As such, this Ordinance shall be deemed an urgency measure to take effect immediately upon a minimum four-fifths vote of the City Council.

SECTION 2. Amendment. Section 40.26B.080, subdivision (c), of the Davis Municipal Code is hereby amended as follows:

(c) Cannabis retailers may be permitted in the city, subject to the granting of a Conditional Use Permit and the following zoning standards and locational restrictions:

(1) Cannabis retailers shall not locate or establish within six hundred feet, measured from the nearest property lines of each affected parcel, of any public park or any school providing K-12 education, unless the city council finds that the proposed site will not pose a threat to the public health, safety and welfare of the surrounding properties and any minors that may be present at a public park or

school located within six hundred feet of the proposed site. For purposes of this section, “Public Park” shall not include the following: Toad Hollow Dog Park located at 1919 Second Street, bicycle paths and greenbelts.

(2) Cannabis retailers shall be limited to a total of no more than 5 in the city for the first eighteen months following the effective date of Ordinance No. 2514. Thereafter, the city council may, in its sole discretion, determine that additional use permit applications may be accepted for cannabis retailers to establish in the city. Cannabis retailers that will not be open to the public and that perform sales exclusively by delivery shall not be counted for purposes of this section.

(3) Cannabis retailers that will not be open to the public and that perform sales exclusively by delivery shall be limited to a total of no more than 4 in the city for the first eighteen months following the effective date of Ordinance No. 2514. Thereafter, the city council may, in its sole discretion, determine that additional use permit applications may be accepted for such non-public, delivery-only cannabis retailers.

SECTION 3. CEQA. This Ordinance will not result in any significant changes to the environment within the meaning of Section 15061(b) (3) of Title 14 of the California Code of Regulations, as it merely establishes a total threshold number of delivery-only cannabis retailers that may locate in the City under existing discretionary zoning regulations authorizing such retailers in the City, and therefore this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA). This Ordinance is further exempt from CEQA review pursuant to Business and Professions Code Section 26055(h) because any future cannabis retailers authorized by this Ordinance are required to obtain a conditional use permit, which requires discretionary review subject to future CEQA analysis.

SECTION 4. Effective Date; Publishing. As an urgency measure adopted pursuant to Government Code section 36937(b), this Ordinance shall take effect immediately upon adoption by a minimum four-fifths vote of the City Council. The City Clerk is directed to publish this Ordinance or a summary thereof in accordance with law.

PASSED AND ADOPTED by the City Council of the City of Davis on this 13th day of November, 2018, by the following vote:

AYES: Arnold, Carson, Frerichs, Partida, Lee

NOES: None

Brett Lee  
Mayor

ATTEST:

Zoe S. Mirabile, CMC  
City Clerk