

ORDINANCE NO. 553

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ADELANTO, COUNTY OF SAN BERNARDINO, CALIFORNIA,
AMENDING SECTION 17.80.080 OF THE ADELANTO MUNICIPAL
CODE REGARDING MEDICAL CANNABIS CULTIVATION AND
SECTION 17.80.090 REGARDING MEDICAL CANNABIS
MANUFACTURING, REPEALING SECTION 17.80.050 REGARDING
MEDICAL CANNABIS DISPENSARIES, AND ADDING SECTION
17.80.120 REGARDING MEDICAL CANNABIS DISPENSARIES**

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, dispensing, and delivery of medical cannabis, and which recognizes the authority of local jurisdictions to prohibit or impose additional restrictions on any such medical cannabis activity.

WHEREAS, on June 27, 2016, Governor Brown approved Senate Bill number 837 (“SB 837”), effective immediately, which amends the MMRSA and renames it the Medical Cannabis Regulation and Safety Act (“MCRSA”).

WHEREAS, the City of Adelanto (“City”) has previously adopted Adelanto Municipal Code (“AMC”) sections 17.80.080 and 17.80.090 to regulate medical cannabis cultivation and manufacturing, respectively, in the City.

WHEREAS, the City now wishes to amend AMC sections 17.80.080 and 17.80.090 to reflect SB 837’s changes to the MCRSA.

WHEREAS, the City also wishes to repeal AMC section 17.80.050, which prohibits medical cannabis dispensaries in the City, to comply with California law and allow for the dispensing and delivery of medical cannabis in accordance with applicable State laws.

WHEREAS, it is the purpose and intent of the City to regulate medical cannabis dispensing and delivery 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 cannabis dispensing and delivery.

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 cannabis, as scientific research, studies, and data have established that cannabis 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 cannabis for nonmedical purposes, or allows any activity relating to cannabis 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 are incorporated herein.

SECTION 2. AMC section 17.80.080 (Cultivation of Medical Marijuana) is hereby amended, and is to read in its entirety as follows:

17.80.080 Medical Cannabis Cultivation

- (a) **Purpose.** The purpose and intent of this Section is to regulate the cultivation of medical cannabis 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 MCRSA.
- (b) **Definitions.** For purposes of this Section, the following definitions shall apply, unless the context clearly indicates otherwise:
- (1) “Cultivation” shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, and other applicable State laws.
 - (2) “Cultivation Permit” means a City permit to operate an indoor medical cannabis cultivation facility pursuant to the terms and conditions of this Section and the conditions of approval for the permit.
 - (3) “Cultivation Permittee” 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.
 - (4) “CUP” means a Conditional Use Permit issued by the City in accordance with this Code.
 - (5) “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.
 - (6) “Indoors” means within a fully enclosed and secure structure.
 - (7) “MCRSA” means the California Medical Cannabis Regulation and Safety Act.
 - (8) “Medical cannabis” also means “medical marijuana” and shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, Health and Safety Code section 11018, and other applicable State laws.

- (9) “MMRSA” means the California Medical Marijuana Regulation and Safety Act.
- (10) “Outdoors” means any location within the City that is not within a fully enclosed and secure structure.
- (c) **Cannabis Cultivation Prohibited.** All cannabis cultivation within the City is prohibited except as expressly permitted by this Section.
- (d) **Indoor Medical Cannabis Cultivation Conditionally Permitted.** Indoor medical cannabis cultivation is conditionally permitted in the City only as expressly specified in this Section.
 - (1) Indoor Medical Cannabis Cultivation Standards. Indoor medical cannabis cultivation, within the City, shall be in conformance with the following standards:
 - A. Indoor medical cannabis 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 cannabis cultivation is a conditionally permitted use only on properties within the Manufacturing/Industrial (MI) zoning designation in the Industrial Park (“Cultivation Zone”).
 - C. No cannabis 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 cannabis cultivation is, or will be located, to the nearest property line of those uses described in this Subsection.
 - D. An indoor medical cannabis cultivation facility may not be located within the same unit as a cannabis manufacturing facility, distribution facility, transportation facility, testing facility, or dispensary.
 - E. Subject to the further requirements of this Section, only the following State cultivator license classification types specified in the MCRSA 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 cannabis cultivation is allowed only within a fully enclosed and secure structure that is inaccessible to minors.

