ORDINANCE NO. 545

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ADELANTO, CALIFORNIA, AMENDING SECTION 17.80.080 OF THE ADELANTO MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA CULTIVATION AND ADDING SECTION 17.80.090 OF THE ADELANTO MUNICIPAL CODE RELATING TO MEDICAL MARIJUANA MANUFACTURING

WHEREAS, on October 9, 2015, Governor Brown approved the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacturing, testing, distribution, transportation, and dispensing of medical marijuana, and which recognizes the authority of local jurisdictions to prohibit or impose additional restrictions on any such medical marijuana activity.

WHEREAS, the City of Adelanto ("City") wishes to comply with California Law and allow for the cultivation and manufacturing of medical marijuana in accordance with applicable State laws.

WHEREAS, it is the purpose and intent of the City to regulate medical marijuana cultivation and manufacturing in a manner that is consistent with State law and promotes the health, safety, and general welfare of the residents and businesses within the City, while limiting the negative impacts associated with such medical marijuana cultivation and manufacturing.

WHEREAS, the City intends to be on the forefront of ground breaking research, science, innovation, and development of treatment for symptoms and cures in the field of medical marijuana, as scientific research, studies, and data has established that marijuana can help patients with a vast array of medical conditions that affect human beings.

WHEREAS, nothing in this Ordinance shall be construed to allow persons to engage in conduct that violates the law, endangers others, causes a public nuisance, allows the use or diversion of marijuana for nonmedical purposes, or allows any activity relating to marijuana that is otherwise illegal under California law.

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

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. Section 17.80.080 (Cultivation of Medical Marijuana) is replaced in its entirety as follows, and Section 17.80.090 (Manufacturing of Medical Marijuana) is hereby added to the Adelanto Municipal Code is to read in its entirety as follows:

17.80.080 Cultivation of Medical Marijuana

(a) **Purpose.** The purpose and intent of this Section is to regulate the cultivation of medical marijuana that is grown in accordance with State law in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the MMRSA.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply, unless the context clearly indicates otherwise:

(1) "City" means the City of Adelanto, California, a Charter Law City.

(2) "City Manager" means the individual duly appointed by a majority of the City Council of the City to serve in the capacity as executive officer of the City on a permanent or interim basis.

(3) "Cultivation" shall be defined in accordance with the MMRSA, Business and Professions Code section 19300.5, and other applicable State laws.

(4) "Cultivation Permit" means a City permit to operate an indoor medical marijuana cultivation facility pursuant to the terms and conditions of this Section and the conditions of approval for the permit.

(5) "Cultivation Permitee" means an applicant who has applied for and has been issued a Cultivation Permit by the City pursuant to the terms and conditions of this Section.

(6) "CUP" means a Conditional Use Permit issued by the City in accordance with this Code.

(7) "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors.

(8) "Indoors" means within a fully enclosed and secure structure.

(9) "Medical marijuana" also means "medical cannabis" and shall be defined in accordance with the MMRSA, Business and Professions Code section 19300.5, Health and Safety Code section 11018, and other applicable State laws.

(10) "MMRSA" means the State Medical Marijuana Regulation and Safety Act.

(11) "Outdoors" means any location within the City that is not within a fully enclosed and secure structure.

(c) **Marijuana Cultivation Prohibited.** All marijuana cultivation within the City is prohibited except as expressly permitted by this Section.

(d) **Indoor Medical Marijuana Cultivation Conditionally Permitted.** Indoor medical marijuana cultivation is conditionally permitted in the City only as expressly specified in this Section.

(1) Indoor Medical Marijuana Cultivation Standards. Indoor medical marijuana cultivation, within the City, shall be in conformance with the following standards:

A. Indoor medical marijuana cultivation shall only be allowed upon application and approval of a Cultivation Permit and a CUP in accordance with the criteria and process set forth in this Section and this Code.

B. Indoor medical marijuana cultivation is a conditionally permitted use only on properties within the Manufacturing/Industrial (MI) zoning designation in the Industrial Park ("Cultivation Zone").

C. No marijuana cultivation shall be established, developed, or operated within 2,500 feet of a school, public playground or park, child care or day care facility, youth center, or church. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the indoor medical marijuana cultivation is, or will be located, to the nearest property line of those uses describe in this Subsection.

D. Indoor medical marijuana cultivation facilities may be located within the same building or structure as a medical marijuana manufacturing facility only if the indoor medical marijuana cultivation facility is located in separate rooms of the building or structure, and only if the indoor medical marijuana cultivation facility has its own separate entrance into the building or structure.

E. Subject to the further requirements of this Section, only the following State cultivator license classification types specified in the MMRSA and Business and Professions Code sections 19300.7

and 19332 will be allowed to operate in the City: 1A, 1B, 2A, 2B, 3A, 3B, and 4.

F. Indoor medical marijuana cultivation is allowed only within fully enclosed and secure structures that are inaccessible to minors.

G. Indoor medical marijuana cultivation shall not exceed the square footage authorized pursuant to the CUP.

H. From any public right-of-way, there shall be no visible exterior evidence of any indoor medical marijuana cultivation activity.

