ORDINANCE NO. 2547

AN ORDINANCE 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)

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 were not open to the public and which performed sales exclusively by delivery ("non-storefront, delivery-only retailers"), did not count for purposes of the maximum allowable retailers; and

WHEREAS, the City Council therefore adopted an urgency ordinance on November 13, 2018, based on findings that an urgency measure was necessary to immediately preserve the health and welfare of the City, to likewise limit the number of non-storefront, delivery-only retailers to a total of 4; and

WHEREAS, the Planning Commission considered the proposed amendments to limit the number of non-storefront, delivery-only retailers at a duly-noticed public hearing on November 28, 2018, and recommended that the City Council adopt this Ordinance to limit the total number of non-storefront, delivery-only cannabis retailers to a total of 4 for the first 18 months following the adoption of Ordinance No. 2514; and

WHEREAS, this Ordinance is consistent with the City’s zoning practices generally and Ordinance No. 2514 specifically because it limits all commercial cannabis retailers similarly to avoid unintended health and safety impacts associated with an overconcentration of the use, subject to future discretion of City Council to allow additional cannabis retailers; and

WHEREAS, the City Council further finds that this Ordinance helps ensure that the City remains a socially and economically diverse community, by allowing and requiring 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 this Ordinance is in conformance with the City’s General Plan and furthers the public necessity, convenience and general welfare of the City; and
WHEREAS, the City Council intends to repeal Urgency Ordinance No. 2541 upon the effective date of this Ordinance.

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

SECTION 1. Recitals; Findings. The City Council finds that the above recitals are true and correct, and hereby adopts them as findings of the City Council, to be incorporated herein as though set forth in this section. Pursuant to Davis Municipal Code section 40.36.070, the City Council makes the following additional findings:

A. This Ordinance is in general conformance with the City’s General Plan, as it merely establishes a cap on the total number of non-storefront, delivery-only cannabis businesses in the City. As such, this Ordinance is consistent with the City’s general zoning practices governing cannabis retailers in the City, and ensures that all cannabis retailers are treated similarly by limiting both storefront and non-storefront retailers to avoid an overconcentration of commercial retail sales of cannabis in the City.

B. The public necessity, convenience and general welfare of the City requires adoption of this Ordinance because it helps mitigate any unintended or unknown health and safety impacts that may be caused by an overconcentration of commercial retail sales of cannabis in the City.

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-storefront, 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. Repeal of Urgency Ordinance No. 2541. Upon the effective date of this Ordinance, Urgency Ordinance No. 2541, adopted by the City Council on November 13, 2018, shall be repealed and deemed of no further force and effect.

SECTION 5. Effective Date; Publishing. This Ordinance shall take effect 30 days following the adoption of this Ordinance. The City Clerk is directed to publish this Ordinance or a summary thereof in accordance with law.

INTRODUCED on the 18th day of December, 2018, and PASSED AND ADOPTED by the City Council of the City of Davis on this 8th day of January, 2019, by the following vote:

AYES: Arnold, Carson, Frerichs, Partida, Lee

NOES: None

Brett Lee
Mayor

ATTEST:

Joe S. Mirabile, CMC
City Clerk