- G. Indoor medical cannabis 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 cannabis cultivation activity.
- I. Indoor medical cannabis cultivation activity may include growing cannabis plants, harvesting cannabis plants, and drying cannabis flowers, but shall not include any extraction procedures to produce concentrated THC.
- J. Indoor medical cannabis 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. Each indoor medical cannabis cultivation facility shall fully comply with all of the applicable restrictions and mandates set forth in State law. An indoor medical cannabis cultivation facility shall comply with all size requirements for such facility as imposed by State law. An indoor medical cannabis cultivation facility shall not engage in any activities not allowed by an indoor medical cannabis cultivation facility pursuant to State law. An indoor medical cannabis cultivation facility 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 an indoor medical cannabis cultivation facility; however, restricted hours of operation may be established as a condition of approval of the Cultivation Permit or the applicable CUP.
- M. All medical cannabis shall be kept in a secured manner during all business and nonbusiness hours.
- N. An indoor medical cannabis cultivation facility shall operate within a legal structure that is compliant with all applicable State and local laws.
- O. An indoor medical cannabis cultivation facility must pay all applicable sales taxes pursuant to all federal, State, and local laws.
- P. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited on the premises of an indoor medical cannabis cultivation facility. The term "premises" as used in this Subsection includes the actual indoor medical cannabis cultivation building, as well as any accessory structures and parking areas. The indoor

medical cannabis cultivation facility building entrance shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming cannabis or alcohol on the premises or in the vicinity of the facility is prohibited.

- Q. Signage for an indoor medical cannabis cultivation facility 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. An indoor medical cannabis cultivation facility 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 cannabis 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 cannabis 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 MCRSA. Compliance with all requirements of State law pertaining to indoor cannabis cultivation is also required.
- U. An indoor medical cannabis cultivation facility shall not manufacture, process, distribute, transport, sell, dispense, or administer cannabis from the facility, unless expressly and affirmatively authorized by State law. An indoor medical cannabis cultivation facility shall not be operated as a cannabis manufacturing, distribution, transportation, or testing facility, or as a cannabis dispensary, unless expressly and affirmative authorized by State law.
- V. The operators of an indoor medical cannabis cultivation facility 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 cannabis cultivation facility. An indoor medical cannabis cultivation facility 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. An indoor medical cannabis cultivation facility 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 cannabis cultivation activities occur.
- X. An indoor medical cannabis cultivation facility 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 cannabis 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 of the indoor medical cannabis 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 cannabis cultivation facility shall be appropriately secured and all cannabis securely stored.

- Y. Recordings made by the security cameras shall be made available to the City Manager, the City Manager's designee, the City's Code Enforcement Manager, and 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, the City's Code Enforcement Manager, and law enforcement shall have the right to enter the indoor medical cannabis 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 cannabis 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 MCRSA, 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 cannabis 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 Cannabis Cultivation Standards.
 - E. The names, addresses, and relevant criminal histories of all potential employees, facility managers, and other relevant parties for the indoor medical cannabis 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 cannabis 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 cannabis 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 cannabis 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 cannabis 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 each Cultivation Permit:

- 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 cannabis cultivation facility is not allowed by State or local law.
 3. The applicant is not a legal representative of the indoor medical cannabis 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 cannabis 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. A Cultivation Permit 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 as determined by the City Manager or the City Manager's designee.
- 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 cannabis 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. A Cultivation Permit is subject to the conditions of approval in the applicable CUP for the parcel of real property upon which the indoor medical cannabis cultivation activity occurs.
- F. A Cultivation Permits is 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. A Cultivation Permittee may not hold or use any other cannabis activity permits or licenses that would otherwise be a violation of this Section, the MCRSA, or Business and Professions Code section 19328.
- I. A Cultivation Permittee 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 cannabis cultivation activity.
- J. A Cultivation Permittee 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 Permittee's cannabis related activities, and any action taken by the Cultivation Permittee pursuant to this Section.
 - 3. Agree to defend the City, at the Cultivation Permittee's sole expense, in any action against the City or its agents, officers, or employees associated with the Cultivation Permit, the Cultivation Permittee's cannabis related activities, or any action taken by the Cultivation Permittee 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 Permittee's cannabis related activities, or any action taken by the Cultivation Permittee 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. A Cultivation Permittee 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 cannabis 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. A Cultivation Permittee 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 Permittee at the indoor medical cannabis cultivation facility shall be residents of the City. A Cultivation Permittee shall use good faith efforts to comply with this subsection and shall report the residential composition of its workforce to the City every year and at any other time upon demand by the City Manager or the City Manager's designee.
 - M. A Cultivation Permit issued pursuant to this Section is not transferable to any third parties under any circumstances.
 - N. A Cultivation Permits shall expire and be null and void 12 months after issuance to the Cultivation Permittee unless properly renewed. Upon payment of the applicable Cultivation Permit fees and passing the requisite Cultivation Permit inspections, a Cultivation Permittee that has maintained compliance with all City, State, and other applicable cannabis and business related laws shall be entitled to renew its 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 cannabis cultivation activities or for the activities of any indoor medical cannabis cultivation facility.
- (4) Conditional Use Permit. All parcels of real property in the Cultivation Zone upon which indoor medical cannabis cultivation activities may occur must obtain a CUP from the City for all such activities.