I. Indoor medical marijuana cultivation activity may include growing marijuana plants, harvesting marijuana plants, and drying marijuana flowers, but shall not include any extraction procedures to produce concentrated THC.

J. Indoor medical marijuana cultivation shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes.

K. All indoor medical marijuana cultivation facilities shall fully comply with all of the applicable restrictions and mandates set forth in State law. All indoor medical marijuana cultivation facilities shall comply with all size requirements for such facilities as imposed by State law. Indoor medical marijuana cultivation facilities shall not engage in any activities not allowed by indoor medical marijuana cultivation facilities pursuant to State law. All indoor medical marijuana cultivation facilities shall comply with all horticultural, labeling, processing, and other standards required by State law.

L. There is no set restriction on the hours of operation of indoor medical marijuana cultivation facilities; however, restricted hours of operation may be established as a condition of approval of the Cultivation Permit or the applicable CUP.

M. All medical marijuana shall be kept in a secured manner during all business and nonbusiness hours.

N. All indoor medical marijuana cultivation facilities shall operate within a legal structure that is compliant with all applicable State and local laws.

O. All indoor medical marijuana cultivation facilities must pay all applicable sales taxes pursuant to all federal, State, and local laws.

P. On-site smoking, ingestion, or consumption of marijuana or alcohol shall be prohibited on the premises of all indoor medical marijuana cultivation facilities. The term "premises" as used in this Subsection includes the actual indoor medical marijuana cultivation building, as well as any accessory structures and parking areas. The indoor medical marijuana cultivation facility building entrance shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming marijuana or alcohol on the premises or in the vicinity of the facility is prohibited.

Q. Signage for all indoor medical marijuana cultivation facilities shall be limited to name of business only, shall be in compliance with the City's sign code, and shall contain no advertising of any companies, brands, products, goods, or services. Signage shall not include any drug-related symbols.

R. Alcoholic beverages shall not be sold, stored, distributed, or consumed on the premises. Indoor medical marijuana cultivation facilities shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of any indoor medical marijuana cultivation facility.

S. Physician services shall not be provided on the premises. "Physician services" does not include social services, including counseling, help with housing and meals, hospice and other care referrals which may be provided on site.

T. The building in which any indoor medical marijuana cultivation facility is located, as well as the operations as conducted therein, shall fully comply with all applicable rules, regulations, and laws including, but not limited to, zoning and building codes, the City's business license ordinances, the Revenue and Taxation Code, the Americans with Disabilities Act, and the MMRSA. Compliance with all requirements of State law pertaining to indoor marijuana cultivation is also required.

U. Indoor medical marijuana cultivation facilities shall not distribute, sell, dispense, or administer marijuana from the facility to the

public. Indoor medical marijuana cultivation facilities shall not be operated as medical marijuana dispensaries.

V. The operators of all indoor medical marijuana cultivation facilities shall provide the City Manager or the City Manager's designee with the name, phone number, facsimile number, and email address of an on-site representative to whom the City and the public can provide notice if there are any operational problems associated with the indoor medical marijuana cultivation facility. All indoor medical marijuana cultivation facilities shall make every good faith effort to encourage residents and the public to call this representative to resolve any operational problems before any calls or complaints are made to the City or law enforcement.

W. All indoor medical marijuana cultivation facilities shall be operated in accordance with the conditions of approval associated with the applicable CUP for the parcel of real property upon which the indoor medical marijuana cultivation activities occur.

X. All indoor medical marijuana cultivation facilities shall have a security plan including the following measures:

1. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 120 concurrent hours of digitally recorded documentation in a format approved by the City Manager or the City Manager's designee. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, cultivation areas, all doors and windows, and any other areas as determined by the City Manager or the City Manager's designee. Remote log-in information shall be provided to the City Manager and the Chief of Police to allow them to view the security camera images and recordings from their own facilities at any time. Any disruption in security camera images shall be cured expeditiously in good faith.

2. The indoor medical marijuana cultivation facility shall be alarmed with an alarm system that is operated and monitored by a reputable security company.

3. Entrance to the cultivation area, and all storage areas, shall be locked at all times, and under the control the indoor medical marijuana cultivation facility's staff.

4. The entrances and all window areas shall be illuminated during evening hours. The facility shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, etcetera, and shall secure the necessary lighting approvals and permits as needed.

5. All windows on the building that houses the indoor medical marijuana cultivation facility shall be appropriately secured and all marijuana securely stored.

Y. Recordings made by the security cameras shall be made available to the City Manager, the City Manager's designee, or law enforcement upon verbal request—no search warrant or subpoena shall be needed to view the recorded materials.

Z. The City Manager, the City Manager's designee, and law enforcement shall have the right to enter the indoor medical marijuana cultivation facility at any time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Section and all laws of the City and the State.

AA. All batches of final cultivated marijuana must be inspected and quality tested by a qualified third party distributor and testing facility prior to distribution to a dispensary as required by the MMRSA, Business and Professions Code sections 19326 and 19342, the Department of Food and Agriculture regulations, and the State Department of Public Health regulations.

