

**ORDINANCE NO. 572**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ADELANTO, COUNTY OF SAN BERNARDINO, CALIFORNIA, AMENDING SECTION 17.80.090 OF THE ADELANTO MUNICIPAL CODE REGARDING MEDICAL CANNABIS MANUFACTURING TO PERMIT AND REGULATE VOLATILE MANUFACTURING OF CANNABIS WITHIN THE CITY**

**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**, on April 28, 2017, the State Department of Public Health issued its proposed regulations (“Proposed Regulations”) to promulgate rules pursuant to MCRSA and further regulate medical cannabis manufacturing within the State;

**WHEREAS**, on June 27, 2017, Governor Brown signed Senate Bill 94 into law to combine MCRSA and AUMA into a single regulatory scheme known as the Medical and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”);

**WHEREAS**, both the Proposed Regulations and MAUCRSA provide for and regulate both volatile and non-volatile manufacturing of medical cannabis;

**WHEREAS**, the City of Adelanto (“City”) has previously adopted Adelanto Municipal Code (“AMC”) section 17.80.090 to regulate medical cannabis manufacturing within the City;

**WHEREAS**, AMC section 17.80.090 permits and regulates medical cannabis manufacturing using non-volatile solvents, but prohibits using volatile solvents;

**WHEREAS**, the City now wishes to amend AMC section 17.80.090 to also permit and regulate volatile manufacturing within the City in order to conform with State law and the Proposed Regulations;

**WHEREAS**, the Adelanto Planning Commission (“Planning Commission”) adopted Resolution No. PC-17-25 on June 6, 2017 recommending to the City Council approval of Ordinance 572 after finding that the proposed amendments are consistent with the goals, policies, and objectives of the General Plan, and will not adversely affect surrounding properties; and

**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 17.80.090 (Medical Cannabis Manufacturing) is hereby amended 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 MAUCRSA.
- (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) “Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.
  - (3) “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.
  - (4) “Infusion” means a process by which cannabis, cannabinoids, cannabis concentrates, or manufactured cannabis are directly incorporated into a product formulation to produce a cannabis product.
  - (5) “Manufacturer” and “manufacturing” shall be defined in accordance with Business and Professions Code section 19300.5, and other applicable State laws.

- (6) "Manufacturing Permit" means a City permit to conduct non-volatile manufacturing of medical cannabis, issued prior to August 11, 2017.
- (7) "Manufacturing Permittee" means an applicant who has applied for and has been issued a Manufacturing Permit by the City.
- (8) "MAUCRSA" means the California Medical and Adult Use Cannabis Regulation and Safety Act.
- (9) "Medical cannabis" also means "medical marijuana" and shall be defined in accordance with the Business and Professions Code section 26001, Health and Safety Code section 11018, and other applicable State laws.
- (10) "Non-Volatile manufacturing" means and refers to the manufacturing of medical cannabis using non-volatile solvents.
- (11) "Non-Volatile Manufacturing Permit" means a City permit to conduct non-volatile manufacturing pursuant to the terms and conditions of this Section and the conditions of approval for the permit. Non-Volatile Manufacturing Permits shall include Manufacturing Permits, as that term is defined in this Section.
- (12) "Non-Volatile Manufacturing Permittee" means an applicant who has applied for and has been issued a Non-Volatile Manufacturing Permit by the City pursuant to the terms and conditions of this Section. Non-Volatile Manufacturing Permittees shall include Manufacturing Permittees, as that term is defined in this Section.
- (13) "Non-Volatile solvent" means any solvent used in the extraction process that is not a volatile solvent. For purposes of this Section, a non-volatile solvent includes carbon dioxide used for extraction.
- (14) "Volatile manufacturing" means and refers to the manufacturing of medical cannabis using volatile solvents.
- (15) "Volatile Manufacturing Permit" means a City permit to conduct volatile and non-volatile manufacturing pursuant to the terms and conditions of this Section and the conditions of approval for the permit.
- (16) "Volatile Manufacturing Permittee" means an applicant who has applied for and has been issued a Volatile Manufacturing Permit by the City pursuant to the terms and conditions of this Section.
- (17) "Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, propane, and ethanol.