- (5) Oversight Consultants. The City Manager or the City Manager's designee may establish an Oversight Consultant List to provide advice to City staff regarding the practical regulation of medical cannabis activities in the City on an as needed basis. The Oversight Consultant List will consist of experts and experienced participants in various disciplines related to commercial medical cannabis activities. The Oversight Consultants will not be a public body, will not meet on a regular schedule, and will not make or influence policy decisions by City staff. Rather specific individuals from the Oversight Consultant List will be contacted as necessary to provide specific advice based on their experience and expertise as a resource for City staff. The Oversight Consultants, as private citizens, may also proactively monitor medical cannabis activities in the City and report findings as necessary to City staff.

(e) **Enforcement.**

- (1) Any cannabis 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, possesses, 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 cannabis law by a Cultivation Permittee or a Cultivation Permittee's agent is grounds for revoking the Cultivation Permittee'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 cannabis 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 cannabis cultivation operations cease for more than 90 calendar days.

- C. Ownership of the indoor medical cannabis cultivation facility is changed or transferred to a third party.
 - D. The indoor medical cannabis cultivation facility fails to maintain 120 hours of security recordings.
 - E. The indoor medical cannabis cultivation facility fails to provide remote access to the security cameras to the City Manager, the City Manager's designee, the Code Enforcement Manager, or the Chief of Police, or fails to allow inspection of the security recordings, the activity logs, or of the premises 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.

SECTION 3. AMC section 17.80.090 (Manufacturing of Medical Marijuana) is hereby amended, and is to read in its entirety as follows:

17.80.090 Medical Cannabis Manufacturing

- (a) **Purpose.** The purpose and intent of this Section is to regulate the manufacturing of medical cannabis 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 cannabis research and manufacturing. The City is authorized to regulate this activity pursuant to the MCRSA.
- (b) **Definitions.** For purposes of this Section, the following definitions shall apply, unless the context clearly indicates otherwise:
- (1) "CUP" means a Conditional Use Permit issued by the City in accordance with this Code.
 - (2) "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.

- (3) “Manufacturer” and “manufacturing” shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, and other applicable State laws.
 - (4) “Manufacturing Permit” means a City permit to operate a medical cannabis manufacturing facility pursuant to the terms and conditions of this Section and the conditions of approval for the permit.
 - (5) “Manufacturing Permittee” 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.
 - (6) “MCRSA” means the California Medical Cannabis Regulation and Safety Act.
 - (7) “Medical cannabis” also means “medical marijuana” and shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, Health and Safety Code section 11018, and other applicable State laws.
 - (8) “MMRSA” means the California Medical Marijuana Regulation and Safety Act.
- (c) **Cannabis Manufacturing Prohibited.** All cannabis manufacturing within the City is prohibited except as expressly permitted by this Section.
- (d) **Medical Cannabis Manufacturing Conditionally Permitted.** Medical cannabis manufacturing is conditionally permitted in the City only as expressly specified in this Section.
- (1) Medical Cannabis Manufacturing Standards. Medical cannabis manufacturing, within the City, shall be in conformance with the following standards:
 - A. Medical cannabis 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 cannabis manufacturing is a conditionally permitted use only on properties within the Manufacturing/Industrial (MI) zoning designation in the Industrial Park (“Manufacturing Zone”).
 - C. No cannabis 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 cannabis manufacturing is, or will be located, to the nearest property line of those uses described in this Subsection.

- D. A medical cannabis manufacturing facility may not be located within the same unit a cannabis indoor cultivation facility, distribution facility, transportation facility, or dispensary.
- 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 MCRSA and Business and Professions Code sections 19300.7 and 19341.
- F. Medical cannabis manufacturing is allowed only within fully enclosed and secure structures that are inaccessible to minors.
- G. Medical cannabis 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 cannabis manufacturing activity.
- I. Medical cannabis 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. Each medical cannabis manufacturing facility shall fully comply with all of the applicable restrictions and mandates set forth in State law. A medical cannabis manufacturing facility shall comply with all size requirements for such facility as imposed by State law. A medical cannabis manufacturing facility shall not engage in any activities not allowed by a medical cannabis manufacturing facility pursuant to State law. A medical cannabis manufacturing facility 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 a medical cannabis manufacturing facility; however, restricted hours of operation may be established as a condition of approval of the Manufacturing Permit or the applicable CUP.

- L. All medical cannabis shall be kept in a secured manner during all business and nonbusiness hours.
- M. A medical cannabis manufacturing facility shall operate within a legal structure that is compliant with all applicable State and local laws.
- N. A medical cannabis manufacturing facility must pay all applicable sales taxes pursuant to all federal, State, and local laws.
- O. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited on the premises of a medical cannabis manufacturing facility. The term “premises” as used in this Subsection includes the actual medical cannabis manufacturing building, as well as any accessory structures and parking areas. The medical cannabis manufacturing facility building entrance shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming cannabis or alcohol on the premises or in the vicinity of the facility is prohibited.
- P. Signage for a medical cannabis manufacturing facility 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. A Medical cannabis manufacturing facility 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 cannabis 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 cannabis 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 MCRSA. Compliance with all

requirements of State law pertaining to medical cannabis manufacturing is also required.

