

ORDINANCE NO. 2024-1176

AN ORDINANCE OF THE CITY OF BELMONT AMENDING REGULATIONS IN THE BELMONT CITY CODE TO ALLOW AND REGULATE CERTAIN COMMERCIAL CANNABIS ACTIVITIES AND REORGANIZE MASSAGE BUSINESS REGULATIONS

THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. CHP 13 RENAMED, REORGANIZED, AND AMENDED

Belmont City Code Chapter 13 is renamed “Regulated Businesses” and reorganized by adding Article I entitled “Business Operation Permits” before Section 13-1 to read:

Chapter 13 – Regulated Businesses

Article I –General Provisions

Sec 13-1 Purpose

This chapter sets minimum qualification and operational performance standards upon regulated business owners and operators to promote legitimate business activities, discourage illegitimate activity, and to mitigate the potential for avoidable negative effects related to the business’s presence and operation. Compliance with this chapter does not relieve or lessen regulated business owners and operators of responsibility for negative health, safety or welfare impacts or nuisances caused by or related to the presence or operation of the business, whether occurring on or off the premises.

Sec. 13-2 Definitions

The definitions in this section apply to the words and phrases use in this chapter unless the context clearly indicates otherwise.

Applicant means all business owners and operators of a regulated business.

Applicant representative means the person designated in an application as the primary operator of the regulated business.

Business entity means any organization or enterprise whether or not operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation or association.

Business Owner means any of the following persons:

- (1) Any person who has a direct or indirect investment in a business entity that owns, manages, or operates a regulated business unless the person demonstrates to the satisfaction of the registration authority that the person who has no control over or right to influence directly or indirectly the management or operation of the business.
- (2) Any person who is a member of a limited liability company that owns, manages, or operates a regulated business.

(3) Any person who is a general partner of a general or limited partnership that owns, manages or operates a regulated business.

(4) A sole proprietor of a regulated business.

Convicted and *conviction* means a plea or finding of guilty or plea of no contest.

Investment means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially.

Premises includes any structure or portion of structure or exterior or outdoor area in close proximity to a regulated business which is subject to lawful possession or control by a responsible person.

Operator includes any person who has the right to direct and control some or all business operations, whether independently or in concert with others.

Registration Certificate means a certificate issued by the registration authority to a regulated business upon registration.

Registration Authority means the chief of police, his or her authorized representatives, or the person designated by the city manager.

Regulated business means a business regulated by this chapter.

Responsible person means

- (1) a person in possession of real property comprising the premises;
- (2) a registration certificate holder under this chapter;
- (3) each person upon whom a duty, requirement or obligation is imposed by this chapter;
- (4) each person who is otherwise responsible for the operation, management, or policy of a regulated business; and
- (5) an employee who is in apparent charge of the premises.

Sec. 13-3 Regulated Businesses

This chapter regulates the following businesses:

- (a) Massage businesses as defined in article two.
- (b) Cannabis businesses as defined in article three.

Sec. 13-4 Registration Certificate Required

It is unlawful for any person to establish or operate a regulated business within the City unless the business is registered and holds a valid City registration certificate in good

standing under this chapter.

Sec. 13-5 Application for Registration

(a) An application to register a regulated business, together with the required application fee, must be filed with the City Clerk who will forward the application to the registration authority. A new or renewal application may not be processed without the required application fee.

(b) A registration application must be filed:

(1) for new registration at least 45 days before the proposed operation of the regulated business;

(2) for registration renewal at least 45 days before the expiration of the current registration.

(c)(1) If the registration authority determines the application is incomplete or that additional information is necessary to determine whether registration of the business complies with this chapter, the registration authority must promptly inform the applicant in writing to cure the incompleteness or provide additional information required within 30 days or such time as the registration authority determines to be reasonable under the circumstances.

(2) If the applicant does not cure all incompleteness or provide all additional information requested within the time specified by the registration authority, the registration authority may deny the application.

(d) An applicant whose application is denied for incompleteness is not eligible to reapply for 90 days.

Sec. 13-6 Application requirements

(a) *Form.* An application to register or renew registration must be on a form approved by the registration authority. The registration authority may develop a form for mandatory use. The application must include the information and documents in subsection (b) and any additional information or documents that the registration authority determines appropriate to carry out the intent and purpose of this chapter.

(b) *Applicant contents.* A registration application must include the following.

(1) *Applicant information.* The legal name and address of the applicant and the applicant's representative if applicable.

(2) *Business information.*

(A) Legal name of the regulated business and if a business entity proof of registration in good standing with the California Secretary of State and Franchise Tax Board;

(B) The form of business under which the regulated business will be operating (i.e.,

corporation, general or limited partnership, limited liability company, or other form) and state of organization;

(C) If the regulated business is an entity, corporate formation and organization documentation (i.e., articles of incorporation, management agreement, partnership agreement, etc.)

(D) Address and telephone number of the regulated business;

(E) A complete list of all of the regulated business's current and anticipated employees and any independent contractors anticipated to periodically supply or participate in the operation of the regulated business;

(F) A complete list of all person who currently hold a financial interest or held a financial interest in the regulated business in the previous 24 months;

(3) *Real Property*. For the physical location from which the regulated business will operate in the City, provide the following.

(A) The address of the location and assessor's parcel number for the unit of real property comprising the location.

(B) Documentary evidence of the applicant's legal right to occupy and use the location which may include a deed granting a fee simple interest or lease agreement.