(2) Cultivation Permit Applications. All applicants wishing to obtain a Cultivation Permit from the City shall file an application with the City upon a form provided by the City and shall pay a Cultivation Permit Application Fee as established by the City. An application for a Cultivation Permit shall include at least the following information:

A. An estimate of the size of the proposed indoor medical marijuana cultivation facility.

B. The address of the location for which the Cultivation Permit is sought. Only one Cultivation Permit will be issued per location.

C. A site plan and floor plan for the proposed premises denoting the use of all areas on the premises, including storage, cultivation areas, lighting, signage, etcetera.

D. A proposed security plan in compliance with the Indoor Medical Marijuana Cultivation Standards.

E. The names, addresses, and relevant criminal histories of all potential employees, facility managers, and other relevant parties for the indoor medical marijuana cultivation facility. Relevant criminal histories shall include any drug-related or felony convictions, the nature of such offenses, and the sentences received for such convictions.

F. The name and address of the owner and lessor of the real property upon which the indoor medical marijuana cultivation activity is proposed to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that an indoor medical marijuana cultivation facility will be operated on the property.

G. Authorization for the City Manager or the City Manager's designee to seek verification of the information contained within the application.

H. Evidence that the indoor medical marijuana cultivation facility will be located in a legal structure that is compliant with all applicable State and local laws.

I. A statement in writing by the applicant that the applicant certifies under penalty of perjury that all the information contained in the application is true and correct.

J. Any such additional and further information as is deemed necessary by the City Manager or the City Manager's designee to administer this Section.

K. The City Manager or the City Manager's designee shall conduct a background check of any applicant seeking a Cultivation Permit, including all potential employees and any person who may be a facility manager or otherwise responsible for the activities of the indoor medical marijuana cultivation facility ("Applicant's Agents"), and shall prepare a report on the acceptability of the applicant and the Applicant's Agents and the suitability of the proposed location.

L. The City Manager or the City Manager's designee shall rank all qualified applications in order of those that best satisfy the

requirements of this Section and provide the highest level of service and opportunities for residents of the City based on the requirements of this Section and the following criteria ("Merit List"):

1. The operational plan for the facility.

2. The security plan for the facility.

3. The experience of the operators of the facility.

4. The adequacy of capitalization for the facility and its operations.

5. The employment of City residents and other public benefits to the City.

(3) Cultivation Permit. The following conditions apply to all Cultivation Permits:

A. A Cultivation Permit will not be awarded to an applicant if:

1. The applicant or the Applicant's Agents made one or more false or misleading statements or omissions in the application or during the application process.

2. The proposed indoor medical marijuana cultivation facility is not allowed by State or local law.

3. The applicant is not a legal representative of the indoor medical marijuana cultivation facility.

4. The applicant or the Applicant's Agents have been convicted of a felony, or a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or any such similar activity related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Compassionate Use Act. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

5. The applicant or the Applicant's Agents have engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

6. The applicant has not satisfied each and every requirement of this Section.

B. Cultivation Permits shall be awarded by the City to eligible Cultivation Permit applicants in order of the Merit List as established by the City Manager or the City Manager's designee. The number of Cultivation Permits shall be limited to those that may be reasonably accommodated within the Cultivation Zone.

C. Before a Cultivation Permit can be issued to an applicant, Cultivation Permit fees must be paid to offset all related costs to the City, and the proposed indoor medical marijuana cultivation facility location must pass all applicable inspections.

D. Only one Cultivation Permit may be possessed or used by the same person or entity, including the representatives, agents, parent entities, or subsidiary entities of that person or entity.

E. All Cultivation Permits are subject to the conditions of approval in the applicable CUP for the parcel of real property upon which the indoor medical marijuana cultivation activity occurs.

F. All Cultivation Permits are subject to any additional conditions that may be applied by the City at the time of issuance or renewal as necessary to properly regulate the activity and protect the public.

G. All cultivation activities shall be subject to an excise tax to be established by the City and the voters.

H. Cultivation Permitees may not hold or use any other marijuana activity permits or licenses that would otherwise be a violation of the MMRSA or Business and Professions Code section 19328.

I. All Cultivation Permitees shall enter into an agreement with the City to fully reimburse the City for all fiscal impacts, costs, expenses, fees, and attorneys' fees incurred by the City related to the Cultivation Permit and the indoor medical marijuana cultivation activity.

J. All Cultivation Permitees shall:

1. Carry liability insurance in the amounts and types set by the City Manager or the City Manager's designee, and name

the City as an additional insured on all such insurance policies.

2. Execute an Indemnification Agreement prepared by the City that fully indemnifies the City for all liabilities associated with the Cultivation Permit, the Cultivation Permitee's marijuana related activities, and any action taken by the Cultivation Permitee pursuant to this Section.

3. Agree to defend the City, at the Cultivation Permitee's sole expense, in any action against the City or its agents, officers, or employees associated with the Cultivation Permit, the Cultivation Permitee's marijuana related activities, or any action taken by the Cultivation Permitee pursuant to this Section.

4. Agree to reimburse the City for all costs, expenses, fees, and attorney fees incurred by the City related to any action against the City or its agents, officers, or employees associated with the Cultivation Permit, the Cultivation Permitee's marijuana related activities, or any action taken by the Cultivation Permitee pursuant to this Section. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

K. All Cultivation Permitees shall keep the City and law enforcement updated with the names, addresses, and relevant criminal histories of all employees, facility managers, and other relevant parties for the indoor medical marijuana cultivation facility at all times. Relevant criminal histories shall include any drug-related or felony convictions, the nature of such offenses, and the sentences received for such convictions.

