

## **ORDINANCE NO. 2017-1043**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CERES, AMENDING ORDINANCE NO. 2017-1039 – CHAPTER 9.120, MEDICINAL CANNABIS BUSINESSES, TITLE IX, PUBLIC PEACE, SAFETY AND MORALS, OF THE CERES MUNICIPAL CODE; AND APPROVING A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF CERES, GUARANTY HOLDINGS OF CALIFORNIA, INC., AND PACAFI COOPERATIVE, INC.**

**WHEREAS**, in 1996, California voters approved Proposition 215, known as the Compassionate Use Act, which was later codified at California Health and Safety Code section 11362.5. The Compassionate Use Act ensures that qualified patients and their primary caregivers who obtain and use cannabis for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction under state law; and

**WHEREAS**, in 2003, the State enacted Senate Bill 420, known as the Medical Marijuana Program, codified at California Health and Safety Code sections 11362.7 *et seq.* The Medical Marijuana Program was intended to supplement the provisions, and clarify the intent, of the Compassionate Use Act and to allow cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program. One such regulation, California Health and Safety Code section 11362.775, removed state-level criminal and civil sanctions for the collective or cooperative cultivation of medical cannabis; and

**WHEREAS**, in 2015, the State enacted a trio of bills (AB 243, AB 266, and SB 643) now known as the Medical Cannabis Regulation and Safety Act (“MCRSA”). MCRSA established a state-wide regulatory and licensing structure for medical cannabis businesses, including cultivation, manufacturing, testing, dispensary, distribution, and transport; and

**WHEREAS**, on November 8, 2016, the voters of the State of California enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, also known as the Adult Use of Marijuana Act (“AUMA”). AUMA established a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis for nonmedical use; and

**WHEREAS**, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

**WHEREAS**, in 2015, the Ceres City Council adopted Ordinance No. 2015-1035, adding Chapter 9.120 to the Ceres Municipal Code, banning all commercial cannabis activity and cultivation, thereby deeming those activities nuisances; and

**WHEREAS**, on May 22, 2017, the Ceres City Council adopted Ordinance No. 2017-1039, amending Ordinance No. 2015-1035, establishing a comprehensive policy to address all cannabis uses within the City of Ceres through a pilot program (“Medical Cannabis Business Pilot Program”); and

**WHEREAS**, the Ceres City Council determined that allowing limited cannabis businesses in the City through a Medical Cannabis Business Pilot Program is in the best interest of the health, welfare, and safety of the public; and

**WHEREAS**, the Ceres City Council desires to amend Ordinance 2017-1039, to reflect changes to state law as the result of MAUCRSA; and

**WHEREAS**, to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development, the California Legislature adopted Government Code section 65864 *et seq.* (the “Development Agreement Statute”), which authorizes the City and an individual with an interest in real property to enter into a development agreement that establishes certain development rights in real property that is subject to a development agreement application; and

**WHEREAS**, consistent with the requirements of the Development Agreement Statute, City adopted Ceres Municipal Code Chapter 18.70 *et seq.*, (“Development Agreement Ordinance”) authorizing the use of and establishing the procedures and requirements for the consideration of development agreements within the City; and

**WHEREAS**, applicant Guaranty Holdings of California, Inc. and Pacafi Cooperative, Inc. (collectively, the “Developers”) propose to improve, develop, and use real property for medicinal commercial cannabis activity, in strict accordance with applicable state and local law, including, but not limited to, the Municipal Code of the City of Ceres, as may be amended from time to time (the “Project”); and

**WHEREAS**, Guaranty Holdings of California, Inc. owns approximately twelve thousand (12,000) square feet of industrial warehouse space, located on approximately .52 acres of land located in the City of Ceres, County of Stanislaus, State of California, Assessor’s Parcel Number 039-033-010 (the “Site”); and

**WHEREAS**, within satisfaction of the requirement of Ceres Municipal Code section 18.70.050, Pacafi Cooperative, Inc. has leased the Site from Guaranty Holdings of California, Inc. for the purpose of carrying out the Project; and

**WHEREAS**, environmental impacts for the Project have been reviewed and assessed by the City pursuant to the California Environmental Quality Act (“CEQA”) (Public Resources Code section 21000 *et seq.*; California Code of Regulations Title 14, section 15000 *et seq.*). Developers will occupy this building as an industrial use and as such it has been determined to be exempt pursuant to Section 15061(b-3), Review for Exemption, pursuant to CEQA; and

**WHEREAS**, the City and Developers intend to enter into the Development Agreement for the Project pursuant to the Development Agreement Statute and the Development Agreement Ordinance; and

**WHEREAS**, the City Council of the City of Ceres, based on its independent review and analysis of staff's recommendations, oral and written testimony, and the record as a whole, finds, after due study, deliberation, and public hearing, and based on its independent judgment, that the following circumstances exist:

1. The Project is consistent with the goals, policies, and standards of the City of Ceres General Plan and all other applicable standards and ordinances of the City of Ceres.
2. In accordance with Ceres Municipal Code section 18.70.050, the City Council finds that the proposed Development Agreement:
  - a. Is consistent with the objectives, policies, general land uses and programs specified in the Ceres General Plan and any applicable specific plan; and
  - b. Will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of the City as a whole; and
  - c. Will not adversely affect the orderly development of property or the preservation of property values; and
  - d. Is consistent with the provisions of Government Code sections 65864 through 65869.5; and
  - e. Contains a legal description of the property.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CERES DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Chapter 9.120, Medical Cannabis Businesses, Title 9, Public Peace, Safety and Morals, of the Ceres Municipal Code is amended to read as follows:**

**A. Section 9.120.020, Definitions, of Chapter 9.120, Medical Cannabis Businesses, is amended to read as follows:**

9.120.020 – Definitions.