(C) A current preliminary title report for the unit of real property comprising the location.

(D) A chain of title report showing all conveyances for the previous five years and all instruments reflected in the chain of title for the previous five years for the unit of real property comprising the location.

(4) *Business Owners*.

(A) Legal names, and if a business entity, the principal place of business and state of corporate organization, of all owners of the regulated business; for a general partnership, the names of the individual partners; for a limited partnership, limited liability company, or a corporation, the name of the entity.

(B) Residential address and telephone number of all business owners who are natural persons.

(C) Business address and telephone number of all business owners;

(5) *Background application*. For each owner of a regulated business, a background check application with the following information. The registration authority may accept:

(A) the owner's business, occupation, and employment history if a natural person for the seven years preceding the date of the application,

(B) the inclusive dates of any employment history,

(C) the name and address of any regulated business or similar business owned or operated by the owner wherever located,

(D) Applicant must complete a California Department of Justice Live Scan BCIA 8016 form and submit to a live scan fingerprinting process through the Belmont Police Department or an authorized law enforcement agency unless the applicant currently holds a valid CAMTC license and the registration authority in its sole discretion approves processing the application without a separate Live Scan submission;

(E) If the business owner is a natural person, a current driver's license or identification issued by a state or federal governmental agency or other authenticable photographic identification bearing a bona fide seal by a foreign government;

(F) Any arrest or conviction within the previous seven years for violation of local, state or federal law;

(G) Any administrative or civil proceeding in which a license, permit, or other permission to operate a business was suspended or revoked or in which a civil penalty or fine was imposed or stipulated to in the previous seven years.

(6) *Real Property Owners.* Provide the following for each real property owner:

(A) If a natural person, their residential address and telephone number.

(B) Business address and telephone number.

(C) A statement that the real property owner acknowledges their responsibilities under this chapter and consents to the applicant operating the regulated business on the property.

(D) A complete and accurate description of the nature and extent of any financial interest in the regulated business.

(7) *Attestations.* From each business owner and real property owner, a signed statement:

(A) attesting under penalty of perjury that all of the information contained in the application is complete, true and accurate to the best of their knowledge;

(B) acknowledging that all business and property owners are jointly and severally responsible for the lawful operation of the business and conduct of the business's employees, agents, and independent contractors engaged in business activity on the premises; and,

(C) acknowledging that failure to comply with any local, state, or federal law, or the provisions of this chapter may result in revocation of the business's registration certificate.

(b) *Signature.* The application must be signed by all business owners and the signatures notarized. Signatures for business entities must conform to the following requirements unless alternative requirements are approved by the city attorney.

(1) For a general partnership, the application must be signed by each of the partners.

(2) For a limited partnership, the application for any registration must be signed by each of the general partners.

(3) For a limited liability company that has elected to be managed by its members, the application must be signed by each member or by an officer authorized by the articles of organization or the operating agreement to bind the company. In the case of a limited liability company that has elected to be managed by a manager or managers, the application must be signed by the manager or managers or by an officer authorized by the articles of organization or the operating agreement to bind the company.

(4) For a corporation, the application must be signed by two officers of the corporation, one from each of the following categories.

(A) the chairperson of the board, the president, or a vice president, and

(B) the secretary, assistant secretary, chief financial officer, or assistant treasurer.

(c) *Addresses.* Address information required by this section must be a physical address and may not be a USPS Post Office box or private mail box.

Sec. 13-7 Registration

(a) *Registration certificate.* Registration is specific to the ownership and the location of the business. The registration authority effectuates registration by issuing a registration certificate to the applicant representative.

(b) *Term.* Registration is valid for a period ending on June 30th that is greater than one year and up to two years from the date the registration authority issues a registration certificate unless revoked, surrendered, or expires by change of ownership or location. Suspension of a registration certificate does not extend the term of registration.

(c) *Change of ownership.* Registration expires upon the addition of any new owner of the regulated business. The new ownership must apply for registration, pay a new application fee, and secure a new registration certificate from the registration authority.

(d) *Change of location.* Registration expires upon a business changing its location.

(e) *Not transferable.* Registration and a registration certificate are not transferable to another person or location.

(f) *Renewal.* Registration may be renewed subject to the same requirements as registration, except as expressly otherwise provided in this chapter. A registration holder is solely responsible to timely submit a complete renewal application. Failure to timely submit a renewal application may result in the expiration of the registration before the renewal application is granted or denied.

(g) *Other approvals.* Registration required by this chapter is in addition to any other license or permit required under any other provisions of the Belmont City Code or Belmont ordinances, including but not limited to a business license, zoning administrator permit, conditional use permit, building permit, occupancy certification or permit, or any other

permit or license required by law. The issuance of a registration certificate does not modify the requirements of any other permit or approval and is not a substitute for obtaining any other permit, license or approval otherwise required. The issuance of a registration certificate may not be construed as a factor in favor of the issuance of any other permit, license, or approval necessary under this Code for the operation of a regulated business.

(h) A regulated business whose registration has expired under subsections (b), (c) or (d) must immediately cease all business operation.

Sec. 13-8 Registration certificate issuance or denial

(a) *Determination.* Within 45 days of receiving a complete application, the registration authority must register the regulated business and issue a registration certificate to the owner unless he or she finds one or more grounds for denial under this section.