- T. A medical cannabis manufacturing facility shall not grow, cultivate, distribute, transport, sell, dispense, or administer cannabis from the facility, unless expressly and affirmatively authorized by State law. A medical cannabis manufacturing facility shall not be operated as a cannabis cultivation, distribution, transportation, or testing facility, or as a cannabis dispensary, unless expressly and affirmatively authorized by State law.
- U. The operators of a medical cannabis manufacturing facility 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 cannabis manufacturing facility. A medical cannabis manufacturing facility 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. A medical cannabis manufacturing facility 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 cannabis manufacturing activities occur.
- W. A medical cannabis manufacturing facility 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 cannabis 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 of the medical cannabis 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 cannabis manufacturing facility shall be appropriately secured and all cannabis 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 cannabis 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. A medical cannabis manufacturing facility must employ full time quality control personnel. The Manufacturing Permittee must establish Standard Operating Procedures and Batch Records that comply with current Good Manufacturing Practices and the MCRSA 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 cannabis manufacturing facility must be labeled in compliance with the MCRSA, 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 cannabis manufacturing facility must be packaged in child resistant containers prior to leaving the facility or becoming commercially available in accordance with the MCRSA, Business and Profession

Code section 19347, the State Department of Public Health regulations, and other applicable State laws.

- CC. All batches of final cannabis products 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 MCRSA, Business and Professions Code sections 19326 and 19342, the Department of Food and Agriculture regulations, and the State Department of Public Health regulations.
 - DD. A medical cannabis manufacturing facility shall only use nonvolatile solvents that have been approved by the State Department of Public Health for medical cannabis level 1 manufacturing. Until such time as any such nonvolatile solvents are approved by the State Department of Public Health for medical cannabis level 1 manufacturing, a medical cannabis manufacturing facility 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 devices used by a medical cannabis manufacturing facility 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 cannabis 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 cannabis 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 Cannabis Manufacturing Standards.
- E. The names, addresses, and relevant criminal histories of all potential employees, facility managers, and other relevant parties for the medical cannabis 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 cannabis 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 cannabis 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 cannabis 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 cannabis 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 each Manufacturing Permit:

- 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 cannabis manufacturing facility is not allowed by State or local law.
 3. The applicant is not a legal representative of the medical cannabis 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 cannabis related offenses for which the conviction occurred prior to passage of the 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. A Manufacturing Permit 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 as determined by the City Manager or the City Manager's designee.
- 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 cannabis 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. A Manufacturing Permit is subject to the conditions of approval in the applicable CUP for the parcel of real property upon which the medical cannabis manufacturing activity occurs.
- F. A Manufacturing Permit is 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. A Manufacturing Permittee may not hold or use any other cannabis activity permits or licenses that would otherwise be a violation of the MCRSA or Business and Professions Code section 19328.
- I. A Manufacturing Permittee 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 cannabis manufacturing activity.
- J. A Manufacturing Permittee 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

Permittee's cannabis related activities, and any action taken by the Manufacturing Permittee pursuant to this Section.

3. Agree to defend the City, at the Manufacturing Permittee's sole expense, in any action against the City or its agents, officers, or employees associated with the Manufacturing Permit, the Manufacturing Permittee's cannabis related activities, or any action taken by the Manufacturing Permittee 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 Permittee's cannabis related activities, or any action taken by the Manufacturing Permittee 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. A Manufacturing Permittee 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 cannabis 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. A Manufacturing Permittee 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 Permittee at the medical cannabis manufacturing facility shall be residents of the City. A Manufacturing Permittee shall use good faith efforts to comply with this subsection and shall report the residential composition of its workforce to the City every year and at any other time upon demand by the City Manager or the City Manager's designee.
- M. A Manufacturing Permit issued pursuant to this Section is not transferable to any third parties under any circumstances.
- N. A Manufacturing Permit shall expire and be null and void 12 months after issuance to the Manufacturing Permittee unless properly renewed. Upon payment of the applicable Manufacturing Permit fees and passing the requisite Manufacturing Permit inspections, a Manufacturing Permittee that has maintained compliance with all City, State, and other applicable cannabis and business related laws

shall be entitled to renew its 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 cannabis manufacturing activities or for the activities of any medical cannabis manufacturing facility.
- (4) Conditional Use Permit. All parcels of real property in the Manufacturing Zone upon which medical cannabis manufacturing activities may occur must obtain a CUP from the City for all such activities.

(e) **Enforcement.**

- (1) Any cannabis 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 cannabis law by a Manufacturing Permittee or a Manufacturing Permittee's agent is grounds for revoking the Manufacturing Permittee'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 cannabis 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 cannabis manufacturing operations cease for more than 90 calendar days.
 - C. Ownership of the medical cannabis manufacturing facility is changed or transferred to a third party.

