

ORDINANCE NO. 548

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
ADELANTO, COUNTY OF SAN BERNARDINO, CALIFORNIA, ADDING
ADELANTO MUNICIPAL CODE SECTION 17.80.100 REGARDING
MEDICAL CANNABIS DISTRIBUTION/TRANSPORTATION, AND
SECTION 17.80.110 REGARDING MEDICAL CANNABIS TESTING**

WHEREAS, on October 9, 2015, Governor Brown approved the Medical Marijuana Regulation and Safety Act (“MMRSA”), effective January 1, 2016, which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacturing, testing, distribution, transportation, and dispensing of medical 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”) wishes to comply with California law and allow for the distribution, transportation, and testing of medical cannabis in accordance with applicable State laws.

WHEREAS, it is the purpose and intent of the City to regulate medical cannabis distribution, transportation, and testing 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 distribution, transportation, and testing.

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 has 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. Section 17.80.100 (Medical Cannabis Distribution/Transportation) is hereby added to the Adelanto Municipal Code (“AMC”), and is to read in its entirety as follows:

17.80.100 Medical Cannabis Distribution/Transportation

- (a) **Purpose.** The purpose and intent of this Section is to regulate the distribution and transportation of medical cannabis between Medical Cannabis Permittees 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) “City” means the City of Adelanto, California.
 - (2) “City Manager” means the individual duly appointed by a majority of the City Council to serve in the capacity as executive officer of the City on a permanent or interim basis.
 - (3) “CUP” means a Conditional Use Permit issued by the City in accordance with this Code.
 - (4) “Fully enclosed and secure structure” means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors.
 - (5) “Distribute,” “Distribution,” and “Distributor” shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, and other applicable State laws. Distribution shall include the commercial acts of shipping, storing, and warehousing medical cannabis.
 - (6) “Distribution/Transportation Permit” means a City permit to distribute or transport medical cannabis between Medical Cannabis Permittees in accordance with the terms and conditions of this Section and the conditions of approval for the permit.
 - (7) “Distribution/Transportation Permittee” means a person or entity that has been issued a Distribution/Transportation Permit by the City pursuant to the terms and conditions of this Section.
 - (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, dispensing, or delivering.
 - (10) “MCRSA” means the California Medical Cannabis Regulation and Safety Act.
 - (11) “MMRSA” means the California Medical Marijuana Regulation and Safety Act.
 - (12) “Transport,” “Transporter,” and “Transportation” shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, and other applicable State laws.
- (c) **Cannabis Distribution and Transportation Prohibited.** All cannabis distribution and transportation within the City is prohibited except as expressly permitted by this Section.
- (d) **Distribution and Transportation of Medical Cannabis Conditionally Permitted.** Distribution and transportation of medical cannabis is conditionally permitted in the City only as expressly specified in this Section.
- (1) Medical Cannabis Distribution/Transportation Standards. Medical cannabis distribution and transportation within the City shall be in conformance with the following standards:
 - A. Medical cannabis distribution and transportation shall only be allowed upon application and approval of a Distribution/Transportation Permit and a CUP in accordance with the criteria and process set forth in this Section and this Code.
 - B. Medical cannabis distribution and transportation is a conditionally permitted use only on properties within the Manufacturing/Industrial (MI) zoning designation in the Industrial Park (“Distribution/Transportation Zone”).
 - C. Medical cannabis distribution and transportation activities may include the receiving and releasing of cannabis plants, flowers, and products for inspection, testing, and quality assurance.
 - D. No cannabis distribution or transportation 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, except for shipping activities, which must follow to established commercial trucking routes. 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 cannabis distribution or transportation activity is, or will be, located to the nearest property line of those uses describe in this Subsection.