(b) *Mandatory grounds for denial.* The registration authority may not issue a registration certificate and must deny the application for registration if:

- (1) The application fee has not been fully paid;
- (2) The application, once complete, does not conform to the requirements of this chapter;
- (3) The regulated business is disqualified from registration under Section 13-9;
- (4) Registration or operation of the regulated business at the proposed location, as conditioned, is not consistent with state and local laws, rules, and regulations, or any final administrative decision or court order; or
- (5) Another ownership group is or was operating a regulated business at that location and any one of the following conditions exist:
 - (A) the City has initiated administrative, civil, or criminal proceedings against one or more members of that ownership group for violation of this chapter and the proceedings, including any appeal, are not final;
 - (B) the regulated business registration is currently suspended;
 - (C) the regulated business registration was revoked within seven years from the date of the pending application, or;
 - (D) the ownership surrendered its registration certificate or any land use permit or other approval necessary to operate a regulated business on the premises within seven years from the date of the pending application while an enforcement proceeding was pending against one or more owners for conduct arising out of operation of the business.

(c) *Permissive grounds.* The registration authority may deny a registration application if:

- (1) There are outstanding health, safety, zoning or nuisance violations associated with a condition or use of the property or the operation of an existing regulated business;

(2) An owner held an approval to operate a business located in another jurisdiction that if presently located in the City would be a regulated business and within the last seven years the owner either surrendered the approval while an enforcement proceeding was pending or had the approval revoked;

(3) An owner holds an approval to operate a business located in another jurisdiction that if presently located in the City would be a regulated business and enforcement proceedings are pending in that jurisdiction based on conduct that if committed in relation to a regulated business located in the City of Belmont would be grounds to deny or revoke registration. The registration authority must make an independent determination based on substantial evidence as to whether the conduct occurred; or,

(4) Another ownership group is or was operating a regulated business at that location and conduct occurred on the premises that would be grounds to deny or revoke a registration certificate or any land use permit or other approval necessary to operate a regulated business on the premises within seven years from the date of the pending application. The registration authority must make an independent determination based on substantial evidence as to whether the conduct occurred. If the registration authority finds the conduct occurred, the authority may deny the application unless the authority determines that the conduct likely will not reoccur.

(d) *Written decision.* If the registration authority denies the application, he or she must notify the applicant of the reasons for the denial in writing, the right of appeal under this chapter, and that the failure to request a timely appeal will waive the applicant's right to contest the decision.

(e) *Location.* For purposes of subsection (b), location of a regulated business includes:

(1) the parcel which the business is located, or a contiguous parcel owned in whole or part by an owner of the parcel on which the business is located, and

(2) any unit within the same condominium subdivision.

Sec. 13-9 Registration disqualification

(a) A massage business is disqualified from registration as provided in section 13-35.

(b) A cannabis business is disqualified from registration as provided in section 13-54.

Sec. 13-10 Registration revocation or suspension

(a) The registration authority must revoke the registration of a Massage Business found to be disqualified under 13-35(a) and a Cannabis Business found to be disqualified under 13-54(a).

(b) The registration authority must either revoke or suspend the registration for a Massage Business found to be disqualified under 13-35(b) or a Cannabis Business found to be disqualified under 13-54(b).

(c) The registration authority must revoke a registration under subsection (b) unless he or

registration must timely appeal the matter to the city manager as set forth in this section. An owner who fails to submit a complete and timely notice of appeal waives the right to contest the registration decision.

(b) A written notice of appeal contesting the decision (“notice of appeal”) must be submitted to the city clerk within 14 calendar days after service of the registration authority’s decision. The notice of appeal must specify and contain:

(1) The name, address, and phone number of the appellant and the principal applicant or owner, and the name and location of the regulated business.

(2) A detailed factual basis for the appeal. Grounds for the appeal not reflected in the notice of appeal

(3) A complete copy of the most recent application.

(4) A complete copy of the registration authority’s written decision.

(c) Upon receipt of a complete and timely filed notice of appeal, the city manager must:

(1) hire or appoint a hearing officer and schedule a hearing not less than five business days, nor more than 14 calendar days from the date of the filing of the notice of appeal with the city clerk or as soon thereafter as reasonably possible, and

(2) serve a notice of the hearing on the principal applicant or owner providing the date, time and place of the hearing.

(d) Notwithstanding subsection (c), appeals of the denial of a new registration may be heard by the city manager and may be decided based on written submissions without a hearing.

(e) A hearing under this section is informal. All relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Relevant admissible evidence includes, but is not limited to, incident reports and witness affidavits. A formal oath is not required for witnesses to provide testimony.

(f) The city bears the burden of proof at the hearing to establish facts sufficient to support the findings necessary for the registration decision.

(g) All parties may be represented by counsel, and may present oral and written evidence.

(h) Oral hearings are to be open to the public to observe unless the hearing officer determines that closure of the hearing is necessary to protect a witness, receive sensitive or confidential information, or maintain order. The hearing officer may exclude any person who disrupts the hearing.

(i) The hearing officer’s duties include audio recording the proceedings and regulating the course of the proceeding. The hearing officer may limit the use of witnesses, testimony, evidence, rebuttal, and argument. The hearing official may allow the cross-examination of witnesses to the extent necessary to ensure a fair hearing and may limit cross-examination of

the business that may constitute a non-compliance with this chapter or state law governing the regulated business or person engaged in activities related to the regulated business;

(4) any change in the ownership of the regulated business.

(b) This section requires reporting to the registration authority even if the regulated business believes that the registration authority has or will receive the required information from another source. Reporting does not relieve the registrant of any other requirements of this chapter including a requirement to cease operating.