- A. "Adult Use of Marijuana Act" or "AUMA" has the same meaning as Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act approved by California voters at the November 8, 2016, election, and any applicable rules and regulations promulgated thereafter.

- B. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- C. "City manager" shall mean the Ceres City Manager or designee.
- D. "Commercial cannabis activity" has the same meaning as that term is defined by California Business and Professions Code section 26001(k).
- E. "Marijuana" has the same meaning as "cannabis".
- F. "Medical cannabis business" shall mean any person or business that engages in commercial cannabis activity.
- G. "Cannabis business permit" shall mean any permit issued to a medical cannabis business pursuant to the provisions of this chapter.
- H. "Medical Cannabis Business Pilot Program" shall mean the City's permitting process and procedures pursuant to the provisions of this chapter for the purpose of determining and evaluating the feasibility and desirability of regulating multiple medical cannabis businesses within City limits.
- I. "Medicinal and Adult-Use Cannabis Regulation and Safety Act" or "MAUCRSA" has the same meaning as Chapter 1 (commencing with section 26000) of Division 10 of the California Business and Professions Code, and any applicable rules and regulations promulgated thereafter.
- J. "Primary caregiver" shall have the same meaning as set forth in California Health and Safety Code section 11362.7(d).
- K. "Qualified patient" shall have the same meaning as set forth in California Health and Safety Code section 11362.7(f).

**B. Section 9.120.030, Medical Cannabis Business Pilot Program, of Chapter 9.120, Medical Cannabis Businesses, is amended to read as follows:**

**9.120.030 – Medical Cannabis Business Pilot Program.**

- A. Medical cannabis businesses shall only be permitted to operate in the City following application, investigation, verification, approval, and issuance of a development agreement approved by the City Council, a conditional use permit pursuant to the provisions of chapter 18.50 of the Ceres Municipal Code, and a cannabis business permit issued by the City in accordance with the criteria and procedures set forth in this chapter. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a medical cannabis business shall be granted or permitted unless it complies with the provisions of the Ceres Municipal Code.
- B. All persons who are engaged in or who are attempting to engage in commercial cannabis activity in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions of this chapter, AUMA, or MAUCRSA, as it applies, the provisions of the Ceres Municipal Code, as may be amended from time to time, and all other applicable state and local laws and regulations.
- C. The City Manager is authorized to make policies and procedures consistent with the intent of this chapter concerning the applications, the application process, the information required of an applicant, the application procedures, and the administration and procedures to be used and followed in the application and hearing process.

**SECTION 2.** In light of the whole record before it, the City Council of the City of Ceres approves a Development Agreement by and between the City of Ceres, Guaranty Holdings of California, Inc., and Pacafi Cooperative, Inc. for development of the Project for medicinal commercial cannabis activity in the City of Ceres, and instructs the City Manager to execute the agreement subject to final, technical revisions as required and approved by the City Attorney.

**SECTION 3.** The City shall review the Development Agreement for compliance with its terms and conditions not less than once every twelve (12) months from the effective date of the Development Agreement.

**SECTION 4.** Notice of the public hearing on the proposed Development Agreement was published in the Ceres Courier, a newspaper of general circulation, printed and published in the



City of Ceres; and notices of the public hearing on the proposed Development Agreement were mailed to all interested parties and property owners within three hundred (300) feet of the property, according to the most recent assessor's roll, on October 4, 2017.

**SECTION 5.** The Project was reviewed pursuant to the California Environmental Quality Act ("CEQA"). Pursuant to CEQA Section 15061(b-3), the proposed project is not subject to CEQA as CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

**SECTION 6.** If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Ceres hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

**SECTION 7.** This Ordinance shall become effective thirty (30) days from and after its final passage and adoption, and publication of the Ordinance shall occur in a newspaper of general circulation at least fifteen (15) days prior to its effective date, or a summary of the Ordinance published in a newspaper of general circulation at least five (5) days prior to adoption and again at least fifteen (15) days prior to its effective date.

**SECTION 8. CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL** This Ordinance was introduced and approved by Ordinance No. 2017-1043 at a regular meeting of the City Council of the City of Ceres held on the 23rd, day of October, 2017, and adopted at a regular meeting of the City Council of the City of Ceres held on the 13th, day of November, 2017, by the following vote:

AYES:	Kline, Lane, Ryno, Mayor Vierra
NOES:	None
ABSTAIN:	None
ABSENT:	Durossette

APPROVED:



Chris Vierra, Mayor of the City of Ceres

ATTEST:



Diane Nayares-Perez  
City Clerk of the City of Ceres

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