- (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 Non-Volatile or Volatile Manufacturing Permit and a CUP in accordance with the criteria and process set forth in this Section and this Code. Non-Volatile Manufacturing Permittees shall not conduct volatile manufacturing of medical cannabis. Volatile Manufacturing Permittees may conduct non-volatile and volatile manufacturing of medical cannabis.
    - B. Medical cannabis manufacturing is a conditionally permitted use only on properties within the City's Cannabis Overlay Zones.
    - 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 as a cannabis indoor cultivation facility, distribution facility, transportation facility, testing laboratory, or dispensary. Separate units can be within the same building, but must be separated by a permanent wall and have separate entrances from, and exits to, the exterior.
    - E. Subject to the further requirements of this Section, only State manufacturer license classifications Type 6 level 1 and Type 7 level 2 will be allowed to operate in the City in accordance with MAUCRSA and Business and Professions Code section 26130.
    - 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 Non-Volatile or Volatile 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 MAUCRSA. 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 and action of the City.
- 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 security company duly licensed by the State Department of Consumer Affairs – Bureau of Security and Investigative Services.
  - 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 Non-Volatile or Volatile Manufacturing Permittee must establish Standard Operating Procedures and Batch Records that comply with current Good Manufacturing Practices and MAUCRSA 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 MAUCRSA, Business and Profession Code section 26106, 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 MAUCRSA, Business and Profession Code section 26120, 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 MAUCRSA, Business and Professions Code section 26110, other applicable State laws, the Department of Food and Agriculture regulations, and the State Department of Public Health regulations.
- DD. A Non-Volatile Manufacturing Permittee shall only use non-volatile solvents that have been approved by the State Department of Public Health for medical cannabis level 1 manufacturing. A Volatile Manufacturing Permittee shall only use non-volatile or volatile solvents that have been approved by the State Department of Public Health for medical cannabis level 1 or level 2 manufacturing.

- EE. All processing and analytical testing devices used by a Non-Volatile or Volatile Manufacturing Permittee 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 Non-Volatile or Volatile Manufacturing Permittee that utilize hydrocarbons or otherwise flammable solvents must operate in a closed loop system in conformance with the standards described in this Section, 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.
- GG. Permissible Extractions. Each Non-Volatile or Volatile Manufacturing Permittee shall be permitted to conduct cannabis extractions in conformance with State law and the requirements of this Section. Each Non-Volatile or Volatile Manufacturing Permittee shall specify any extraction methods it intends to use in its Non-Volatile or Volatile Manufacturing Permit application. Cannabis extraction shall only be permitted using the following methods:
1. Mechanical extraction, such as screens or presses.
  2. Chemical extraction using a non-volatile solvent, such as a nonhydrocarbon-based solvent, water, vegetable glycerin, vegetable oils, animal fats, or food grade glycerin. Nonhydrocarbon-based solvents shall be food grade.
  3. Chemical extraction using a closed loop carbon dioxide gas extraction system in conformance with the standards described in this Section.
  4. Volatile Manufacturing Permittees may conduct chemical extractions using a volatile solvent; provided that hydrocarbon-based solvents are at least 99 percent pure, and that all extractions are performed in a closed loop extraction system in conformance with the standards described in this Section.
  5. Any other method authorized by the State Department of Public Health.

HH. Closed Loop Extraction System Requirements. Chemical extractions using carbon dioxide or a volatile solvent shall be conducted in a professional closed loop extraction system (“System”) in conformance with the following standards:

1. The System shall be commercially manufactured and bear a permanently affixed and visible serial number.
2. The System shall be certified by a licensed engineer to be commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as the American Society of Mechanical Engineers (“ASME”) or UL. The certification document must contain the signature and stamp of a professional engineer and the serial number of the System being certified.
3. The System and the System’s equipment, extraction operation, and facility must comply with all applicable fire, safety, and building code standards.
4. The System and the System’s equipment, extraction operation, and facility must be approved by the Fire Department. As an alternative to this requirement, each Non-Volatile or Volatile Manufacturing Permittee may elect to hire a private contractor to conduct all necessary inspections of the System and approve the System (“Private Option”); provided that the Non-Volatile or Volatile Manufacturing Permittee receives prior authorization from the City Manager’s designee to participate in the Private Option, and pays for all costs associated therewith.

II. Each Non-Volatile or Volatile Manufacturing Permittee shall be able to conduct cannabis infusions in conformance with State law and the requirements of this Section. Each Non-Volatile or Volatile Manufacturing Permittee shall specify any infusion methods it intends to use in its respective Non-Volatile or Volatile Manufacturing Permit application.

(2) Manufacturing Permits Issued Prior to August 11, 2017. Any Manufacturing Permittee with a valid Manufacturing Permit from the City issued prior to August 11, 2017 (“Prior Permittee”) shall be permitted to conduct non-volatile manufacturing of medical cannabis in accordance with all the standards and requirements enumerated in this Section. A Prior Permittee shall not be permitted to conduct volatile manufacturing of medical cannabis under a Manufacturing Permit issued prior to August 11, 2017. To conduct volatile manufacturing of medical cannabis, a Prior

Permittee must obtain a separate permit issued pursuant to this Section. Moreover, no use, business, or activity of any kind that engaged in volatile manufacturing of medical cannabis prior to the enactment of this Section shall be deemed to have been a legally established use, and any such use shall not be entitled to claim legal nonconforming status.

(3) Non-Volatile and Volatile Manufacturing Permit Applications. Any applicant wishing to obtain a Non-Volatile or Volatile Manufacturing Permit from the City shall file an application with the City upon a form provided by the City and shall pay an application fee as established by the City. An application for a Non-Volatile or Volatile 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 Non-Volatile or Volatile Manufacturing Permit is sought. Only one Non-Volatile or Volatile 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 Non-Volatile or Volatile 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.
- M. An application for a Non-Volatile or Volatile Manufacturing Permit shall also specify any cannabis extraction or infusion methods the applicant intends to use at its manufacturing facility.