Sec. 13-16 Duties of real property owners

(a) The owner of real property on which a regulated business operates must manage their property in a manner to avoid violation of this chapter.

(b) The owner of real property on which a regulated business operates must not create or allow others to create any nuisance condition on the property and must promptly abate any nuisance condition.

(c) A real property owner is liable for a nuisance condition or a violation of this chapter occurring on the real property where a regulated business operates regardless of any contract with any third party regarding the property or business. When there are multiple property owners, the property owners are jointly and severally liable.

Sec. 13-17 Violation

(a) It is unlawful for a responsible person to establish or operate, or to allow the establishment or operation of a regulated business in violation of this chapter.

(b) Every building or place in which a regulated business is established or operated in violation of this chapter is a public nuisance that may be enjoined, abated, and prevented and for which damages may be recovered. Knowledge of a violation by a responsible person is not required for a violation to be a public nuisance, for civil damages to be imposed, or for the remedy of abatement.

Sec. 13-18 Enforcement

(a) A violation of this chapter is a misdemeanor offense that may be charged as an infraction at the discretion of the initiating enforcement official.

(b) Violation of this chapter may be remedied by any means available to remedy a violation of this Code. The remedies are cumulative and non-exclusive.

(c) Notwithstanding Section 30-12, administrative fines issued under chapter 30 for violation of this chapter may be issued in amount between \$100 and \$1,000 as determined by the registration authority for each offense.

(d) Every person violating this chapter is subject to a civil penalty of \$1,000 for each day of each violation which may be recovered in a civil action.

while engaging in practices within the scope of their licenses, except that this provision applies solely to the massaging of the neck, face and/or scalp, hands or feet of the clients.

(3) Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the State of California, and employees of these licensed institutions while acting within the scope of their employment.

(4) Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.

(5) Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event.

(6) Individuals administering massages or health treatment involving massage to persons participating in single-occurrence athletic, recreational or festival events, such as health fairs, road races, track meets, triathlons and other similar events; provided, that all of the following conditions are satisfied:

(A) The massage services are made equally available to all participants in the event;

(B) The event is open to participation by the general public or a significant segment of the public such as employees of sponsoring or participating corporations;

(C) The massage services are provided at the site of the event and either during, immediately preceding or immediately following the event;

(D) The sponsors of the event have been advised of and have approved the provisions of massage services;

(E) The persons providing the massage services are not the primary sponsors of the event.

Sec. 13-33 CAMTC certification and local registration required

(a) *Individuals.* It is unlawful for any individual to practice massage therapy for compensation within the City unless that individual is a certified massage practitioner.

(b) *Businesses.* It is unlawful for any person to operate a massage business within the City unless all individuals employed or contracted by the massage business to perform massage including a sole proprietor are certified massage practitioners and the business is registered and holds a valid regulated business registration certificate in good standing under this chapter.

Sec. 13-34 Application for massage business registration

(a) A person desiring to register a massage business must submit a complete registration application to the registration authority and pay an application fee as provided in Section 13-5.

(b) In addition to the application requirements in Section 13-6, the application must include a list of all of the massage business's employees and independent contractors who are performing massage and their CAMTC certification.

Sec. 13-35 Registration disqualification

(a) A massage business is disqualified from registration and possessing a Registration Certificate if:

(1) An individual providing Massage Therapy for the business does not currently possess a valid CAMTC-certification;

(2) An owner -

(A) is required to register under Penal Code section 290 (sex offender registration),

(B) was convicted of -

(i) Penal Code section 266i (pandering),

(ii) Penal Code Section 315 (keeping or residing in a house of ill-fame),

(iii) Penal Code Section 316 (keeping disorderly house),

(iv) Penal Code Section 318 (prevailing upon person to visit a place for prostitution),

(v) Penal Code Section 647(a) (engaging in or soliciting lewd or dissolute conduct in public),

(vi) Penal Code Section 647 (b) (engaging in or soliciting prostitution),

(vii) Penal Code Section 653.22 (loitering with intent to commit prostitution),

(viii) Penal Code Section 653.23 (supervision of prostitute),

(ix) any crime involving dishonesty, fraud, deceit, violence, or moral turpitude,

(x) a felony offense involving the sale of a controlled substance, or

(xi) an offense in any other state which if committed in this state, would have been punishable as an offense listed in this subdivision,

(C) made a material misrepresentation on the registration application,

(D) within the last 5 years from the date of the pending application -

(i) made a material misrepresentation in a registration application;

(ii) had a registration certificate, a land use permit, or other approval revoked by the City,

provided to the client in advance of any outcall services.

(e) A copy of the CAMTC certificate for each Massage Practitioner employed in the business must be displayed in the reception area. CAMTC certificates of former employees or contractors must be removed as soon as those practitioners are no longer employed by or offering services through the massage business.

(f) For each Massage service provided, every massage business must keep a complete and legible written record of the following information: the date and hour that service was provided; the service provided; the name or initials of the employee entering the information; and the name of the Massage Practitioner administering the service. Such records must be open to inspection and copying by police officers, or other City officials charged with enforcement of this chapter. These records may not be used by any Massage Practitioner or operator for any purpose other than as records of service provided and may not be provided to other parties by the Massage Practitioner or operator unless otherwise required by law. Such records must be retained on the premises of the massage business for a period of two years and be immediately available for inspection during business hours.