L. All Cultivation Permitees shall account for job creation in the City and shall commit to employing a workforce that resides in the City. A minimum of 50% of all employees employed by the Cultivation Permitee at the indoor medical marijuana cultivation facility shall be residents of the City. All Cultivation Permitees shall use good faith efforts to comply with this subsection and shall report the residential composition of their workforce to the City every year and at any other time upon demand by the City Manager or the City Manager's designee.

M. Cultivation Permits issued pursuant to this Section are not transferable to any third parties under any circumstances.

N. All Cultivation Permits shall expire and be null and void 12 months after issuance to the Cultivation Permitee unless properly renewed. Upon payment of the applicable Cultivation Permit fees and passing the requisite Cultivation Permit inspections, Cultivation Permitees that have maintained compliance with all City, State, and other applicable marijuana and business related laws shall be entitled to renew their Cultivation Permit subject to all prevailing laws at the time of renewal.

O. To the fullest extent permitted by law, the City does not assume any liability, and expressly does not waive sovereign immunity, with respect to any medical marijuana cultivation activities or for the activities of any indoor medical marijuana cultivation facility.

(4) Conditional Use Permit. All parcels of real property in the Cultivation Zone upon which indoor medical marijuana cultivation activities may occur must obtain a CUP from the City for all such activities.

(5) Oversight Committee. The City shall create an Oversight Committee to oversee activities of the Cultivation Permitees to ensure that all applicable local, State, and federal laws are complied with, and that all provisions of this Section are enforced, and that no illegal activity is conducted on the indoor medical marijuana cultivation properties. The Oversight Committee shall have full authority to review all proposed applications, applicants, business proposals, financial resources, Merit Lists, and overall business plans when deciding which entities will receive Cultivation Permits as outlined herein. The Oversight Committee shall be appointed by the City Council and shall consist of five total members with one member from code enforcement, one member from planning, and three at-large appointments.

(e) **Enforcement.**

(1) Any marijuana cultivation within the City in violation of this Section is hereby declared to be unlawful and a public nuisance.

(2) Any party who engages in a violation of this Section, or who owns, possess, controls, or has charge of any parcel of real property in the City upon which a violation of the Section is maintained, shall be subject to the penalties and remedies provided by this Section.

(3) Any violation of this Section shall constitute a separate offense for each and every day the violation occurs or persists.

(4) Any person in violation of any provision of this Section shall be guilty of a misdemeanor and shall be punishable by a fine of up to $1,000 and up to six months imprisonment per offense.

(5) Any person in violation of any provision of this Section shall be punishable by an administrative fine of up to a $1,000 per offense.

(6) Any violation of this Section or any other City or State marijuana law by a Cultivation Permitee or a Cultivation Permitee's agent is grounds for revoking the Cultivation Permitee's Cultivation Permit. In addition, the City Manager or the City Manager's designee may revoke a Cultivation Permit if any of the following occur:

A. The City Manager or the City Manager's designee determines that the indoor medical marijuana cultivation facility has failed to comply with this Section, any condition of approval, or any agreement or covenant as required pursuant to this Section.

B. The indoor medical marijuana cultivation operations cease for more than 90 calendar days.

C. Ownership of the indoor medical marijuana cultivation facility is changed or transferred to third party.

D. The indoor medical marijuana cultivation facility fails to maintain 120 hours of security recordings.

E. The indoor medical marijuana cultivation facility fails to provide remote access to the security cameras to the City Manager, the City Manager's designee, or the Chief of Police, or fails to allow inspection of the security recordings, the activity logs, or of the premise by authorized City officials.

(7) Any decision regarding the revocation of a Cultivation Permit may be appealed to an independent neutral third party administrative hearing officer appointed by the City Manager or the City Manager's designee ("Hearing Officer"). Said appeal shall be made by a notice of appeal from the person appealing within 15 days from the date of the decision. The appeal shall be accompanied by a written verified declaration setting forth the basis for the claim that the Cultivation Permit was improperly revoked. The Hearing Officer's decision shall be final and binding upon the City and the appellant.

(8) These penalties and remedies are cumulative, and in addition to any other penalties and remedies available to the City.

17.80.090 Manufacturing of Medical Marijuana

(a) **Purpose.** The purpose and intent of this Section is to regulate the manufacturing of medical marijuana that is processed in accordance with State law in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City intends to be on the forefront of medical marijuana research and manufacturing. The City is authorized to regulate this activity pursuant to the MMRSA.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply, unless the context clearly indicates otherwise:

(1) "City" means the City of Adelanto, California, a Charter Law City.

(2) "City Manager" means the individual duly appointed by a majority of the City Council of the City to serve in the capacity as executive officer of the City on a permanent or interim basis.

(3) "CUP" means a Conditional Use Permit issued by the City in accordance with this Code.

(4) "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors.

(5) "Manufacturer" and "manufacturing" shall be defined in accordance with the MMRSA, Business and Professions Code section 19300.5, and other applicable State laws.

