

**ORDINANCE NO. 216-16**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILLIAMS,  
AMENDING SECTION 17.01.030.8 AND SECTION 17.06.320 TO PROHIBIT  
CANNABIS DISPENSARIES, CANNABIS MANUFACTURERS,  
CULTIVATION AND DELIVERY OF CANNABIS IN THE CITY**

**WHEREAS**, in 1996, the voters of the State of California approved Proposition 215 (codified as Health & Safety Code Section 11362.5 et seq. and entitled "The Compassionate Use Act of 1996"); and

**WHEREAS**, the intent of Proposition 215 was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law; and

**WHEREAS**, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program ("MMP"), codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subject to criminal prosecution under the Penal Code; and

**WHEREAS**, neither the Compassionate Use Act ("CUA") nor the MMP require nor impose an affirmative duty or mandate upon local governments to allow, authorize, or sanction the establishment of facilities that cultivate or process medical marijuana within its jurisdiction; and

**WHEREAS**, in May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, holding that cities have the authority to regulate or ban outright medical marijuana land uses; and

**WHEREAS**, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 et seq., the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need; and

**WHEREAS**, on October 9, 2015, Governor Jerry Brown signed the "Medical Marijuana Regulation and Safety Act" ("Act") into law; and

**WHEREAS**, the Act becomes effective January 1, 2016 and contains provisions which allow for local governments to regulate licenses and certain activities thereunder; and

**WHEREAS**, the Act contains a provision which sets forth that the State shall become the sole authority for regulation under certain parts of the Act, unless local governments have "land use regulations or ordinances regulating or prohibiting the cultivation of marijuana..." (Health and Safety Code §11362.777(c)(4)); and

**WHEREAS**, several California cities have reported negative impacts of marijuana cultivation, processing, and distribution uses, including offensive odors, illegal sales, and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

**WHEREAS**, marijuana plants, as they begin to flower and for a period of two months or more, produce a strong odor, and detectable far beyond property boundaries if grown outdoors; and

**WHEREAS**, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery, or armed robbery; and

**WHEREAS**, the indoor cultivation of marijuana has potential adverse effects to the health and safety of the occupants; including structural damage to the building due to increased moisture and excessive mold growth which can occur and can pose a risk of fire and electrocution; additionally, the use of pesticides and fertilizers can lead to chemical contamination within the structure; and

**WHEREAS**, the Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

**WHEREAS**, based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City due to the establishment and operation of marijuana cultivation, processing, and distribution uses; and

**WHEREAS**, the City’s Municipal Code (“Code”) does not address the cultivation, processing, delivery and distribution of medical cannabis; and

**WHEREAS**, based on the findings above, the potential establishment of cannabis dispensaries, cultivation, cannabis manufacturers and delivery of cannabis uses in the City without regulation poses a current and immediate threat to the public health, safety and welfare in the City due to the negative land use and other impacts of such uses as described above; and

**WHEREAS**, the issuance or approval of business licenses, subdivisions, use permits, variances, building permits, or any other applicable entitlement for cannabis dispensaries, cultivation, cannabis manufacturers and delivery of cannabis will result in the aforementioned threat to public health, safety, or welfare.

**THE CITY COUNCIL OF THE CITY OF WILLIAMS DOES ORDAIN AS FOLLOWS:**

**Section 1.** Incorporation of Recitals. The City Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

**Section 2.** Amendment. Williams Municipal Code section 17.01.030.8 is hereby amended to read in full as follows:

A. If a proposed use is not listed in this section, and the director has made a determination that the use is either a subcategory of a permitted, limited, or conditional use, or a use that is functionally similar to a permitted, limited, or conditional use, the director will authorize a proposed use. If the director determines that a proposed use is not a subcategory of, or functionally similar to, a permitted, limited, or conditional use, then the use is a prohibited use. The director may refer a proposed use to the planning commission for determination.

B. The following uses are specifically prohibited in the City of Williams:

1. Mobile homes that were constructed more than ten years from the date of proposed installation.

2. Medical cannabis uses. Cannabis dispensaries, cultivation, cannabis manufacturers, and delivery of cannabis, as defined herein, shall be considered prohibited uses in all zoning districts of the City. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of a dispensaries, cannabis cultivation, cannabis manufacturers, and delivery of cannabis as defined herein in any zoning district, and no person shall otherwise establish such businesses or operations in any zoning district.

**Section 3.** Amendment. Williams Municipal Code section 17.06.320 is hereby amended to remove the following:

*Medical marijuana dispensary* means any facility or location where medical marijuana is made available to and/or distributed by or to three or more persons who are primary caregivers, qualified patients, or persons with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq.

**Section 4.** Amendment. Williams Municipal Code section 17.06.320 is hereby amended to add the following:

*Medical Cannabis Uses.* For purposes of this code, medical cannabis uses include the following:

A. “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 marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972.

B. “Cannabis dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

C. “Cannabis manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or cannabis products or labels or relabels its container

D. “Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

E. “Cannabis Delivery” means the commercial transfer of cannabis or cannabis products, and includes origination or termination within the City as well as a delivery business.

**Section 5.** CEQA. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Sections 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section

15061(b)(3) because it can be seen with certainty that it will not have a significant effect or physical change to the environment.

**Section 6.** Severability. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, it shall not affect the remaining portions of this ordinance that can be given effect without the invalid provision and, to this end, the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

**Section 7.** Posting. Within 15 days from the date of passage of this Ordinance, the City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be posted in three public places within the City of Williams.

**Section 8.** Effective Date. This Ordinance shall take effect and be enforced commencing thirty (30) days following its adoption.

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**ADOPTED THIS 17th** day of February 2016, by the following vote:

**AYES** Council Member Troughton Jr., Sellers Jr., Boes, Bergson, Jauregui.  
**NOES:** None.  
**ABSENT:** None.  
**ABSTAIN:** None.

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John J. Troughton Jr., Mayor

**ATTEST:**

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Shelly Kittle, Deputy City Clerk

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Ann M. Siprelle, City Attorney