(g) Massage businesses must at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings, and linens must be stored in enclosed cabinets. Towels and linens must not be used on more than one client, unless they have first been laundered and disinfected. Disposable towels and coverings must not be used on more than one client. Soiled linens and paper towels must be deposited in separate, approved receptacles.

(h) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools must be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the Health Officer. Bathtubs must be thoroughly cleaned after each use with a disinfectant approved by the Health Officer. All walls, ceilings, floors, and other physical facilities for the business must be in good repair, and maintained in a clean and sanitary condition.

(i) Instruments utilized in performing massage must not be used on more than one client unless they have been sterilized, using approved sterilization methods.

(j) All massage business operators and their employees, including Massage Practitioners, must wear clean, non-transparent outer garments. The garments must not expose their genitals, pubic areas, buttocks, or chest, and must not be worn in such manner as to expose the genitals, pubic areas, buttocks, or chest. For the purposes of this section, outer-garments means a garment worn over other garments and does not include garments like underwear, bras, lingerie or swimsuits.

(k) No person may, and the owner, operator, responsible managing employee, or manager must not permit a person to possess an open container of alcohol, consume an alcoholic beverage, unlawfully ingest controlled substances, or ingest cannabis on the premises of a massage business.

(l) A massage business may not operate as a school of massage, or use the same facilities

as that of a school of massage.

(m) A massage business may not place, publish or distribute, or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed in accordance with subsection (d), and a massage business may not employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services as described in compliance with the provisions of this chapter.

(n) Massage may not be given unless the client's genitals are, at all times, fully covered. A massage practitioner may not, in the course of administering any massage, make physical contact with the genitals or private parts of any other person regardless whether the contact is over or under the person's clothing.

(o) Where the business has staff available to assure security for clients and massage staff are behind closed doors, the entry to the reception area of the massage business must remain unlocked when the business is open for business or when clients are present.

(p) When a massage business is located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area, clear visibility of the interior reception and waiting area through those windows may not be obstructed during business hours by any means including curtains, blinds, tints, or placement of materials in the line of sight. For the purpose of this subsection, there is an irrefutable presumption that the visibility is impermissibly blocked if more than 10 percent of the interior reception and waiting area is not visible from the exterior window.

(q) All signs must conform with City regulations.

(r) Minimum lighting consisting of at least one artificial light rated at not less than 450 lumens must be provided and must be operating undimmed in each room or enclosure where massage services are being performed on clients, and in all areas where clients are present.

(s) Ventilation must be provided in accordance with applicable building codes and regulations.

(t) Hot and cold running water must be provided at all times.

(u) Adequate dressing, locker and toilet facilities must be provided for clients.

(v) A minimum of one wash basin for employees must be provided at all times. The basin must be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels must be provided at each basin.

(w) Pads used on massage tables must be covered with material acceptable to the Health Officer.

(x) All massage businesses must comply with all state and federal laws and regulations for handicapped clients.

(y) A Massage Practitioner must operate only under the name specified in his or her CAMTC certificate.

(z) A massage business must operate only under the name specified in its Registration Certificate.

(aa) A massage business must not allow any person to reside within the massage business or in attached structures owned, leased or controlled by the massage business.

(bb) Other than custodial or maintenance staff, no persons are permitted within the premises of a massage business between the hours of 11:00 p.m. and 6:00 a.m.

Article III – Cannabis Businesses

Sec. 13-50 Purpose

This chapter establishes standards for operation of cannabis businesses that are permitted, but which have the potential to create significant effects on the community and surrounding properties

Sec. 13-51 Cannabis business definitions

The definitions in this section apply to the words and phrases use in this article unless the context clearly indicates otherwise.

“Cannabis” means all the following:

- (1) Cannabis as defined by Business and Professions Code Section 26001(f).
- (2) Any other strain or varietal of the genus Cannabis not included in Business and Professions Code Section 26001(f) that may exist, be discovered or developed, whether growing or not.

“Cannabis products” is defined in Business & Professions Code Section 26001.

“Cannabis retail” means a use involving the retail sale of cannabis or cannabis products to customers at fixed located location or by delivery.

“Cannabis distribution” means a use involving the procurement, sale, and transport of Cannabis or Cannabis Products between businesses for resale.

“Cannabis Business” means any business operating a cannabis retail or a cannabis distribution use, either as the sole use or in combinations with other uses, on or from property located within the City of Belmont and includes not-for-profit retail and distribution uses.

Sec. 13-51 Scope and exemptions

(a) This article applies to all cannabis businesses operating within the City of Belmont except as provided in subsection (b).

(b) This article does not apply to a cannabis business operating from a fixed location outside the City of Belmont whose only business contact with the City is the mobile delivery of cannabis to a consumer within the City.

Sec. 13-52 Registration required

It is unlawful for any person to operate a cannabis business within the City unless the business is registered and holds a valid regulated business registration certificate in good standing under this chapter.

Sec. 13-53 Cannabis Business Application Requirements

(a) A person desiring to register a cannabis business must submit a complete registration application to the registration authority and pay an application fee as provided in Section 13-5.

(b) In addition to the application requirements in Section 13-6, the application must include the following.

(1) A site plan depicting:

- (A) The building footprint;
- (B) Boundary and property lines;
- (C) On-site parking spaces and loading areas;

(D) Any changes to the site plan that have occurred since the original city building, fire, and planning division approval(s) and include a notation identifying the date the modification was approved by the city if such approval was required.