(6) "Manufacturing Permit" means a City permit to operate a medical marijuana manufacturing facility pursuant to the terms and conditions of this Section and the conditions of approval for the permit.

(7) "Manufacturing Permitee" means an applicant who has applied for and has been issued a Manufacturing Permit by the City pursuant to the terms and conditions of this Section.

(8) "Medical marijuana" also means "medical cannabis" and shall be defined in accordance with the MMRSA, Business and Professions Code section 19300.5, Health and Safety Code section 11018, and other applicable State laws.

(9) "MMRSA" means the State Medical Marijuana Regulation and Safety Act.

(c) **Marijuana Manufacturing Prohibited.** All marijuana manufacturing within the City is prohibited except as expressly permitted by this Section.

(d) **Medical Marijuana Manufacturing Conditionally Permitted.** Medical marijuana manufacturing is conditionally permitted in the City only as expressly specified in this Section.

(1) Medical Marijuana Manufacturing Standards. Medical marijuana manufacturing, within the City, shall be in conformance with the following standards:

A. Medical marijuana manufacturing shall only be allowed upon application and approval of a Manufacturing Permit and a CUP in accordance with the criteria and process set forth in this Section and this Code.

B. Medical marijuana manufacturing is a conditionally permitted use only on properties within the Manufacturing/Industrial (MI) zoning designation in the Industrial Park ("Manufacturing Zone").

C. No marijuana manufacturing shall be established, developed, or operated within 2,500 feet of a school, public playground or park, child care or day care facility, youth center, or church. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the medical marijuana manufacturing is, or will be located, to the nearest property line of those uses describe in this Subsection.

D. Medical marijuana manufacturing facilities may be located within the same building or structure as an indoor medical marijuana cultivation facility only if the medical marijuana manufacturing facility is located in separate rooms of the building or structure, and only if the medical marijuana manufacturing facility has its own separate entrance into the building or structure.

E. Subject to the further requirements of this Section, only State manufacturer license classification type 6 level 1 will be allowed to operate in the City using nonvolatile solvents in accordance with the MMRSA and Business and Professions Code sections 19300.7 and 19341.

F. Medical marijuana manufacturing is allowed only within fully enclosed and secure structures that are inaccessible to minors.

G. Medical marijuana manufacturing shall not exceed the square footage authorized pursuant to the CUP.

H. From any public right-of-way, there shall be no visible exterior evidence of any medical marijuana manufacturing activity.

I. Medical marijuana manufacturing shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes.

J. All medical marijuana manufacturing facilities shall fully comply with all of the applicable restrictions and mandates set forth in State law. All medical marijuana manufacturing facilities shall comply with all size requirements for such facilities as imposed by State law. Medical marijuana manufacturing facilities shall not engage in any activities not allowed by medical marijuana manufacturing facilities pursuant to State law. All medical marijuana manufacturing facilities shall comply with all horticultural, labeling, processing, and other standards required by State law.

K. There is no set restriction on the hours of operation of medical marijuana manufacturing facilities; however, restricted hours of operation may be established as a condition of approval of the Manufacturing Permit or the applicable CUP.

L. All medical marijuana shall be kept in a secured manner during all business and nonbusiness hours.

M. All medical marijuana manufacturing facilities shall operate within a legal structure that is compliant with all applicable State and local laws.

N. All medical marijuana manufacturing facilities must pay all applicable sales taxes pursuant to all federal, State, and local laws.

O. On-site smoking, ingestion, or consumption of marijuana or alcohol shall be prohibited on the premises of all medical marijuana manufacturing facilities. The term "premises" as used in this Subsection includes the actual medical marijuana manufacturing building, as well as any accessory structures and parking areas. The medical marijuana manufacturing facility building entrance shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming marijuana or alcohol on the premises or in the vicinity of the facility is prohibited.

P. Signage for all medical marijuana manufacturing facilities shall be limited to name of business only, shall be in compliance with the City's sign code, and shall contain no advertising of any companies, brands, products, goods, or services. Signage shall not include any drug-related symbols.

Q. Alcoholic beverages shall not be sold, stored, distributed, or consumed on the premises. Medical marijuana manufacturing facilities shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcoholic beverages shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of any medical marijuana manufacturing facility.

R. Physician services shall not be provided on the premises. "Physician services" does not include social services, including counseling, help with housing and meals, hospice and other care referrals which may be provided on site.

S. The building in which any medical marijuana manufacturing facility is located, as well as the operations as conducted therein, shall fully comply with all applicable rules, regulations, and laws including, but not limited to, zoning and building codes, the City's business license ordinances, the Revenue and Taxation Code, the Americans with Disabilities Act, and the MMRSA. Compliance with all requirements of State law pertaining to medical marijuana manufacturing is also required.

T. Medical marijuana manufacturing facilities shall not distribute, sell, dispense, or administer marijuana from the facility to the

public. Medical marijuana manufacturing facilities shall not be operated as medical marijuana dispensaries.

U. The operators of all medical marijuana manufacturing facilities shall provide the City Manager or the City Manager's designee with the name, phone number, facsimile number, and email address of an on-site representative to whom the City and the public can provide notice if there are any operational problems associated with the medical marijuana manufacturing facility. All medical marijuana manufacturing facilities shall make every good faith effort to encourage residents and the public to call this representative to resolve any operational problems before any calls or complaints are made to the City or law enforcement.