- D. The medical cannabis manufacturing facility fails to maintain 120 hours of security recordings.
 - E. The medical cannabis manufacturing facility fails to provide remote access to the security cameras to the City Manager, the City Manager's designee, the Code Enforcement Manager, or the Chief of Police, or fails to allow inspection of the security recordings, the activity logs, or of the premises 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 4. AMC section 17.80.050 (Medical Marijuana Dispensaries) is hereby repealed in its entirety.

SECTION 5. AMC section 17.80.120 (Medical Cannabis Dispensaries) is hereby added, and is to read in its entirety as follows:

17.80.120 Medical Cannabis Dispensaries

- (a) **Purpose.** The purpose and intent of this Section is to regulate the dispensing and delivery of medical cannabis that is sold in accordance with State law in order to promote the health, safety, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the MCRSA.
- (b) **Definitions.** For purposes of this Section, the following definitions shall apply, unless the context clearly indicates otherwise:
 - (1) "CUP" means a Conditional Use Permit issued by the City in accordance with this Code.
 - (2) "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.

- (3) “Deliver,” “Delivering,” and “Delivery” shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, and other applicable State laws.
 - (4) “Dispensary,” “Dispense,” and “Dispensing” shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, and other applicable State laws. Dispensing shall include the acts of advertising, offering for sale, selling, providing, giving away, and delivering any medical cannabis products to any individual, customer, qualified patient, primary care provider, or end user.
 - (5) “Dispensary Permit” means a City permit to dispense and deliver medical cannabis in accordance with the terms and conditions of this Section and the conditions of approval for the permit.
 - (6) “Dispensary Permittee” means a person or entity that has been issued a Dispensary Permit by the City pursuant to the terms and conditions of this Section.
 - (7) “MCRSA” means the California Medical Cannabis Regulation and Safety Act.
 - (8) “Medical cannabis” also means “medical marijuana” and shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, Health and Safety Code section 11018, and other applicable State laws.
 - (9) “Medical Cannabis Permittee” means a person or entity that has been issued a permit by the City, or another city in the State of California in accordance with the MCRSA or other applicable State laws, to participate in a commercial medical cannabis activity, such as cultivation, manufacturing, distribution, transportation, testing, or dispensing.
 - (10) “MMRSA” means the California Medical Marijuana Regulation and Safety Act.
- (c) **Cannabis Dispensing and Delivery Prohibited.** All cannabis dispensing and delivery within the City is prohibited except as expressly permitted by this Section.
- (d) **Dispensing and Delivery of Medical Cannabis Conditionally Permitted.** Dispensing and delivery of medical cannabis is conditionally permitted in the City only as expressly specified in this Section.

- (1) Medical Cannabis Dispensary Standards. Medical cannabis dispensing and delivery within the City shall be in conformance with the following standards:
- A. Medical cannabis dispensing and delivery shall only be allowed upon application and approval of a Dispensary Permit and a CUP in accordance with the criteria and process set forth in this Section and this Code.
 - B. Medical cannabis dispensing and delivery is a conditionally permitted use only on properties within the Dispensary Overlay Zones.
 - C. Medical cannabis dispensing activities may only include the selling of medical cannabis from a dispensary and the delivery of medical cannabis from a dispensary to a qualified patient or primary caregiver.
 - D. No cannabis cultivation shall be established, developed, or operated within 600 feet of a school, public playground or park, child care or day care facility, youth center, or church, nor within 500 feet of a residential property. 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 cannabis cultivation is, or will be located, to the nearest property line of those uses described in this Subsection.
 - E. Cannabis dispensaries may not be located within the same unit of a building or structure as an indoor cannabis cultivation, manufacturing, distribution, transportation, or testing facility.
 - F. Medical cannabis dispensing and delivery is allowed only within fully enclosed and secure structures that are inaccessible to minors.
 - G. Medical cannabis dispensing and delivery activities shall not exceed the square footage authorized pursuant to the applicable CUP.
 - H. From any public right-of-way, there shall be no visible exterior evidence of any cannabis dispensing or delivery activity.
 - I. Cannabis dispensing and delivery shall not adversely affect the health or safety of any 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. Each cannabis dispensary shall fully comply with all of the applicable restrictions and mandates set forth in State law. Each cannabis dispensary shall comply with all size requirements for such facility as imposed by State law. A cannabis dispensary shall not engage in any activities not allowed by a medical cannabis dispensary pursuant to State law. A cannabis dispensary shall comply with all horticultural, labeling, processing, and other standards required by State law.
- K. Medical cannabis dispensaries shall only be operated between the hours of 6:00 a.m. and 9:00 p.m. or as otherwise established as a condition of approval of the Dispensary Permit or the applicable CUP.
- L. All cannabis shall be kept in a secured manner during all business and nonbusiness hours.
- M. Each cannabis dispensary shall operate within a legal structure that is compliant with all applicable State and local laws.
- N. Each cannabis dispensary must pay all applicable sales taxes pursuant to all federal, State, and local laws.
- O. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited on the premises of all cannabis dispensaries except for medical cannabis used by qualified patients in well ventilated private lounges that are partitioned off from access to all other areas of the dispensary, are designed to prevent the flow of smoke to any other area, and are otherwise operated in compliance with Labor Code section 6404.5 and other applicable State laws for "private smokers' lounges." The term "premises" as used in this Subsection includes the actual cannabis dispensary building, as well as any accessory structures and parking areas. The cannabis dispensary building entrance shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming cannabis or alcohol on the premises, or in the vicinity of the dispensary, is prohibited except in designated lounges that comply with the mandates of this Subsection.
- P. Signage for each cannabis dispensary shall be limited to name of the business only, shall be in compliance with the City's sign code, and shall contain no advertising of any other 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. A cannabis dispensary 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 cannabis dispensary.