(2) A detailed security plan including:

- (A) Narrative and annotated drawings of security camera and alarm system layout incorporating the operating standards in Section 13-55;
- (B) Minimum number and training of security guards on duty;
- (C) Patron screening procedure and queuing, if any, for admission to the establishment;
- (D) Patron access points into the establishment and entry control protocol;
- (E) Procedure for removal of disorderly or intoxicated patrons from the premises; and
- (F) Procedure for ensuring dispersal of patrons from the establishment, on-site parking area, and public rights-of-way (e.g., sidewalk or street) within 50 feet of any entrance to the establishment.

Sec. 13-54 Cannabis business registration disqualification

(a) A cannabis business is disqualified from registration and possessing a City registration

certificate to operate at a particular location if:

(1) An owner of the business does not currently possess a valid state cannabis business license in good standing to operate the business at the location;

(2) The application contains a material misrepresentation including false or misleading information, the application fails to include all required information, or a material fact is omitted;

(3) An owner of the business has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made which include, but not be limited to, the following:

(A) A violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code,

(B) A serious felony, as specified in subdivision (c) of Section 1192.7 of the Penal Code,

(C) Any crime involving dishonesty, fraud, deceit, violence, or moral turpitude,

(D) A felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor,

(E) A felony for drug trafficking with enhancements under Health and Safety Code Section 11370.4 or 11379.8, or

(F) Any crime involving the possession sale, manufacture, distribution or transportation of a controlled substance;

(4) An owner of the business has within the last 10 years from the date of the pending application:

(A) made a material misrepresentation in an application for license, permit or other permission to operate a cannabis business in the City,

(B) had a cannabis business registration, a land use permit, or other approval revoked by the City, or

(C) while an administrative, civil or criminal proceeding was pending against the owner or the business for conduct arising out of the operation of a business, surrendered the business permit, a land use permit, or other approval issued by the City and necessary to operate the business;

(5) An owner of the business is or was, or owned a business or property that is or was, subject to court-issued injunction, abatement order, or other decree or adverse judgment under Civil Code Sections 3490 through 3496, Penal Code sections 11225 through 11235, Health and Safety Code sections 11570 through 11587, or Business and Professions Code Section 17200 through 17210;

(6) Subsection (3)(F) does not apply to a conviction for which the sentence, including any term of probation, incarceration, or supervised release, was completed more than ten years before the date of application; or

(7) The City receives credible information that the federal government will commence enforcement against the type of cannabis business or the local governments that regulate them.

(b) The registration authority may disqualify a cannabis business from registration if the authority finds based on a preponderance of evidence that:

(1) A responsible person committed any act that violates any requirement of Division 10 of the Business and Professions Code.

(2) An owner of the business has engaged in conduct comprising all of the elements of any crime identified in subsection (a).

(3) A responsible person has a history of committing, permitting or failing to prevent significant violations of City of Belmont Ordinances in relationship to the operation of the business.

(4) A responsible person had an approval from another jurisdiction to operate a cannabis business in that jurisdiction within the last 5 years and either:

(A) the jurisdiction revoked the approval, or

(B) while an administrative, civil or criminal proceeding was pending against the business, an owner, or personnel of the business for conduct arising out of the operation of the business, surrendered the approval.

(5) A responsible party has a history of committing, permitting or failing to prevent significant violations of federal, state or local employee wage and hours laws.

(c) As used in this section the term conviction includes convictions that are dismissed under Penal Code Section 1203.4, 1203.4a, or 1203.41 or any other provision allowing for dismissal of a conviction.

Sec. 13-55 Cannabis business operating standards

(a) **Operating requirements.** Cannabis businesses must operate in accordance with approved the operating plan, security plan, the standards in this section and in strict compliance with state law licensing and operational standards. To the extent that one or more standards conflict, the most prescriptive standard applies.

(b) **Surveillance system.** Cannabis businesses must be protected by a surveillance system that meets the standards of this section and any additional standards determined by the chief of police.

(1) The premises must be equipped with, and at all times be monitored by, a secure web-based security system that includes a security camera system and a security alarm system.

Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

(2) Security camera video must be kept for a minimum of sixty days in a format that can be easily accessed for viewing.

(3) All surveillance video must be either recorded and stored off-site via a secure web-based security system or, for on-premise based security systems, backed up in real time to a secure, web-based storage provider.

(3) Operators must cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request in a manner that is readily viewable by law enforcement at their offices.

(4) Alarm and camera systems must be equipped with a failure notification system that provides prompt notification to the operator of any prolonged surveillance interruption or failure of the system.

(5) All surveillance control and monitoring equipment, and records must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system or alarm system.

(6) All security measures installed on the premises shall have the capability to remain fully operational during a power outage.

(c) **Security Camera System.**

(1) The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on the premises and the ability to capture license plates entering and exiting the premises.

(2) Security cameras must record continuously twenty-four hours per day, seven days per week.

(3) The recording system must continuously save footage to a web-based repository from which live feed may be monitored in real time and recordings reviewed.

(d) **Security Camera Coverage.**

(1) Security cameras must capture activity at all entry points to the property, and within all buildings and structures on the premises, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area.

(2) Areas where cannabis is handled or kept must have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

(3) Cameras must be placed at each location where cannabis is handled and positioned to

record all weighing, packaging, transport preparation, processing, or labeling activities.

(4) At least one camera must be dedicated to record the access points to the secured surveillance control and monitoring area.

(5) At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.

(e) **Security Alarm System.**

(1) The premises must be protected by a professionally designed, installed and monitored security system that includes motion-sensor lighting, and burglar and panic alarms.