V. All medical marijuana manufacturing facilities shall be operated in accordance with the conditions of approval associated with the applicable CUP for the parcel of real property upon which the medical marijuana manufacturing activities occur.

W. All medical marijuana manufacturing facilities shall have a security plan including the following measures:

1. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 120 concurrent hours of digitally recorded documentation in a format approved by the City Manager or the City Manager's designee. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, manufacturing areas, all doors and windows, and any other areas as determined by the City Manager or the City Manager's designee. Remote log-in information shall be provided to the City Manager and the Chief of Police to allow them to view the security camera images and recordings from their own facilities at any time. Any disruption in security camera images shall be cured expeditiously in good faith.

2. The medical marijuana manufacturing facility shall be alarmed with an alarm system that is operated and monitored by a reputable security company.

3. Entrance to the manufacturing area, and all storage areas, shall be locked at all times, and under the control the medical marijuana manufacturing facility's staff.

4. The entrances and all window areas shall be illuminated during evening hours. The facility shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, etcetera, and shall secure the necessary lighting approvals and permits as needed.

5. All windows on the building that houses the medical marijuana manufacturing facility shall be appropriately secured and all marijuana securely stored.

X. Recordings made by the security cameras shall be made available to the City Manager, the City Manager's designee, or law enforcement upon verbal request—no search warrant or subpoena shall be needed to view the recorded materials.

Y. The City Manager, the City Manager's designee, and law enforcement shall have the right to enter the medical marijuana manufacturing facility at any time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Section and all laws of the City and the State.

Z. All medical marijuana manufacturing facilities must employ full time quality control personnel. The Manufacturing Permitee must establish Standard Operating Procedures and Batch Records that comply with current Good Manufacturing Practices and the MMRSA for all food products, as outlined by the State Department of Public Health and the Food and Drug Administration.

AA. All finished products produced by a medical marijuana manufacturing facility must be labeled in compliance with the MMRSA, Business and Profession Code section 19347, and the labeling requirements outlined by the State Department of Public Health.

BB. All finished products produced by a medical marijuana manufacturing facility must be packaged in child resistant containers prior to leaving the facility or becoming commercially available in accordance with the MMRSA, Business and Profession Code section 19347, the State Department of Public Health regulations, and other applicable State laws.

CC. All batches of final marijuana products must be tested by a qualified third party testing facility prior to distribution to a dispensary as required by the MMRSA, Business and Professions

Code sections 19326, 19341, and 19342, and the State Department of Public Health regulations.

DD. Medical marijuana manufacturing facilities shall only use nonvolatile solvents that have been approved by the State Department of Public Health for medical marijuana level 1 manufacturing. Until such time as any such nonvolatile solvents are approved by the State Department of Public Health for medical marijuana level 1 manufacturing, medical marijuana manufacturing facilities shall only use nonvolatile solvents that have been approved by the Food and Drug Administration for the processing and preparation of botanical dietary supplements or food grade products.

EE. All processing and analytical testing devises used for medical marijuana manufacturing facilities must be UL listed, or otherwise approved for the intended use by the City's Building Official or the Fire Department. Any processing devices using only non-pressurized water are exempt from such approval.

FF. Unless otherwise prohibited, all processing devices used by a medical marijuana manufacturing facility that utilize hydrocarbons or otherwise flammable solvents must operate in a closed loop, or in such a way that all solvent material is recovered in the process. All hazardous material must be disposed of in a manner which is compliant with all local, State, and federal guidelines for the disposal of hazardous materials.

(2) Manufacturing Permit Applications. All applicants wishing to obtain a Manufacturing Permit from the City shall file an application with the City upon a form provided by the City and shall pay a Manufacturing Permit Application Fee as established by the City. An application for a Manufacturing Permit shall include at least the following information:

A. An estimate of the size of the proposed medical marijuana manufacturing facility.

B. The address of the location for which the Manufacturing Permit is sought. Only one Manufacturing Permit will be issued per location.

C. A site plan and floor plan for the proposed premises denoting the use of all areas on the premises, including storage, manufacturing areas, lighting, signage, etcetera.

D. A proposed security plan in compliance with the Medical Marijuana Manufacturing Standards.

E. The names, addresses, and relevant criminal histories of all potential employees, facility managers, and other relevant parties for the medical marijuana manufacturing facility. Relevant criminal histories shall include any drug-related or felony convictions, the nature of such offenses, and the sentences received for such convictions.

F. The name and address of the owner and lessor of the real property upon which the medical marijuana manufacturing activity is proposed to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a medical marijuana manufacturing facility will be operated on the property.

G. Authorization for the City Manager or the City Manager's designee to seek verification of the information contained within the application.

H. Evidence that the medical marijuana manufacturing facility will be located in a legal structure that is compliant with all applicable State and local laws.

I. A statement in writing by the applicant that the applicant certifies under penalty of perjury that all the information contained in the application is true and correct.

J. Any such additional and further information as is deemed necessary by the City Manager or the City Manager's designee to administer this Section.

K. The City Manager or the City Manager's designee shall conduct a background check of any applicant seeking a Manufacturing Permit, including all potential employees and any person who may be a facility manager or otherwise responsible for the activities of the medical marijuana manufacturing facility ("Applicant's Agents"), and shall prepare a report on the acceptability of the applicant and the Applicant's Agents and the suitability of the proposed location.

L. The City Manager or the City Manager's designee shall rank all qualified applications in order of those that best satisfy the

requirements of this Section and provide the highest level of service and opportunities for residents of the City based on the requirements of this Section and the following criteria ("Merit List"):

1. The operational plan for the facility.

2. The security plan for the facility.

3. The experience of the operators of the facility.

4. The adequacy of capitalization for the facility and its operations.

5. The employment of City residents and other public benefits to the City.

(3) Manufacturing Permit. The following conditions apply to all Manufacturing Permits:

A. A Manufacturing Permit will not be awarded to an applicant if:

1. The applicant or the Applicant's Agents made one or more false or misleading statements or omissions in the application or during the application process.

2. The proposed medical marijuana manufacturing facility is not allowed by State or local law.

3. The applicant is not a legal representative of the medical marijuana manufacturing facility.

4. The applicant or the Applicant's Agents have been convicted of a felony, or a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or any such similar activity related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Compassionate Use Act. A conviction within the meaning of this Section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

5. The applicant or the Applicant's Agents have engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

6. The applicant has not satisfied each and every requirement of this Section.

B. Manufacturing Permits shall be awarded by the City to eligible Manufacturing Permit applicants in order of the Merit List as established by the City Manager or the City Manager's designee. The number of Manufacturing Permits shall be limited to those that may be reasonably accommodated within the Manufacturing Zone.

C. Before a Manufacturing Permit can be issued to an applicant, Manufacturing Permit fees must be paid to offset all related costs to the City, and the proposed medical marijuana manufacturing facility location must pass all applicable inspections.

D. Only one Manufacturing Permit may be possessed or used by the same person or entity, including the representatives, agents, parent entities, or subsidiary entities of that person or entity.

E. All Manufacturing Permits are subject to the conditions of approval in the applicable CUP for the parcel of real property upon which the medical marijuana manufacturing activity occurs.

F. All Manufacturing Permits are subject to any additional conditions that may be applied by the City at the time of issuance or renewal as necessary to properly regulate the activity and protect the public.

G. All manufacturing activities shall be subject to an excise tax to be established by the City and the voters.

H. Manufacturing Permitees may not hold or use any other marijuana activity permits or licenses that would otherwise be a violation of the MMRSA or Business and Professions Code section 19328.

I. All Manufacturing Permitees shall enter into an agreement with the City to fully reimburse the City for all fiscal impacts, costs, expenses, fees, and attorneys' fees incurred by the City related to the Manufacturing Permit and the medical marijuana manufacturing activity.

J. All Manufacturing Permitees shall:

1. Carry liability insurance in the amounts and types set by the City Manager or the City Manager's designee, and name

the City as an additional insured on all such insurance policies.

2. Execute an Indemnification Agreement prepared by the City that fully indemnifies the City for all liabilities associated with the Manufacturing Permit, the Manufacturing Permitee's marijuana related activities, and any action taken by the Manufacturing Permitee pursuant to this Section.

3. Agree to defend the City, at the Manufacturing Permitee's sole expense, in any action against the City or its agents, officers, or employees associated with the Manufacturing Permit, the Manufacturing Permitee's marijuana related activities, or any action taken by the Manufacturing Permitee pursuant to this Section.

4. Agree to reimburse the City for all costs, expenses, fees, and attorney fees incurred by the City related to any action against the City or its agents, officers, or employees associated with the Manufacturing Permit, the Manufacturing Permitee's marijuana related activities, or any action taken by the Manufacturing Permitee pursuant to this Section. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

K. All Manufacturing Permitees shall keep the City and law enforcement updated with the names, addresses, and relevant criminal histories of all employees, facility managers, and other relevant parties for the medical marijuana manufacturing facility at all times. Relevant criminal histories shall include any drug-related or felony convictions, the nature of such offenses, and the sentences received for such convictions.

L. All Manufacturing Permitees shall account for job creation in the City and shall commit to employing a workforce that resides in the City. A minimum of 50% of all employees employed by the Manufacturing Permitee at the medical marijuana manufacturing facility shall be residents of the City. All Manufacturing Permitees shall use good faith efforts to comply with this subsection and shall report the residential composition of their workforce to the City every year and at any other time upon demand by the City Manager or the City Manager's designee.

M. Manufacturing Permits issued pursuant to this Section are not transferable to any third parties under any circumstances.

N. All Manufacturing Permits shall expire and be null and void 12 months after issuance to the Manufacturing Permitee unless properly renewed. Upon payment of the applicable Manufacturing Permit fees and passing the requisite Manufacturing Permit inspections, Manufacturing Permitees that have maintained compliance with all City, State, and other applicable marijuana and business related laws shall be entitled to renew their Manufacturing Permit subject to all prevailing laws at the time of renewal.

O. To the fullest extent permitted by law, the City does not assume any liability, and expressly does not waive sovereign immunity, with respect to any medical marijuana manufacturing activities or for the activities of any medical marijuana manufacturing facility.

(4) Conditional Use Permit. All parcels of real property in the Manufacturing Zone upon which medical marijuana manufacturing activities may occur must obtain a CUP from the City for all such activities.

(e) **Enforcement.**

(1) Any marijuana manufacturing within the City in violation of this Section is hereby declared to be unlawful and a public nuisance.

(2) Any party who engages in a violation of this Section, or who owns, possess, controls, or has charge of any parcel of real property in the City upon which a violation of the Section is maintained, shall be subject to the penalties and remedies provided by this Section.

(3) Any violation of this Section shall constitute a separate offense for each and every day the violation occurs or persists.

(4) Any person in violation of any provision of this Section shall be guilty of a misdemeanor and shall be punishable by a fine of up to $1,000 and up to six months imprisonment per offense.

(5) Any person in violation of any provision of this Section shall be punishable by an administrative fine of up to a $1,000 per offense.

(6) Any violation of this Section or any other City or State marijuana law by a Manufacturing Permitee or a Manufacturing Permitee's agent is grounds for revoking the Manufacturing Permitee's Manufacturing Permit. In

addition, the City Manager or the City Manager's designee may revoke a Manufacturing Permit if any of the following occur:

A. The City Manager or the City Manager's designee determines that the medical marijuana manufacturing facility has failed to comply with this Section, any condition of approval, or any agreement or covenant as required pursuant to this Section.

B. The medical marijuana manufacturing operations cease for more than 90 calendar days.

C. Ownership of the medical marijuana manufacturing facility is changed or transferred to third party.

D. The medical marijuana manufacturing facility fails to maintain 120 hours of security recordings.

E. The medical marijuana manufacturing facility fails to provide remote access to the security cameras to the City Manager, the City Manager's designee, or the Chief of Police, or fails to allow inspection of the security recordings, the activity logs, or of the premise by authorized City officials.

(7) Any decision regarding the revocation of a Manufacturing Permit may be appealed to an independent neutral third party administrative hearing officer appointed by the City Manager or the City Manager's designee ("Hearing Officer"). Said appeal shall be made by a notice of appeal from the person appealing within 15 days from the date of the decision. The appeal shall be accompanied by a written verified declaration setting forth the basis for the claim that the Manufacturing Permit was improperly revoked. The Hearing Officer's decision shall be final and binding upon the City and the appellant.

(8) These penalties and remedies are cumulative, and in addition to any other penalties and remedies available to the City.

Section 3. Recognizing that there is a potential conflict between federal and State law, it is the City Council's intention that this Ordinance shall be deemed to comply with California law as established by the MMRSA.

Section 4. The City Council determines that it is in the best interest of the residents of the City to allow cultivation and manufacturing facilities that comply with the MMRSA to be established and operated as permitted uses within certain areas of the

City subject to the regulations and restrictions provided in this Ordinance. It is the City Council's intention that nothing in this Ordinance shall be construed to:

1. Allow persons to engage in conduct that endangers others or causes a public nuisance.

2. Allow the use of marijuana for nonmedical purposes of any kind.

3. Allow any activity relating to marijuana that is otherwise not permitted under State law.

Section 5. The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) and 15305 of the Guidelines, in that the amendment does not have the potential for causing a significant effect on the environment.

Section 6. No use, business, or activity of any kind that cultivated or manufactured medical marijuana prior to the enactment of this Ordinance shall be deemed to have been a legally established use, and any such use shall not be entitled to claim legal nonconforming status.

Section 7. If any section or provision of this Ordinance is for any reason held to be invalid, unconstitutional, illegal, or unenforceable by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, then such section or provision shall be severed and shall be inoperative, and the remainder of this Ordinance shall remain in full force and effect.

Section 8. By regulating medical marijuana cultivation and manufacturing facilities, the City is only undertaking to preserve the general welfare through implementing the MMRSA. The City Council is not assuming, nor is it imposing on its officers and employees, an obligation for which a breach thereof would expose the City to liability in money damages to any person who claims that such breach proximately caused injury. To the fullest extent permitted by law, the City shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to any provision of this Ordinance or for the activities of any medical marijuana cultivation or manufacturing facility. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Ordinance shall not become a personal liability of any public officer or employee of the City. Nothing in this Ordinance shall be deemed or considered in any respects to constitute authorization to violate any law.

Section 9. The Mayor shall sign and the City Clerk shall certify passage and adoption of this Ordinance, and the City Clerk shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect 30 days after its final passage.

PASSED, APPROVED and ADOPTED this 25th day of May, 2016.

Mayor, Richard Kerr

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

I, Cindy Herrera, City Clerk of the City of Adelanto, do hereby certify that the foregoing Ordinance was introduced for a first reading on the 11th day of May, 2016, and approved for a second reading at a regular meeting of the City Council of the City of Adelanto held on the 25th day of May, 2016, by the following vote:

AYES: Council Members Glasper, Woodard, and Mayor Kerr

NOES: None

ABSTAIN: None

ABSENT: Council Member Camargo and Mayor Pro Tem Wright

ATTEST:

Cindy M. Herrera, City Clerk, City of Adelanto