- R. Physician services and medical cannabis recommendations shall not be provided on the cannabis dispensary premises.
- S. The building in which any dispensary 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 MCRSA. Compliance with all requirements of State law pertaining to medical cannabis dispensing and delivery is also required.
- T. A cannabis dispensary shall not grow, cultivate, manufacture, or process cannabis from the dispensary, unless expressly and affirmatively authorized by State law. A cannabis dispensary shall not be operated as a cannabis cultivation, manufacturing, distribution, transportation, or testing facility, unless expressly and affirmatively authorized by State law.
- U. The operators of a cannabis dispensary shall provide the City Manager or the City Manager's designee with the name, cell 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 cannabis dispensary. Each cannabis dispensary 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. A cannabis dispensary shall be operated in accordance with the conditions of approval associated with the applicable CUP for the parcel of real property upon which the cannabis dispensing or delivery activities occur.
- W. Dispensary Permittees shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis products and theft of medical cannabis products from the dispensary.

- X. A cannabis dispensary 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, seven days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, dispensing areas, delivery 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, the Code Enforcement 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 cannabis dispensary shall be secured with an alarm system that is operated and monitored by a reputable security company.
 3. Entrance to the dispensing or delivery areas, and all storage areas, shall be locked at all times, and under the control of the medical cannabis dispensary's staff.
 4. All medical cannabis shall be stored in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, or loss.
 5. The entrances and all window areas shall be illuminated during evening hours. The dispensary 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.
 6. All windows on the building that houses the cannabis dispensary shall be appropriately secured.
 7. No loitering—individuals shall not be allowed to remain on the premises of the dispensary unless they are engaging in activity expressly related to the operations of the dispensary.
- Y. Recordings made by the security cameras shall be made available to the City Manager, the City Manager's designee, the City's Code Enforcement Manager, and 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, the City's Code Enforcement Manager, and law enforcement shall have the right to enter the cannabis dispensary 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. A Dispensary Permittee shall notify the City Manager or the City Manager's designee within 24 hours of discovering any of the following:
 - 1. Significant discrepancies identified during inventory. The level of significance shall be determined by the City Manager or the City Manager's designee.
 - 2. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary.
 - 3. The loss or unauthorized alteration of records related to medical cannabis, registered qualifying patients, primary caregivers, or dispensary agents or employees.
 - 4. Any other breach of security.
- BB. A Dispensary Permittee shall not dispense or deliver medical cannabis to any person without a physician's recommendation.
- CC. A Dispensary Permittee shall only dispense or deliver medical cannabis to individuals who provide government-issued identification and adequate documentation demonstrating qualification to purchase, obtain, or possess medical cannabis.
- DD. Physician's recommendations shall be verified by a Dispensary Permittee prior to dispensing or delivering any medical cannabis to a qualified patient or primary caregiver, and at least every six months thereafter.
- EE. A dispensary may not employ or enter into any agreements with any physicians who recommend medical cannabis.
- FF. A Dispensary Permittee shall inspect all cannabis and cannabis products received for quality assurance prior to dispensing or delivering to any person.
- GG. Each dispensary shall dispense and deliver medical cannabis products only after those medical cannabis products have been

inspected and quality tested by a qualified third party testing facility as required by the MCRSA, Business and Professions Code sections 19326 and 19342, the Department of Food and Agriculture regulations, and the State Department of Public Health regulations.

- HH. Each dispensary shall do regular monthly inventories, and shall record the total quantity of cannabis on the premises. These records shall be maintained for three years from the date created and shall be open to inspection by the City Manager, the City Manager's Designee, Code Enforcement, and law enforcement.
- II. A Dispensary Permittee shall register with the City each location where cannabis is stored for purposes of dispensing or delivery.
- JJ. A dispensary shall maintain patient records in a secure location within the City, available for inspection upon demand by the City Manager, the City Manager's designee, Code Enforcement, or law enforcement. Such records shall include, without limitation, a copy of the physician's recommendation and, if using a primary caregiver, a notarized written authorization from the patient to be represented by such primary caregiver.
- KK. During the delivery of medical cannabis, each vehicle driver shall carry a copy of the Dispensary Permit, a copy of the delivery request, a form of government-issued identification, and all other information required by State law. The driver shall present these documents upon the request of law enforcement, Code Enforcement, the City Manager, or the City Manager's designee.
- LL. Prior to sale at a dispensary or delivery, cannabis products shall be labeled and placed in a tamper-evident package. Labels and packages of medical cannabis products shall, at minimum, meet the requirements specified under Business and Professions Code section 19347 and other applicable State laws.
- MM. All cannabis delivery vehicles shall:
 - 1. Be equipped with, and utilize, a vehicle alarm system.
 - 2. Have and utilize a direct communication system with the dispensary.
 - 3. Keep all cannabis in a secure and locked container.
 - 4. Have an internal partition between the driver and all passengers from the cannabis storage containers that

prevents access by the driver and passengers to all cannabis products from inside the vehicle.

5. Not carry more cannabis than allowed by State law and required to fulfill all immediate delivery requests.

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

- A. The address of the applicant's headquarters.
- B. An estimate of the size of the proposed medical cannabis dispensary.
- C. The address of the location for which the Dispensary Permit is sought. Only one Dispensary Permit will be issued per location.
- D. A site plan and floor plan for the proposed premises denoting the use of all areas on the premises, including storage, dispensing and delivery areas, lighting, signage, etcetera.
- E. A proposed security plan in compliance with the Medical Cannabis Dispensary Standards.
- F. The names, addresses, and relevant criminal histories of all potential employees, facility managers, and other relevant parties for the dispensary. Relevant criminal histories shall include any drug-related or felony convictions, the nature of such offenses, and the sentences received for such convictions.
- G. The name and address of the owner and lessor of the real property upon which the medical cannabis dispensary 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 cannabis dispensary may be operated on the property.
- H. Authorization for the City Manager or the City Manager's designee to seek verification of the information contained within the application.
- I. Evidence that the medical cannabis dispensary will be located in a legal structure that is compliant with all applicable State and local laws.

- J. Evidence that the medical cannabis dispensary has registered with the City all locations where medical cannabis will be stored for purposes of dispensing or delivery.
 - K. 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.
 - L. Any such additional and further information as is deemed necessary by the City Manager or the City Manager's designee to administer this Section.
 - M. The City Manager or the City Manager's designee shall conduct a background check of any applicant seeking a Dispensary Permit, including all potential employees and any person who may be a facility manager or otherwise responsible for the activities of the medical cannabis dispensary ("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.
 - N. 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 dispensary.
 - 2. The security plan for the dispensary.
 - 3. The experience of the operators of the dispensary.
 - 4. The adequacy of capitalization for the dispensary and its operations.
 - 5. The employment of City residents and other public benefits to the City.
- (3) Dispensary Permit. The following conditions apply to each Dispensary Permit:
- A. A Dispensary 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 cannabis dispensary is not allowed by State or local law.
 3. The applicant is not a legal representative of the medical cannabis dispensary.
 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, distribution, transportation, or any such similar activity related to controlled substances, with the exception of cannabis 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. A Dispensary Permit shall be awarded by the City to eligible Dispensary Permit applicants in order of the Merit List as established by the City Manager or the City Manager's designee. The number of Dispensary Permits issued shall be limited to one Dispensary Permit per 8,500 City residents.
- C. Only one Dispensary 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.
- D. A Dispensary Permit is subject to the conditions of approval in the applicable CUP for the parcel of real property upon which the medical cannabis dispensing or delivery activity occurs.
- E. A Dispensary Permit is 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 cannabis dispensing or delivery activities and to protect the public.
- F. A Dispensary Permittee may not hold or use any other cannabis related permits or licenses that would otherwise be a violation of this Code, the MCRSA, or Business and Professions Code section 19328.

- G. Before a Dispensary Permit will be issued to an applicant, Dispensary Permit fees must be paid to offset all foreseeable costs to the City for all dispensary related operations. Dispensary Permittees 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 Dispensary Permit and the cannabis dispensing and delivery activity not collected at the time the Dispensary Permit is issued.
- H. A Dispensary Permittee 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 Dispensary Permit, the Dispensary Permittee's cannabis related activities, and any action taken by the Dispensary Permittee pursuant to this Section.
 3. Defend the City, at the Dispensary Permittee's sole expense, in any action against the City or its agents, officers, or employees associated with the Dispensary Permit, the Dispensary Permittee's cannabis related activities, or any action taken by the Dispensary Permittee 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 Dispensary Permittee of its indemnification and reimbursement obligations.
 4. Reimburse the City for all costs, expenses, fees, and attorneys' fees incurred by the City related to any action against the City or its agents, officers, or employees associated with the Dispensary Permit, the Dispensary Permittee's cannabis related activities, or any action taken by the Dispensary Permittee pursuant to this Section.
- I. Each Dispensary Permittee 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 cannabis dispensary at all times. Relevant criminal histories shall include any drug-related or felony convictions, the nature of any such offenses, and the sentences received for such convictions.

- J. A Dispensary Permittee shall account for job creation in the City and shall commit to employing a workforce that resides in the City. A minimum of 50 percent of all employees employed by the Dispensary Permittee at the medical cannabis dispensary shall be residents of the City. A Dispensary Permittee shall use good faith efforts to comply with this Subsection and shall report the residential composition of its workforce to the City every year and at any other time upon demand by the City Manager or the City Manager's designee.
 - K. A Dispensary Permit issued pursuant to this Section is not transferable to any third parties under any circumstances.
 - L. A Dispensary Permit shall expire and be null and void 12 months after issuance to the Dispensary Permittee unless properly renewed. Upon payment of the applicable Dispensary Permit fees, and passing the requisite Dispensary Permit inspections, a Dispensary Permittee that has maintained compliance with all City, State, and other applicable cannabis and business related laws shall be entitled to renew its Dispensary Permit subject to all prevailing laws at the time of renewal.
 - M. 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 cannabis dispensing or delivery activities, or for the activities of any cannabis dispensary.
- (4) Conditional Use Permit. All parcels of real property in the Dispensary Overlay Zones, upon which cannabis dispensing or delivery activities may occur, must obtain a CUP from the City for all such activities.
- (e) **Enforcement.**
- (1) Any cannabis dispensing or delivery activities within the City in violation of this Section are hereby declared to be unlawful and a public nuisance.
 - (2) Any party who engages in any violation of this Section, or who owns, possesses, 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 per day.

- (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 per day.
- (6) Any violation of this Section or any other City or State cannabis law by a Dispensary Permittee, or a Dispensary Permittee's agent, is grounds for revoking the relevant Dispensary Permit. In addition, the City Manager or the City Manager's designee may revoke a Dispensary Permit if any of the following occur:
 - A. The City Manager or the City Manager's designee determines that the cannabis dispensary 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 cannabis dispensing or delivery operations cease for more than 90 calendar days.
 - C. Ownership of the medical cannabis dispensary is changed or transferred to a third party.
 - D. The medical cannabis dispensary fails to maintain 120 hours of security recordings.
 - E. The medical cannabis dispensary fails to provide remote access to the security cameras to the City Manager, the City Manager's designee, the Code Enforcement Manager, or the Chief of Police, or fails to allow inspection of the security recordings, the activity logs, or of the premises by authorized City officials.
- (7) Any decision regarding the revocation of a Dispensary 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 to revoke the Dispensary Permit. The appeal shall be accompanied by a written verified declaration setting forth the basis for the claim that the Dispensary 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 6. 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 MCRSA.

SECTION 7. The City Council determines that it is in the best interest of the residents of the City to allow dispensaries that comply with the MCRSA 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 cannabis for nonmedical purposes of any kind.
3. Allow any activity relating to cannabis that is otherwise not permitted under State law.

SECTION 8. The City Council finds that these amendments to the Zoning Code are consistent with the goals, policies, and objectives of the City's General Plan, and that they will not adversely affect properties surrounding the Dispensary Overlay Zones.

SECTION 9. 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 Ordinance alone does not have the potential for causing a significant effect on the environment. Further permits and approvals will be required before any activity that will affect the environment will be permitted.

SECTION 10. No use, business, or activity of any kind that dispensed or delivered medical cannabis 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 11. 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.

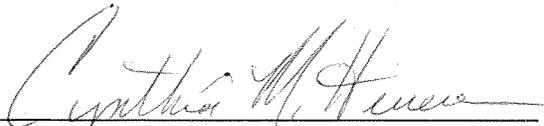
SECTION 12. By regulating medical cannabis dispensaries, the City is only undertaking to preserve the general welfare through implementing the MCRSA. The City Council is not assuming, nor is it imposing on its officers and employees, an obligation for which a breach thereof would expose the City to liability 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 cannabis dispensary. 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 13. 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 24th day of May, 2017.

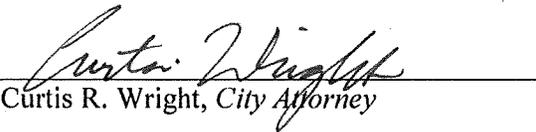


Rich Kerr, *Mayor*



Cynthia M. Herrera, MMC
City Clerk

APPROVED AS TO FORM:



Curtis R. Wright, *City Attorney*

I, Cindy Herrera, City Manager/City Clerk of the City of Adelanto, California, do hereby certify that the foregoing Ordinance No. 553 was duly introduced for first reading on May 17, 2017 and regularly adopted at a regular meeting of the City Council of the City of Adelanto on May 24, 2017 by the following vote, to wit:

AYES: Council Members Woodard, Glasper, Mayor Pro Tem Wright,
and Mayor Kerr

NOES: Council Member Camargo

ABSENT: None

ABSTAIN: None

IN WITNESS THEREOF, I hereunto set my hand and affix the official seal of the City of Adelanto on this 25th day of May, 2017.


Cynthia M. Herrera, MMC, *City Manager*
City Clerk

SEAL