(2) An operator must maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of security alarm systems, a schematic of security zones, the name of any alarm installation company, and the name of any monitoring company.

(3) All monitoring companies must be licensed by the Bureau of Security and Investigative Services to monitor motion-sensor lighting and alarms.

(4) Panic buttons must be installed in all commercial cannabis use premises with easy access by employees and all employees shall be properly trained on its use.

(5) Installation and operation of alarm systems must comply Belmont City Code Sections 18-50 through 18-63

(6) The operator must immediately notify police dispatch of an activated alarm and must promptly verify if actual emergency exists that requires an emergency police response.

(f) **Firearms.**

(1) Weapons and firearms are prohibited on the premises, unless authorized by the police chief. This provision does not apply to peace officers engaged in official duty.

(2) The premises must be posted with a sign prohibiting firearms on the premises.

(g) **Building security.**

(1) All structures used for commercial cannabis use must have locking doors, with commercial-grade nonresidential locks, to prevent free access.

(2) Any security bars installed on the windows or the doors of the cannabis business must be installed only on the interior of the building in compliance with all applicable codes.

(3) Windows and roof hatches of the premises must be secured from the inside with effective means so as to prevent unauthorized entry, and must be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this Code.

(4) Minimum lighting level of one foot-candle shall be provided at building entrances and in parking lot areas. All lighting must be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. Exterior lighting on the premises must be balanced to complement surveillance systems to ensure all areas of the premises are visible, and provide increased lighting at all entrances to the premises. The lighting required must be turned on from dusk to dawn.

(5) The site security plan must include a photometric plan meeting these requirements and fixture details if new or upgraded lighting is required.

(h) **Personnel.**

(1) Owner-operators, employees and all persons working on the premises must be at least twenty-one years of age.

(2) Security guards must be state-licensed and provided by a reputable private security guard firm. All other persons working on the premises must be employees of the business subject to the operator's direction and control and not independent contractors except that the business may use an independent contractor to monitor the surveillance systems.

(3) All employees and persons working on the premises must submit to a background investigation and approval by the police chief before performing any work on the premises.

(4) The registration authority may deny authorization to a person to work on the premises if the person:

(A) Has been convicted of a crime of moral turpitude;

(B) Has been convicted of any misdemeanor or felony within the last ten years involving the following: the use of violence, force, fear, fraud or deception; or the unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance; or the use of money to engage in criminal activity; or the unlawful possession or use of a firearm; or

(C) Has been convicted of a crime that substantially relates to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement, a criminal conviction for the sale or provision of illegal controlled substances to a minor, or any criminal conviction for a crime moral turpitude as determined by the registration authority.

(4) An operator may not employ an individual or permit a person to work on the premises that has not received authorization from the registration authority.

(5) The registration authority is authorized to take all actions necessary in order to implement an employee authorization system, which may include requiring any employee of an operator to obtain a work permit from the City or requiring an employee of an operator to undergo future background investigations and pay a fee.

(6) The registration authority may revoke authorization to an employee based on any of the grounds for denial of authorization.

(7) The operator may appeal a registration authority decision to deny or revoke work authorization, and an affected employee may appeal a registration authority decision to revoke work authorization, the same manner and subject to the same requirements as an appeal of a registration decision under Section 13-12.

(i) **Operational security**

(1) The operator must establish and promptly execute procedures to prevent individuals from remaining on the premises of the commercial cannabis use if they are not engaging in activities expressly related to the operations of the commercial cannabis use.

(2) The operator must establish a transportation plan that details the procedures for the safe and secure transport of cannabis, cannabis products, and currency to and from the premises, including the transfer of currency for remitting City tax payments.

(3) Except for products on display for sale at dispensaries during hours which the business is open to the public, all cannabis and cannabis products must be stored in a secured and locked room, safe, or vault that meets approval of the registration authority.

(4) To the fullest extent possible, all cannabis and cannabis products must be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.

(5) The operator must provide contact information for a liaison who will be available at all times to meet with the police chief regarding security measures and operational issues.

(j) **Tracking.**

(1) Operators must comply with any track and trace program established by the state or local agencies.

(2) Operators must maintain records tracking all cannabis production and products, and must make all records related to commercial cannabis use available to the City upon request.

(k) **Police Notification.** Operators must notify the police department immediately upon discovering any of the following:

(1) Significant discrepancies identified during inventory. Discrepancy exceeding two percent of inventory or State regulations must be reported.

(2) Diversion, theft, or loss, or any criminal activity involving the commercial cannabis use or any agent or employee of the commercial cannabis use.

(3) Any other breach of security.

(l) **Alcohol Sales and consumption**

Alcoholic beverages may not be sold, dispensed, or consumed on or about the premises of a cannabis business.

(m) Record Keeping and Auditing

(1) An operator must maintain accurate records detailing all revenues and expenses of the cannabis business and all assets and liabilities, follow accepted cash handling practices and maintain a general ledger of cash transactions.

(2) At or before the time of the renewal of a permit, or at any time upon reasonable request of the City, each operator must file a sworn statement detailing on a per-month basis the number of sales, gross receipts, and applicable taxes paid or due to be paid during the permit period.

(3) On an annual basis, each operator must submit to the City a financial audit of the business conducted by an independent certified public accountant. Each operator is subject to a regulatory compliance review and financial audit as determined by the registration authority. The business must allow the City to access the books, records, accounts and all data relevant to its operations for purposes of conducting an audit or examination to determine compliance with this Code, conditions of approval, and applicable laws. Books, records, accounts and all relevant data must be produced no later than twenty-four hours after receipt of the City's request.