- (4) Non-Volatile and Volatile Manufacturing Permits. The following conditions apply to each Non-Volatile or Volatile Manufacturing Permit:
- A. A Non-Volatile or Volatile 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. Legal representative as used in this section includes an owner of the medical cannabis manufacturing facility, as defined in Business and Professions Code section 26001(al).
  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 Non-Volatile or Volatile Manufacturing Permit shall be awarded by the City to eligible applicants in order of the Merit List as established by the City Manager or the City Manager's designee. The number of Non-Volatile and Volatile Manufacturing Permits shall be limited to those that may be reasonably accommodated within the City's Cannabis Overlay Zones as determined by the City Manager or the City Manager's designee.
- C. Before a Non-Volatile or Volatile Manufacturing Permit can be issued to an applicant, 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 Non-Volatile or Volatile 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. A Non-Volatile Manufacturing Permittee shall not use or possess a Volatile Manufacturing Permit. A Volatile Manufacturing Permittee shall not use or possess a Non-Volatile Manufacturing Permit.
- E. A Non-Volatile or Volatile 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 Non-Volatile or Volatile 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 Non-Volatile or Volatile Manufacturing Permittee may not hold or use any other cannabis activity permits or licenses that would otherwise be a violation of Business and Professions Code section 19328.
- I. A Non-Volatile or Volatile 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 Non-Volatile or Volatile Manufacturing Permit and the medical cannabis manufacturing activity.
- J. A Non-Volatile or Volatile 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 Non-Volatile or Volatile Manufacturing Permit, the Non-Volatile or Volatile Manufacturing

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

3. Agree to defend the City, at the Non-Volatile or Volatile Manufacturing Permittee's sole expense, in any action against the City or its agents, officers, or employees associated with the Non-Volatile or Volatile Manufacturing Permit, the Non-Volatile or Volatile Manufacturing Permittee's cannabis related activities, or any action taken by the Non-Volatile or Volatile 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 Non-Volatile or Volatile Manufacturing Permit, the Non-Volatile or Volatile Manufacturing Permittee's cannabis related activities, or any action taken by the Non-Volatile or Volatile 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 Permittee of its obligation hereunder.
- K. A Non-Volatile or Volatile 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 Non-Volatile or Volatile Manufacturing Permit issued pursuant to this Section is not transferable to any third parties under any circumstances.
- M. A Non-Volatile or Volatile Manufacturing Permit shall expire and be null and void 12 months after issuance unless properly renewed. Upon payment of the applicable permit fees and passing the requisite permit inspections, a Non-Volatile or Volatile Manufacturing Permittee that has maintained compliance with all City, State, and other applicable cannabis and business related laws shall be entitled to renew its Non-Volatile or Volatile Manufacturing Permit subject to all prevailing laws at the time of renewal.

N. To the fullest extent permitted by law, the City does not assume any liability, and expressly does not waive any immunity available to municipalities under State and federal law, with respect to any medical cannabis manufacturing activities or for the activities of any medical cannabis manufacturing facility.

(5) 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, 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 Non-Volatile or Volatile Manufacturing Permittee or its agent is grounds for revoking the respective Non-Volatile or Volatile Manufacturing Permit. In addition, the City Manager or the City Manager's designee may revoke a Non-Volatile or Volatile 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 Non-Volatile or Volatile 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 Non-Volatile or Volatile Manufacturing Permit was improperly revoked. The appellant shall also provide payment of hearing fees in an amount established by resolution of the City Council. 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 MAUCRSA.

**SECTION 4.** 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 surrounding properties.

**SECTION 5.** The City Council finds that the actions contemplated by this Ordinance are exempt from the California Environmental Quality Act ("CEQA") pursuant to Guidelines section 15061(b)(3), 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 6.** 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 7.** By regulating medical cannabis manufacturing, the City is only undertaking to preserve the general welfare through implementing MAUCRSA. 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 any immunity enjoyed by municipalities under State and federal law, with respect to any provision of this Ordinance or for the activities of any medical cannabis 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 8.** 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 26 day of July, 2017.

  
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Rich Kerr, *Mayor*

  
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Cynthia M. Herrera, MMC, *City Clerk*

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Ruben Duran, *City Attorney*

I, Cindy Herrera, City Clerk of the City of Adelanto, California, do hereby certify that the foregoing Ordinance No. 572 was duly introduced for first reading on July 21, 2017 and regularly adopted at a regular meeting of the City Council of the City of Adelanto on July 26, 2017 by the following vote, to wit:

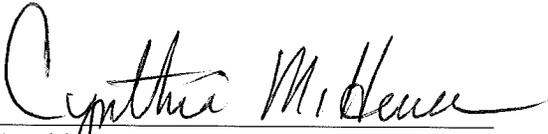
AYES: Council Members Camargo, Glasper, Woodard, Mayor Pro Tem Wright and Mayor Kerr

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS THEREOF, I hereunto set my hand and affix the official seal of the City of Adelanto on this 26<sup>th</sup> day of July, 2017.

  
Cynthia M. Herrera, MMC, City Clerk

SEAL