- E. Cannabis distribution and transportation may not be located within the same unit of a building or structure as an indoor cannabis cultivation facility, manufacturing facility, testing facility, or dispensary.
- F. Subject to the further requirements of this Section, only State distributor license classification type 11, and State transporter license classification type 12, will be allowed to operate in the City in accordance with the MCRSA and Business and Professions Code sections 19300.7 and 19334.
- G. Medical cannabis distribution and transportation is allowed only within fully enclosed and secure structures that are inaccessible to minors.
- H. Except for commercial shipping operations, medical cannabis distribution and transportation activities shall not exceed the square footage authorized pursuant to the applicable CUP.
- I. From any public right-of-way, there shall be no visible exterior evidence of any cannabis distribution or transportation activity.
- J. Cannabis distribution and transportation shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes.
- K. All cannabis distribution and transportation facilities shall fully comply with all of the applicable restrictions and mandates set forth in State law. All cannabis distribution and transportation facilities shall comply with all size requirements for such facilities as imposed by State law. Cannabis distribution and transportation facilities shall not engage in any activities not allowed by medical cannabis distribution or transportation facilities pursuant to State law. All cannabis distribution and transportation facilities shall comply with all horticultural, labeling, processing, and other standards required by State law.
- L. There is no set restriction on the hours of operation of medical cannabis distribution and transportation facilities; however, restricted hours of operation may be established as a condition of

approval of the Distribution/Transportation Permit or the applicable CUP.

- M. All cannabis shall be kept in a secured manner during all business and nonbusiness hours.
- N. All cannabis distribution and transportation facilities shall operate within a legal structure that is compliant with all applicable State and local laws.
- O. All cannabis distribution and transportation facilities 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 all cannabis distribution and transportation facilities. The term “premises” as used in this Subsection includes the actual cannabis distribution or transportation building, as well as any accessory structures and parking areas. The cannabis distribution or transportation 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 all cannabis distribution and transportation facilities shall be limited to name of business only, shall be in compliance with the City’s sign code, and shall contain no advertising of any companies, brands, products, goods, or services. Signage shall not include any drug-related symbols.
- R. Alcoholic beverages shall not be sold, stored, distributed, or consumed on the premises. Cannabis distribution and transportation facilities shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of any cannabis distribution or transportation facility.
- S. Physician services shall not be provided on the cannabis distribution or transportation premises.
- T. The building in which any cannabis distribution or transportation 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 distribution and transportation is also required.

- U. Cannabis distribution and transportation facilities shall not grow, cultivate, manufacture, process, dispense, or administer cannabis from the facility unless expressly and affirmatively authorized by State law. Cannabis distribution and transportation facilities shall not be operated as cannabis cultivation, manufacturing, or testing facilities, or as cannabis dispensaries, unless expressly and affirmatively authorized by State law.
- V. The operators of all cannabis distribution and transportation facilities shall provide the City Manager, or the City Manager's designee, with the name, phone number, facsimile number, and email address of an on-site representative to whom the City and the public can provide notice if there are any operational problems associated with the cannabis distribution or transportation facility. All cannabis distribution and transportation facilities shall make every good faith effort to encourage residents and the public to call this representative to resolve any operational problems before any calls or complaints are made to the City or law enforcement.
- W. All cannabis distribution and transportation facilities shall be operated in accordance with the conditions of approval associated with the applicable CUP for the parcel of real property upon which the cannabis distribution or transportation activities occur.
- X. All cannabis distribution and transportation facilities shall have a security plan including the following measures:
 - 1. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 120 concurrent hours of digitally recorded documentation in a format approved by the City Manager or the City Manager's designee. The cameras shall be in use 24 hours per day, seven days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, distribution areas, transportation 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 distribution and transportation facility shall be secured with an alarm system that is operated and monitored by a reputable security company.
 3. Entrance to the distribution or transportation area, and all storage areas, shall be locked at all times, and under the control of the medical cannabis distribution or transportation 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 cannabis distribution or transportation 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, or law enforcement upon verbal request—no search warrant or subpoena shall be needed to view the recorded materials.
- Z. The City Manager, the City Manager's designee, and law enforcement shall have the right to enter the cannabis distribution or transportation 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. A Distribution/Transportation Permittee shall only distribute or transport medical cannabis between the business locations of Medical Cannabis Permittees.
- BB. A Distribution/Transportation Permittee shall inspect all cannabis and cannabis products received for quality assurance prior to distributing or transporting to any Medical Cannabis Permittee.
- CC. A Distribution/Transportation Permittee shall register with the City each location where cannabis is stored for purposes of distribution or transportation.
- DD. A Distribution/Transportation Permittee shall distribute and transport batches of cultivated cannabis and cannabis products to dispensaries only after those batches 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.

- EE. A Distribution/Transportation Permittee may hold a Type 11 Distributor State license, and a Type 12 Transporter State license, but may not hold or use any other State or City cannabis activity permits or licenses that would otherwise be a violation of the MCRSA or Business and Professions Code section 19328.
- (2) Distribution/Transportation Permit Applications. All applicants wishing to obtain a Distribution/Transportation Permit from the City shall file an application with the City upon a form provided by the City and shall pay a Distribution/Transportation Permit Application Fee as established by the City. An application for a Distribution/Transportation 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 distribution or transportation facility.
 - C. The address of the location for which the Distribution/Transportation Permit is sought. Only one Distribution/Transportation 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, distribution and transportation areas, lighting, signage, etcetera.
 - E. A proposed security plan in compliance with the Medical Cannabis Distribution/Transportation Standards.
 - F. The names, addresses, and relevant criminal histories of all potential employees, facility managers, and other relevant parties for the distribution or transportation facility. 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 distribution or transportation 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 distribution or transportation facility will 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 distribution or transportation facility will be located in a legal structure that is compliant with all applicable State and local laws.
- J. Evidence that the medical cannabis distribution or transportation facility has registered with the City all locations where medical cannabis will be stored for purposes of distribution or transportation.
- 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 Distribution/Transportation Permit, including all potential employees and any person who may be a facility manager or otherwise responsible for the activities of the medical cannabis distribution or transportation 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.
- 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 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) Distribution/Transportation Permit. The following conditions apply to each Distribution/Transportation Permit:
- A. A Distribution/Transportation 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 distribution or transportation facility is not allowed by State or local law.
 3. The applicant is not a legal representative of the medical cannabis distribution or transportation 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, 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 Distribution/Transportation Permit shall be awarded by the City to eligible Distribution/Distribution Permit applicants in order of the Merit List as established by the City Manager or the City Manager's designee. The number of Distribution/Transportation Permits shall be limited to those that may be reasonably accommodated within the Distribution/Transportation Zone as determined by the City Manager or the City Manager's designee.
- C. Before a Distribution/Transportation Permit can be issued to an applicant, Distribution/Transportation Permit fees must be paid to offset all related costs to the City, and the proposed medical cannabis distribution or transportation facility location must pass all applicable inspections.

- D. Only one Distribution/Transportation 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. Each Distribution/Transportation Permit is subject to the conditions of approval in the applicable CUP for the parcel of real property upon which the medical cannabis distribution or transportation activity occurs.
- F. Each Distribution/Transportation 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 distribution or transportation activities and to protect the public.
- G. All distribution and transportation activities shall be subject to an excise tax to be established by the City and the voters.
- H. Each Distribution/Transportation 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 Distribution/Transportation Permit and the cannabis distribution and transportation activity.
- I. Each Distribution/Transportation 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 Distribution/Transportation Permit, the Distribution/Transportation Permittee's cannabis related activities, and any action taken by the Distribution/Transportation Permittee pursuant to this Section.
 - 3. Defend the City, at the Distribution/Transportation Permittee's sole expense, in any action against the City or its agents, officers, or employees associated with the Distribution/Transportation Permit, the Distribution/Transportation Permittee's cannabis related activities, or any action taken by the Distribution/Transportation 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 Distribution/Transportation Permittee of its indemnification and reimbursement obligations.

4. 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 Distribution/Transportation Permit, the Distribution/Transportation Permittee's cannabis related activities, or any action taken by the Distribution/Transportation Permittee pursuant to this Section.
- J. A Distribution/Transportation 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 distribution or transportation 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.
- K. A Distribution/Transportation 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 Distribution/Transportation Permittee at the medical cannabis distribution or transportation facility shall be residents of the City. A Distribution/Transportation 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.
- L. A Distribution/Transportation Permit issued pursuant to this Section is not transferable to any third parties under any circumstances.
- M. A Distribution/Transportation Permit shall expire and be null and void 12 months after issuance to the Distribution/Transportation Permittee unless properly renewed. Upon payment of the applicable Distribution/Transportation Permit fees, and passing the requisite Distribution/Transportation Permit inspections, a Distribution/Transportation Permittee that has maintained compliance with all City, State, and other applicable cannabis and business related laws shall be entitled to renew its Distribution/Transportation 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 sovereign immunity, with respect to any cannabis distribution or transportation activities, or for the activities of any cannabis distribution or transportation facility.

- (4) Conditional Use Permit. All parcels of real property in the Distribution/Transportation Zone, upon which cannabis distribution or transportation activities may occur, must obtain a CUP from the City for all such activities.

(e) **Enforcement.**

- (1) Any cannabis distribution or transportation 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 Distribution/Transportation Permittee, or a Distribution/Transportation Permittee's agent, is grounds for revoking the relevant Distribution/Transportation Permit. In addition, the City Manager or the City Manager's designee may revoke a Distribution/Transportation Permit if any of the following occur:
 - A. The City Manager or the City Manager's designee determines that the cannabis distribution or transportation 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 distribution or transportation operations cease for more than 90 calendar days.
 - C. Ownership of the medical cannabis distribution or transportation facility is changed or transferred to a third party.
 - D. The medical cannabis distribution or transportation facility fails to maintain 120 hours of security recordings.
 - E. The medical cannabis distribution or transportation facility fails to provide remote access to the security cameras to the City Manager, the City Manager's designee, or the Chief of Police, or fails to allow

inspection of the security recordings, the activity logs, or of the premise by authorized City officials.

- (7) Any decision regarding the revocation of a Distribution/Transportation 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 Distribution/Transportation Permit. The appeal shall be accompanied by a written verified declaration setting forth the basis for the claim that the Distribution/Transportation 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. Section 17.80.110 (Medical Cannabis Testing) is hereby added to the AMC, and is to read in its entirety as follows:

17.80.110 Medical Cannabis Testing

- (a) **Purpose.** The purpose and intent of this Section is to regulate the testing of medical cannabis prior to manufacturing or dispensing to the public 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 testing. 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) "City" means the City of Adelanto, California.
 - (2) "City Manager" means the individual duly appointed by a majority of the City Council to serve in the capacity as executive officer of the City on a permanent or interim basis.
 - (3) "CUP" means a Conditional Use Permit issued by the City in accordance with this Code.
 - (4) "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and is inaccessible to minors.

- (5) “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.
 - (6) “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, dispensing, or delivering.
 - (7) “MCRSA” means the California Medical Cannabis Regulation and Safety Act.
 - (8) “MMRSA” means the California Medical Marijuana Regulation and Safety Act.
 - (9) “Testing” and “Testing Facility” shall be defined in accordance with the MCRSA, Business and Professions Code section 19300.5, and other applicable State laws.
 - (10) “Testing Permit” means a City permit to test the quality of medical cannabis produced by cultivation and manufacturing permittees pursuant to the terms and conditions of this Section and the conditions of approval for the permit.
 - (11) “Testing Permittee” means an applicant who has applied for and has been issued a Testing Permit by the City pursuant to the terms and conditions of this Section.
- (c) **Cannabis Testing Prohibited.** All commercial cannabis testing within the City is prohibited except as expressly permitted by this Section.
- (d) **Medical Cannabis Testing Conditionally Permitted.** Commercial medical cannabis testing is conditionally permitted in the City only as expressly specified in this Section.
- (1) Medical Cannabis Testing Standards. Commercial medical cannabis testing, within the City, shall be in conformance with the following standards:
 - A. Commercial medical cannabis testing shall only be allowed upon application and approval of a Testing Permit and a CUP in accordance with the criteria and process set forth in this Section and this Code.
 - B. Commercial medical cannabis testing is a conditionally permitted use only on properties within the Manufacturing/Industrial (MI) zoning designation in the Industrial Park (“Testing Zone”).

- C. No commercial cannabis testing facility 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 commercial medical cannabis testing is, or will be, located to the nearest property line of those uses described in this Subsection.
- D. A commercial cannabis testing facility may not be located within the same unit as an indoor cannabis cultivation facility, manufacturing facility, distribution facility, transportation facility, or dispensary.
- E. Subject to the further requirements of this Section, only Type 8 State testing licenses, as specified in the MCRSA and Business and Professions Code section 19300.7, will be allowed to operate in the City.
- F. Commercial medical cannabis testing is allowed only within fully enclosed and secure structures that are inaccessible to minors.
- G. Commercial medical cannabis testing 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 testing activity.
- I. Cannabis testing 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 commercial cannabis testing facility shall fully comply with all of the applicable restrictions and mandates set forth in State law. A commercial cannabis testing facility shall comply with all size requirements for such facility as imposed by State law. A cannabis testing facility shall not engage in any activities not allowed by a medical cannabis testing facility pursuant to State law. A cannabis testing 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 commercial medical cannabis testing facility; however, restricted hours of operation may be established as a condition of approval of the Testing Permit or the applicable CUP.

- L. All cannabis shall be kept in a secured manner during all business and nonbusiness hours.
- M. A cannabis testing facility shall operate within a legal structure that is compliant with all applicable State and local laws.
- N. A cannabis testing 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 cannabis testing facility. The term “premises” as used in this Subsection includes the actual cannabis testing building, as well as any accessory structures and parking areas. The cannabis testing 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 testing 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 cannabis testing 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 cannabis testing facility.
- R. Physician services shall not be provided on the cannabis testing facility premises.
- S. The building in which any cannabis testing 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 testing is also required.
- T. A cannabis testing facility shall not grow, cultivate, process, distribute, transport, sell, dispense, or administer cannabis from the facility to the public. A cannabis testing facility shall not be operated as a cannabis dispensary.

- U. The operators of a cannabis testing 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 cannabis testing facility. A cannabis testing 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. Each cannabis testing 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 cannabis testing activities occur.
- W. Each cannabis testing 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, seven days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, testing 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 testing facility shall be secured with an alarm system that is operated and monitored by a reputable security company.
 - 3. Entrance to the cannabis testing area, and all storage areas, shall be locked at all times, and under the control of the medical cannabis testing facility's staff.
 - 4. The entrances, and all window areas, shall be illuminated during evening hours. The cannabis testing 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 cannabis testing 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 any cannabis testing 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. Each cannabis testing facility must employ full time quality control personnel.
- AA. All cultivated cannabis, and manufactured cannabis products, must be properly tested prior to being dispensed to the public as required by the MCRSA, Business and Professions Code sections 19326 and 19342, and the State Department of Public Health regulations.
- BB. Each Testing Permittee shall be independent from all other persons and entities involved in the cannabis industry including, but not limited to, cannabis cultivators, manufacturers, distributors, transporters, and dispensaries.
- CC. A cannabis testing facility shall not acquire or receive cannabis or cannabis products except from a Medical Cannabis Permittee. A Testing Permittee shall not cultivate, manufacture, distribute, transport, deliver, or dispense cannabis or cannabis products.
- DD. A cannabis testing facility must adopt a standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling. A Testing Permittee must use testing standards and methods established specifically for medical cannabis testing by the State.
- EE. A cannabis testing facility must establish standard operating procedures that provide for adequate chain of custody controls for samples transferred to the cannabis testing facility for testing.

- FF. A Testing Permittee must obtain testing samples according to a statistically valid sampling method. All testing samples must be picked independently and at random by the Testing Permittee. Testing samples cannot be pre-selected by outside persons or entities involved in the cultivation, manufacturing, distribution, transportation, delivery, or dispensing of cannabis.
- GG. Cannabis from dried flower must, at minimum, be tested for concentration, pesticides, mold, and other contaminants. Cannabis extracts must, at minimum, be tested for concentration and purity of the product.
- HH. A cannabis testing facility must analyze samples according to either the most current version of the cannabis inflorescence monograph (“Monograph”) published by the American Herbal Pharmacopoeia or other scientifically valid methodology that is equal or superior to the Monograph.
- II. If a test result falls outside the specifications authorized by law or regulation, the cannabis testing facility shall follow a standard operating procedure to confirm or refute the original result.
- JJ. A cannabis testing facility must destroy the remains of any sample of cannabis or cannabis product upon completion of the testing analysis.
- KK. A cannabis testing facility must destroy cannabis batches whose testing samples indicate noncompliance with health and safety standards promulgated by the State Department of Public Health, unless remedial measures can bring the cannabis into compliance.
- LL. A Testing Permittee shall issue a certificate of analysis for each sample tested to report whether the chemical profile of the sample conforms to the specifications for the sample for compounds. Compounds tested include, but are not limited to, the compounds listed under Business and Professions Code section 19344.
- MM. A Testing Permittee shall issue a certificate of analysis for each sample tested to report whether the presence of contaminants in the sample does or does not exceed the levels that are the lesser of either the most current version of the Monograph or those set by the State Department of Public Health. Contaminants tested include, but are not limited to, the contaminants listed under Business and Professions Code section 19344.
- NN. Each cannabis testing facility must analyze whether residual levels of volatile organic compounds in each sample tested are below the

lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the State Department of Public Health.

- OO. All testing devices used by a cannabis testing facility must be UL listed, or otherwise approved for the intended use by the City's Building Official or the Fire Department. Any testing devices using only non-pressurized water are exempt from such approval.
- PP. Unless otherwise prohibited, all testing devices used by a cannabis testing 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 that is compliant with all local, State, and federal guidelines for the disposal of hazardous materials.
- QQ. Each cannabis testing facility must notify the State Department of Public Health and the City Manager, or the City Manager's designee, within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

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

- A. An estimate of the size of the proposed medical cannabis testing facility.
- B. The address of the location for which the Testing Permit is sought. Only one Testing 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, testing areas, lighting, signage, etcetera.
- D. A proposed security plan in compliance with the Medical Cannabis Testing Standards.
- E. The names, addresses, and relevant criminal histories of all potential employees, facility managers, and other relevant parties for the medical cannabis testing 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 testing 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 testing facility will be operated on the property.
- G. Evidence that the medical cannabis testing facility is independent from all other persons and entities involved in the cannabis industry, as required by Business and Professions Code section 19343.
- H. Evidence that the medical cannabis testing facility follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis and medical cannabis products. The medical cannabis testing facility shall also comply with any other requirements specified by the State Department of Public Health.
- I. Authorization for the City Manager or the City Manager's designee to seek verification of the information contained within the application.
- J. Evidence that the medical cannabis testing facility will be located in a legal structure that is compliant with all applicable State and local laws.
- 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 Testing Permit, including all potential employees and any person who may be a facility manager or otherwise responsible for the activities of the cannabis testing 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.
- 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 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) Testing Permit. The following conditions apply to each Testing Permit:

A. A Testing 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 testing facility is not allowed by State or local law.
3. The applicant is not a legal representative of the medical cannabis testing 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, 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 Testing Permit shall be awarded by the City to eligible Testing Permit applicants in order of the Merit List as established by the City Manager or the City Manager’s designee. The number of Testing Permits shall be limited to those that may be reasonably

accommodated within the Testing Zone as determined by the City Manager or the City Manager's designee.

- C. Before a Testing Permit can be issued to an applicant, Testing Permit fees must be paid to offset all related costs to the City, and the proposed medical cannabis testing facility location must pass all applicable inspections.
- D. Only one Testing 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 Testing Permit is subject to the conditions of approval in the applicable CUP for the parcel of real property upon which the cannabis testing activity occurs.
- F. A Testing 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 testing activity and to protect the public.
- G. All cannabis testing activities shall be subject to an excise tax to be established by the City and the voters.
- H. A Testing 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 Testing Permittee may not own or have an ownership interest in any activity or facility related to cannabis cultivation, manufacturing, distribution, transportation, delivery, or dispensing.
- J. A Testing 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 Testing Permit and the cannabis testing activity.
- K. A Testing 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 Testing Permit, the Testing Permittee's cannabis

related activities, and any action taken by the Testing Permittee pursuant to this Section.

3. Defend the City, at the Testing Permittee's sole expense, in any action against the City or its agents, officers, or employees associated with the Testing Permit, the Testing Permittee's cannabis related activities, or any action taken by the Testing 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 Testing Permittee of its indemnification and reimbursement obligations.
 4. 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 Testing Permit, the Testing Permittee's cannabis related activities, or any action taken by the Testing Permittee pursuant to this Section.
- L. Each Testing 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 cannabis testing 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.
- M. Each Testing 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 Testing Permittee at the cannabis testing facility shall be residents of the City. A Testing 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.
- N. A Testing Permit issued pursuant to this Section is not transferable to any third parties under any circumstances.
- O. A Testing Permit shall expire and be null and void 12 months after issuance to the Testing Permittee unless properly renewed. Upon payment of the applicable Testing Permit fees and passing the requisite Testing Permit inspections, a Testing Permittee that has maintained compliance with all City, State, and other applicable medical cannabis and business related laws shall be entitled to renew its Testing Permit subject to all prevailing laws at the time of renewal.

P. 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 testing activities or for the activities of any cannabis testing facility.

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

(e) **Enforcement.**

(1) Any cannabis testing 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 Testing Permittee or a Testing Permittee's agent is grounds for revoking the relevant Testing Permit. In addition, the City Manager or the City Manager's designee may revoke a Testing Permit if any of the following occur:

A. The City Manager or the City Manager's designee determines that the cannabis testing 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 testing operations cease for more than 90 calendar days.

C. Ownership of the medical cannabis testing facility is changed or transferred to a third party.

D. The medical cannabis testing facility fails to maintain 120 hours of security recordings.

- E. The medical cannabis testing 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 Testing 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 Testing Permit. The appeal shall be accompanied by a written verified declaration setting forth the basis for the claim that the Testing 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. 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 5. The City Council determines that it is in the best interest of the residents of the City to allow distribution, transportation, and testing facilities 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 6. 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 Distribution/Transportation Zone or the Testing Zone, which is the exact same area as the pre-existing cannabis Cultivation and Manufacturing Zones.

SECTION 7. 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 8. No use, business, or activity of any kind that distributed, transported, or tested 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 9. 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 10. By regulating medical cannabis distribution, transportation, and testing facilities, 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 distribution, transportation, or testing 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 11. 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 12th day of October, 2016.

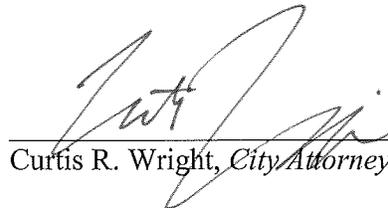


Rich Kerr, *Mayor of the City of Adelanto*



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

APPROVED AS TO FORM:



Curtis R. Wright, *City Attorney*

Ordinance No. 548

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I, Cindy Herrera, City Manager/City Clerk of the City of Adelanto, California, do hereby certify that the foregoing Ordinance No. 548 was duly introduced for the first reading on the 28th day of September, 2016 and regularly adopted at a regular meeting of the City Council of the City of Adelanto on this 12th day of October, 2016 by the following vote, to wit:

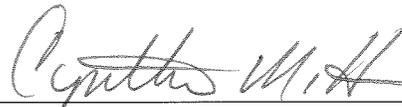
AYES: Council Members Glasper, Woodard, Mayor Pro Tem Wright, and Mayor Kerr

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 the 12th day of October, 2016.



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

SEAL