(4) An operator must maintain and provide to the registration authority upon request a current register of the names and the contact information (including the name, address, and telephone number) of

(A) anyone owning or holding an interest in the commercial cannabis use, and

(B) all the officers, managers, employees, and agents currently employed or otherwise engaged by the business.

(5) The operator must maintain a log of customer and neighborhood complaints and must make the log available to the City upon request. The log must contain at a minimum: the date of the complaint, the complainant, the nature of the complaint, and the action taken by the business to address the complaint.

(n) Persons allowed on premises

(1) The operator must not allow anyone to remain on the premises who is not an on-duty employee, customer, vendor, supplier or contractor of the business or a public employee engaged in the course and scope of their employment.

(2) No person under the age of eighteen may be allowed on a cannabis business site at any time.

(3) No person between the age of eighteen and twenty-one may be allowed on a cannabis business premises unless the business holds a state-issued M-license and strictly complies with California Business and Professions Code Section 26140(c).

(4) All persons entering the premises must present a government issued photo identification except a public employee engaged in the course and scope of their employment.

(5) The operating plan must specify how the operator will comply with and enforce this section.

(o) **Sales regulated.** A cannabis business must not conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the permit.

(p) **Required Signage.** The following signs, in measurements of not less than eight by ten inches, must be clearly and legibly posted in a conspicuous location inside the cannabis dispensaries where they will be visible to customers in the normal course of a transaction, stating:

"The sale of cannabis without a State license is illegal."

"Smoking cannabis on this property, within twenty feet of the dispensary, or in any public place is illegal under California law."

For M-licensees: "No one under the age of eighteen is allowed on the premises, unless they are a qualified patient or a primary caregiver."

For A-licensees: "No one under the age of twenty-one is be allowed on the premises."

Sec. 13-56 Liability and Indemnification

To the maximum extent permitted by law, cannabis business operators must defend (with counsel acceptable to the City), indemnify and hold harmless the City and its respective officials, officers, employees, representatives, agents and volunteers from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, city attorney or staff time, expenses or costs) against the City to attack, set aside, void or annul, any cannabis-related approvals and actions or for the failure of the operator to strictly comply with the conditions under which such permit is granted. The City may elect, in its sole discretion, to participate in the defense of an action and the operator must reimburse the City for its reasonable legal costs and attorneys' fees.

Sec. 13-57 Operating Plan

(a) The application must include an operating plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, hours and days of operation allowed and approved.

(b) The operating plan must provide that the cannabis dispensary require, at a minimum, a doctor's written recommendation in compliance with State law for medical cannabis sales, as well as a photo identification for any person entering the site.

(c) Any commercial cannabis use issued a permit must be operated in conformance with the approved operating plan and must meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the business is consistent with protection of the health, safety and welfare of the community and customers and will not adversely affect surrounding uses.

SECTION 2. BCC § 15-110 AMENDED

Belmont City Code Chapter 15, Article IX, Section 15-110 is amended to read:

Sec. 15-110 Purpose.

(a) The purpose of this article is to promote the public health, safety and welfare by:

(1) Protecting citizens from the secondary impacts associated with medical cannabis dispensaries and commercial cannabis activity, including, but not limited to, loitering, fraud in obtaining or use of medical cannabis identification cards, robbery, assaults, and other crimes.

(2) Protecting citizens from secondary impacts associated with cannabis cultivation and distribution, including, but not limited to, electrical fires and ignition of volatile chemical substances utilized in the cultivation process, crimes occurring at grow sites, odors perceptible in neighborhoods, and related nuisances.

(3) Preventing increased demands for police response resulting from activities at cannabis cultivation sites, storage facilities, dispensaries, and retail outlets, and thereby avoiding reduction in the ability of the city's public safety officers to respond to other calls for service.

(b) The city adopts this article under its authority granted by California Constitution Article XI, Section 7, Proposition 215 (the Compassionate Use Act), Proposition 64 (the "Control, Regulate and Tax Adult Use of Marijuana Act" or the "AUMA") and Health and Safety Code Section 11362.2.

SECTION 3. BCC § 15-111 AMENDED

Belmont City Code Chapter 15, Article IX, Section 15-111 is amended to read:

Sec. 15-111 Cannabis businesses

(a) Except as provided in subsections (b) and (c), to the extent permitted by law, the City of Belmont prohibits the establishment or operation of a cannabis business or activity licensed under Business and Professions Code Division 10 within the city's jurisdiction, including the establishment or operation of medical cannabis collectives, cooperatives, or dispensaries.

(b) Only those cannabis businesses authorized, properly registered, in good standing and conducting business in accordance with Chapter 13 may be established and operate in the city.

(c) This section does not prohibit mobile delivery of cannabis or cannabis products to a residence within the city from a business located outside the city.

SECTION 4. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held by a

court of competent jurisdiction to be invalid, such a decision does 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 or 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 5. EFFECTIVE DATE.

This ordinance takes effect and will be enforced 30 days after its adoption.

* * *

The City Council of the City of Belmont, California introduced the foregoing ordinance, on January 23, 2024 and adopted the ordinance at a regular meeting held on February 13, 2024 by the following vote:

Ayes: Pang Maganaris, McCune, Hurt, Latimerlo, Mates

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney