

ORDINANCE NO. 944

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AMENDING MORENO VALLEY MUNICIPAL CODE BY ADDING CHAPTER 5.05 SETTING RULES FOR THE ESTABLISHMENT, OPERATION AND REGULATION OF COMMERCIAL CANNABIS USES TO INCLUDE THE CULTIVATION, MANUFACTURING, TESTING, DISPENSATION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA PRODUCTS

WHEREAS, the City of Moreno Valley is a General Law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health and safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City's police power; and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Sections 801 et seq. classifies marijuana as a Schedule 1 Drug and makes it unlawful, under federal law, for any Person to cultivate, manufacture, distribute, dispense, or possess with intent to manufacture, distribute or dispense, marijuana; and

WHEREAS, the Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation or possession of marijuana for medicinal purposes; and

WHEREAS, notwithstanding federal law, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and titled the "Compassionate Use Act of 1996"), the intent of Proposition 215 being to enable Persons who need marijuana for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code Section 11362.7 et seq. and titled the "Medical Marijuana Program Act" to clarify the scope of the Compassionate Use Act of 1996 ("CUA"); and

WHEREAS, the Medical Marijuana Program Act ("MMPA") establishes rules wherein counties and cities can adopt and enforce rules and regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code Section 11362.768) affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, in November, 2016, Proposition 64 was enacted ("The Adult Use Marijuana Act") ("AUMA") (codified as amendments to California Health and Safety Code, Business and Professions Code, Revenue and Taxation Code and Food and Agricultural Code), the intent of Proposition 64 being to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana, as well as other marijuana related activities; and

WHEREAS, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 753 ("*Inland Empire*") that the objectives of the CUA and MMPA were modest and that those acts did not create a broad right to access medical marijuana, and *Inland Empire* goes on to provide that neither the CUA nor the MMPA "expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude" the distribution of medical marijuana. (Id. At p. 762.); and

WHEREAS, the Court of Appeal, Third Appellate District, held in *James Maral, et al. v. City of Live Oak* (2013) 221 Cal.App.4th 975, that the reasoning of *Inland Empire* applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and the MMPA; and

WHEREAS, on October 9, 2015, Governor Jerry Brown signed the "Medical Marijuana Regulation and Safety Act" ("MMRSA") into law hereafter known as the "Medical Cannabis Regulation and Safety Act" (MCRSA); and

WHEREAS, the MCRSA, which is comprised of three separate pieces of legislation, establishes, among other matters, a dual licensing structure requiring both a state license and a local license or permit for medical marijuana activities, a regulatory structure imposing health, safety and testing standards for cultivation and dispensary facilities, and the criteria for licensing medical marijuana businesses; and

WHEREAS, on June 27, 2017 Governor Jerry brown signed the "Medical and Adult-Use Cannabis Regulations and Safety Act" ("MAUCRSA") which further amends and in some parts supersedes prior enactments; and

WHEREAS, with limited exceptions, neither the Compassionate Use Act, the Medical Marijuana Program, the Medical Cannabis Regulation and Safety Act, the Adult Use of Marijuana Act, nor the Medical and Adult-Use Cannabis Regulation and Safety

Act require or impose an affirmative duty or mandate upon local governments to allow, authorize or sanction the establishment and the operation of facilities for distribution, cultivation, manufacturing or processing medical or non-medical marijuana within its jurisdiction, and

WHEREAS, the City Council consistent with the above legislation and court rulings established reasonable land use controls and reasonable regulations on the operation of marijuana-related businesses which are codified in Title 5 and Title 9 of the City of Moreno Valley Municipal Code; and

WHEREAS, the City Council now desires to clarify and amend some of those regulations by amending Title 5 and portions of Title 9; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the Council's intention that nothing in this ordinance shall be construed, in any way, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, manufacturing, testing, dispensation and distribution or consumption of marijuana that is otherwise illegal. It is further the intent of the City Council of Moreno Valley to maintain local control over these matters to the fullest extent permitted by law.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MORENO VALLEY AS FOLLOWS:

PART 1. Chapter 5.05 of Title 5 of the Moreno Valley Municipal Code, Commercial Cannabis Activity is hereby deleted in full and replaced as follows:

Chapter 5.05. Commercial Cannabis Activity.

- 5.05.010 Purpose and Intent
- 5.05.020 Legal Authority
- 5.05.030 Commercial Cannabis Activity Prohibited Unless Specifically Authorized by the Code
- 5.05.040 Compliance with Laws
- 5.05.050 Definitions
- 5.05.060 Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business
- 5.05.070 Commercial Cannabis Employee Identification Required
- 5.05.080 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted
- 5.05.090 Application Procedure(s)
- 5.05.100 Expiration of Commercial Cannabis Business Permits
- 5.05.110 Revocation of Permits
- 5.05.120 Renewal Applications
- 5.05.130 Effect of State License Suspension, Revocation, or Termination

5.05.140	Appeals
5.05.150	Written Request for Appeal
5.05.160	Appeal Hearing
5.05.170	Permittee Selection Process
5.05.180	Change in Location; Updated Application Form
5.05.190	Transfer of Commercial Cannabis Business Permit
5.05.200	City Business License
5.05.210	Building Permits and Inspection
5.05.220	Certification from the Community Development Director
5.05.230	Right to Occupy and to Use Property
5.05.240	Location and Design of Cannabis Businesses
5.05.250	Limitations on City's Liability
5.05.260	Records and Recordkeeping
5.05.270	Security Measures
5.05.280	Restriction on Alcohol & Tobacco Sales
5.05.290	Compliance with Laws
5.05.300	Fees and Charges
5.05.310	Miscellaneous Operating Requirements
5.05.320	Other Operational Requirements
5.05.330	Operating Requirements for Retailer Facilities; Delivery
5.05.340	Operating Requirements for Cultivation Facilities
5.05.350	Operating Requirements for Testing Labs
5.05.360	Commercial Cannabis Manufacturing Type-6 License Only
5.05.365	Operating Requirements for Micro-Businesses
5.05.370	Promulgation of Regulations, Standards and Other Legal Duties
5.05.380	Community Relations
5.05.390	Fees Deemed Debt to the City of Moreno Valley
5.05.400	Permit Holder Responsible for Violations
5.05.410	Inspections and Enforcement
5.05.420	Compliance with State Regulation
5.05.430	Violations Declared a Public Nuisance
5.05.440	Each Violation a Separate Offense
5.05.450	Criminal Penalties
5.05.460	Remedies Cumulative and Not Exclusive

Section 5.05.010. Purpose and Intent.

It is the purpose and intent of this Title to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to adult-use for persons over the age of 21 as authorized by the Control, Tax & Regulate the Adult Use Cannabis Act ("AUMA" or "Proposition 64" passed by California voters in 2016), while imposing sensible regulations on the use of land to protect the City's residents, neighborhoods, and

businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Title to regulate the cultivation, manufacturing, testing, dispensation and distribution of medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City of Moreno Valley and to enforce rules and regulations consistent with state law. It is the further purpose of intent of this Title to require all commercial cannabis operators to obtain and renew annually a permit to operate within the City of Moreno Valley. Nothing in this Title is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. The provisions of this Title are in effect and need to be complied with, in addition to necessary land use entitlements, i.e. Conditional Use Permits, any other permits, business licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, City, or other law.

Section 5.05.020. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter "MAUCRSA"), any subsequent state legislation and/or regulations regarding same, the City of Moreno Valley is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial medicinal and adult-use cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Moreno Valley to all commercial cannabis activity.

Section 5.05.030. Commercial Cannabis Activities Prohibited Unless Specifically Authorized by the Code.

Except as specifically authorized in this Title and Title 9, the commercial cultivation, manufacturing, testing, dispensation and distribution (other than as provided under Bus. & Prof. Code section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Moreno Valley.

Section 5.05.040. Compliance with Laws.

It is the responsibility of the owners and operators of the commercial cannabis business to ensure that it is, always, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Title shall be construed as authorizing any actions that violate federal, state law or local law with

respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and the operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable federal, state and local laws, including for as long as applicable, the Compassionate Use Act ("Prop. 215"), the Medical Marijuana Program Act ("MMPA") and the 2008 Attorney General Guidelines for the Security and Non-Diversion of Cannabis for Medical Purposes ("AG Guidelines") (collectively "the Medical Cannabis Collective Laws"), conditions of Conditional Use Permit, or any other land use entitlements as may be subsequently adopted and specified in Title 9 of this Code, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business permit.

Section 5.05.050. Definitions.

Section 5.05.050. When used in this Title, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- (1) "A-license" means a state license issued under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.
- (2) "A-licensee" means any person holding a license under this division for cannabis or cannabis products that are intended for adults 21 years of age and over and who do not possess physician's recommendations.
- (3) "Applicant" means an owner(s) applying for a City Permit pursuant to this division.
- (4) "Batch" means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:
 - (a) "Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals, and harvested at the same time.
 - (b) "Manufactured cannabis batch" means either of the following:
 - (1) An amount of cannabis concentrates or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.
 - (2) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.
- (5) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control,

the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

- (6) "Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- (7) "Cannabis accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.
- (8) "Cannabis Business Park" a park or campus is one contiguous commercial area of land that has many cannabis related businesses grouped together. Each individual business would be clearly defined, as having a unique entrance and immovable physical barriers between uniquely licensed premises.
- (9) "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.
- (10) "Cannabis product" means a product containing cannabis or cannabis, including, but not limited to, manufactured cannabis, intended to be sold for use by cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time) or to persons pursuant to the Adult Use of Cannabis Act. For purposes of this Title, "cannabis" does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (11) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.
- (12) "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.
- (13) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (14) "Child resistant" means designed or constructed to be significantly difficult

for children under five years of age to open, and not difficult for normal adults to use properly.

- (15) "City" means the City of Moreno Valley, a California general law city.
- (16) "Commercial cannabis activity" includes the dispensing, cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, delivery or sale of medicinal and adult-use cannabis and cannabis products as provided for in this division.
- (17) "Commercial cannabis business" means any business or operation which engages in medicinal or adult-use commercial cannabis activity.
- (18) "Commercial cannabis business permit" means a regulatory permit issued by the City of Moreno Valley pursuant to this Title to a commercial cannabis business, and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Title, Title 9 regulations as may be subsequently adopted and any regulations adopted by the City governing the commercial cannabis activity at issue.
- (19) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (20) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
- (21) "Customer" means a natural person 21 year of age or over or a natural person 18 year of age or older who possesses a physician's recommendation.
- (22) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.
- (23) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.
- (24) "Director" means the Director of Consumer Affairs.
- (25) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- (26) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- (27) "Distributor" means a person holding a valid commercial cannabis business permit for distribution issued by the City of Moreno Valley, and, a valid state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a license manufacturer, for sale to a licensed retailer.
- (28) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (29) "Edible cannabis product" means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited

to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

- (30) "Fund" means the Cannabis Control Fund established pursuant to Section 26210.
- (31) "Greenhouse" means a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental lighting for cultivation.
- (32) "Kind" means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (33) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container.
- (34) "Labor peace agreement" means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.
- (35) "License" means a state license issued under this division, and includes both an A-license and an M-license, as well as a testing laboratory license.
- (36) "Licensee" means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.
- (37) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
- (38) "Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (39) "Local jurisdiction" means a city, County or city and County.
- (40) "Lot" means a batch or a specifically identified portion of a batch.
- (41) "M-license" means a state license issued for commercial cannabis activity involving medicinal cannabis.
- (42) "M-licensee" means any person holding an M-license for commercial

- cannabis activity involving medicinal cannabis.
- (43) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
 - (44) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.
 - (45) "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.
 - (46) "Manufacturing site" means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Moreno Valley and, a valid state license as required for manufacturing of cannabis products.
 - (47) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation.
 - (48) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically, for the propagation and cultivation of cannabis.
 - (49) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of cannabis or cannabis products.
 - (50) "Owner" means any of the following:
 - (a) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
 - (b) The manager of a nonprofit or other entity.
 - (c) A member of the board of directors of a nonprofit.
 - (d) An individual who will be participating in the direction, control, or management of the person applying for a license or who has a financial interest in the business other than a fixed lease of real property.
 - (51) "Package" means any container or receptacle used for holding cannabis or cannabis products.
 - (52) "Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California

Health & Safety Code Section 11362.5.

- (53) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (54) "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.
- (55) "Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.
- (56) "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee unless the operator is granted an M-License and an A-License for the same type of activity and such operation is lawful under state and local laws, rules and regulations.
- (57) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.
- (58) "Retailer" means a commercial cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale, and where the operator holds a valid commercial cannabis business permit from the City of Moreno Valley authorizing the operation of a retailer, and a valid state license as required by state law to operate a retailer.
- (59) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products are transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased.
- (60) "Site" means the property lines of the parcel map for a given assessor parcel number.
- (61) "State License" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity.
- (62) "Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:
 - (a) Accredited by an accrediting body that is independent from all other

persons involved in commercial cannabis activity in the state.

(b) Licensed by the Bureau.

- (63) "Topical cannabis" means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (64) "Transport" means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA, which may be amended or repealed by any subsequent State of California legislation regarding the same.
- (65) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.
- (66) "Youth center" has the same meaning as in Section 11353.1 of the Health and Safety Code.

Section 5.05.060. Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business.

No person may engage in any commercial cannabis business or in any commercial cannabis activity within the City of Moreno Valley including cultivation, manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis business permit from the City of Moreno Valley; (2) has a valid Seller's Permit from the State; (3) has the necessary land use entitlements under Title 9 of this Code and (4) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activities, including the duty to obtain any required state licenses.

Section 5.05.070. Commercial Cannabis Employee Identification Required.

- (a) Any person who is an employee or who otherwise works or volunteers within a commercial cannabis business must be legally authorized to do so under applicable state law.
- (b) Any person who is an employee or whom otherwise works or volunteers within a commercial cannabis business must obtain a commercial cannabis employee identification from the City prior to performing any work at any commercial cannabis business. This requirement does not apply to temporary visitors, vendors or delivery persons who may be present from time to time within the commercial cannabis business.
- (c) Applications for a commercial cannabis employee identification shall be

developed, made available, and processed by the Chief Financial Officer/City Treasurer (CFO) or his/her designee(s), and shall include, but not be limited to, the following information:

- (1) Name, address, and phone number of the applicant;
 - (2) A copy of a birth certificate, driver's license, government issued identification card, passport or other proof that the applicant is at least twenty-one (21) years of age must be submitted with the application;
 - (3) Name, address of the commercial cannabis businesses where the person will be employed, and the name of the primary manager of that business;
 - (4) A list of any crimes enumerated in California Business and Professions Code Section 26507(b)(4) for which the applicant has been convicted;
 - (5) Name, address, and contact person for any previous employers from which the applicant was fired, resigned, or asked to leave and the reasons for such dismissal or firing;
 - (6) The application shall be accompanied by a passport photograph of the applicant.
 - (7) A signed statement under penalty of perjury that the information provided is true and correct.
 - (8) A fee paid in an amount necessary to cover the costs of administering the employee identification program as set forth in section 5.05.300. The fee is non-refundable and shall not be returned in the event the identification is denied or revoked.
- (d) The CFO or his/her designee(s) shall review the application for completeness, shall conduct a background check to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:
- (1) Is dishonest; or
 - (2) Has committed a felony or misdemeanor involving fraud, deceit, embezzlement; or
 - (3) Was convicted of a violent felony, a crime of moral turpitude; or
 - (4) Committed a felony or misdemeanor involving illegal use, possession, transportation, distribution or similar activities related to controlled

substances, as defined in the Federal Controlled Substances Act, except for cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

Discovery of these facts showing that the applicant is dishonest or has been convicted of those types of crimes are grounds for denial of the identification. Where the applicant's sentence (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a commercial cannabis employee identification. Furthermore, an applicant shall not be denied an identification if the denial is based solely on any of the following (i) a conviction for any crime listed in subsection (d) (4) above for which the applicant has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the California Penal Code or (ii) a conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or any other provision of state law allowing for dismissal of a conviction.

- (e) The CFO or his/her designee(s) shall issue the commercial cannabis employee identification or a written denial to the applicant.
- (f) An identification as described in subsection (j) below shall be valid for a twelve (12) month period and must be renewed on an annual basis. Renewal applications shall contain all the information required in subsection (c) above including the payment of a renewal application fee as set forth in section 5.05.300.
- (g) In the event a person changes employment from one commercial cannabis business in the City to another, the commercial cannabis employee shall notify the CFO or his/her designee(s) in writing of the change within ten (10) days, or the commercial cannabis employee identification shall be suspended or revoked and such person shall not be permitted to work at any commercial cannabis business in the City.
- (h) The City may immediately revoke the commercial cannabis employee identification should the commercial cannabis employee be convicted of a crime listed in subsection (d) above or if facts become known to the CFO or his/her designee(s) that the commercial cannabis employee has engaged in activities showing that he or she is dishonest.
- (i) The CFO or his/her designee(s) is hereby authorized to promulgate all regulations necessary to implement the commercial cannabis employee identification process and requirements.

- (j) The CFO or his/her designee(s) shall issue an identification in the form of a personal identification card that can be worn in a prominent and visible location. The identification card shall be maintained in good and readable condition at all times.
- (k) The requirement for commercial cannabis employee identification maybe satisfied by a valid employee identification issued under the same requirements by the Bureau or any other related division of the State of California.

Section 5.05.080. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.

The number of each type of commercial cannabis business that shall be permitted to operate in the City, as well as the total number of all types of Commercial Cannabis Business Permits shall be established by resolution of the City Council, which may be amended from time to time.

Section 5.05.090. Application Procedure(s).

- (a) The City Council shall adopt by resolution the procedures to govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any commercial cannabis business permit(s), which resolution shall include or require the CFO to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria ("Review Criteria"). The resolution shall authorize the CFO or his/her designee(s) to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to make a final determination on the issuance of the permits.
- (b) At the time of filing, each applicant shall pay an application fee as set forth in section 5.05.300, to cover all costs incurred by the City in the application process.
- (c) Any decision made by the CFO or his/her designee(s) after each of the phases described under the Review Criteria, will be made in accordance with Section 5.05.090. CFO's decision is appealable in accordance with the provisions of Sections 5.05.150 and 5.05.160.
- (d) **THE CITY 'S RESERVATION OF RIGHTS:**
 - (1) The City reserves the right to reject any or all applications. Prior to permit issuance, the City may also modify, postpone, or cancel any

request for applications, or the entire program under this title, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California state law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Title, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information or amendments from any candidate submitting an application. Applications MAY BE REJECTED due to untimely submission, failure to provide the required elements, exhibits, not being organized in the required format, or not being fully responsive to the requirements of the application process.

Section 5.05.100. Expiration of Commercial Cannabis Business Permits.

Each commercial cannabis business permit issued pursuant to this Title shall expire twelve (12) months after the effective date of the permit. Commercial cannabis permits may be renewed as provided in Section 5.05.120.

Section 5.05.110. Revocation of Permits.

Commercial cannabis business permits may be revoked for any violation of any applicable laws, regulation and/or standard adopted pursuant to Title 5 and Title 9 of this Code.

Section 5.05.120. Renewal Applications.

- (a) An application for renewal of a commercial cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (b) The renewal application shall contain all the information required for new applications.
- (c) The applicant shall pay a fee in an amount to cover the costs of processing the renewal permit application as set forth in section 5.05.300.
- (d) An application for renewal of a commercial cannabis business permit shall be rejected if any of the following exists:
 - (1) The application is filed less than sixty (60) calendar days before permit expiration.
 - (2) The commercial cannabis business permit is suspended or revoked at the time of the application. If permit revocation process has been

initiated but not completed, the renewal application will be accepted and held pending the outcome. If the permit is revoked, the application will be rejected and fees refunded.

- (3) The permittee fails or is unable to renew its State of California license.
- (4) If the City or state has determined, based on available evidence, that the permittee or applicant is in violation of the requirements of this Title, of the City Ordinance, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the commercial cannabis business permit.
- (e) The CFO or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the CFO or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. CFO's decision is appealable in accordance with the provisions of Sections 5.05.150 and 5.05.160.
- (f) If a renewal application is rejected, the applicant may file a new application pursuant to this Title during the next application period.

Section 5.05.130. Effect of State License Suspension, Revocation, or Termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall automatically suspend the Commercial Cannabis Business Permit issued by the City. Such suspension will be in effect until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also automatically revoke or terminate the Commercial Cannabis Business Permit, precluding a commercial cannabis business from operating in the City of Moreno Valley. Neither the suspension or the revocation under these circumstances is appealable under Sections 5.05.150 or 5.05.160.

Section 5.05.140. Appeals.

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Title from a decision of the CFO or his/her designee(s), the appeal shall be conducted as prescribed below.

Section 5.05.150. Written Request for Appeal.

- (a) Within ten (10) calendar days after the date of a decision of the CFO or

his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action to the City Manager by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper. City Manager may hear the appeal him/herself or appoint a Hearing Officer to conduct the hearing.

- (b) At the time of filing, the appellant shall pay the designated appeal fee as set forth in section 5.05.300.

Section 5.05.160. Appeal Hearing.

- (a) Upon receipt of the written appeal, the City Clerk shall set the matter for appeal before the City Manager. The City Manager shall review the matter and shall conduct the hearing pursuant to the procedures set forth in this Code.
- (b) The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than sixty (60) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- (c) At the hearing, the appellant may present information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- (d) At the conclusion of the hearing, the City Manager may affirm, reverse or modify the decision appealed. The decision of the City Manager (or Hearing Officer if appointed by the City Manager) shall be appealable to the City Council consistent with provisions of Municipal Code Sections 2.04.100 through 2.04.130.

Section 5.05.170. Permittee Selection Process.

- (a) The City Council shall adopt by resolution a procedure guideline and Review Criteria by which the applicants in each category of each commercial cannabis business will be evaluated by the CFO or his/her designee.
- (b) Prior to final eligibility decision being made, the selected applicants for each category may be invited to attend an interview with the CFO or his/her designee where they may be expected to answer questions related to their application
- (c) Official issuance of the commercial cannabis business permit(s), however, is conditioned upon the successful applicant(s) obtaining all required land use approvals. The applicant(s) shall apply to the City's

Community Development Department to obtain any required land use approvals or entitlements for the permittee's location, if any within the time specified in the Application Procedures adopted by the City Council. Land use approvals shall include compliance with all applicable provisions of CEQA. The CFO or his/her designee(s) shall formally issue the commercial cannabis business permit(s) once the Community Development Director or his/her designee(s) affirms that all of the required land use approvals, conditional use permit, certificate of occupancy and building permits have been obtained and all state license have been obtained. Failure to comply with the deadline set out in the Application Procedures will result in withdrawal of the provisional permit by the City.

- (d) Issuance of a commercial cannabis business permit does not create a land use entitlement. The commercial cannabis business permit shall only be for a term of twelve (12) months from the effective date, and shall expire at the end of the twelve (12) month period unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Title and of the permit, have been complied with and until a state license is available and obtained by the permitted operator, including compliance with all provisions of the Medical Cannabis Collective Laws as set forth at Section 5.05.060.
- (e) Notwithstanding anything in this Title to the contrary, the City, City Council or the CFO reserve the right to reject any or all applications if it is determined such action would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a commercial cannabis business permit until a permit is actually issued, and then only for the duration of the permits term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may amend, terminate or delay the program created under this Title. If such action is taken by the CFO, the decision is subject to appeal under the provisions of this Chapter.
- (f) If an application is denied, a new application may be filed in the next application period.
- (g) Each applicant granted a commercial cannabis business permit shall be required to pay the permit fee to cover the costs of administering and monitoring the commercial cannabis business permit program created in this Title along with any other fees as set forth in section 5.05.300.

Section 5.05.180. Change in Location; Updated Application Form.

- (a) Any time the dispensing, cultivation, manufacturing, testing lab and distribution location specified in the regulatory permit is changed, the applicant shall reapply with the CFO or his/her designee(s). The process and the fees for reapplying shall be the same as the process and fees set forth for application in sections 5.05.090, 5.05.120 and 5.05.300.
- (b) Within fifteen (15) calendar days of any other change in the information provided in the application form or any change in status of compliance with the provisions of this chapter, including any change in the commercial cannabis business ownership or management members, the applicant shall file an updated application form with the CFO or his/her designee(s) for review along with an application amendment fee as set forth in section 5.05.300.

Section 5.05.190. Transfer of Commercial Cannabis Business Permit.

- (a) The owner of a commercial cannabis business permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to the permit from the CFO or his/her designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the CFO or his/her designee in accordance with all provisions of this Chapter (as though the transferee were applying for an original cannabis business permit) accompanied by the transfer fee as set forth in section 5.05.300. CFO or his/her designee determines, after hearing, in accordance with this section that the transferee passed the background check(s) required for permittees and meets all other requirements of this Chapter.
- (b) Commercial cannabis business permits issued through the grant of a transfer by the CFO or his/her designee shall be valid for a period of the original term of the transferred permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.
- (c) Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 19% of the original ownership or a change to the an individual who will be participating in the direction, control, or management of the person applying for a license or who has a financial interest in the business other than a fixed lease of real property), must be approved by the CFO or his/her designee through the transfer process contained in this subsection.

Failure to comply with this provision is grounds for permit revocation.

- (d) A permittee may change the form of business entity without applying to the CFO or his/her designee for a transfer of permit, provided that either:
 - (1) The membership of the new business entity is substantially similar to original permit holder business entity, or
 - (2) If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and to comply with Section 5.05.060, subdivision (b), provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity.
 - (3) Although a transfer is not required in these two circumstances, the permit holder is required to notify the CFO in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.
- (e) No commercial cannabis business permit may be transferred when the CFO or his/her designee has notified the permittee that the permit has been or may be suspended or revoked.
- (f) Any attempt to transfer a commercial cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

Section 5.05.200. City Business License.

Prior to commencing operations, a commercial cannabis business shall obtain a City of Moreno Valley business license.

Section 5.05.210. Building Permits and Inspection.

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory building and occupancy inspection, and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes, but is not limited, to obtaining any required building permit(s), the Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

Section 5.05.220. Certification from the Community Development Director.

Prior to commencing operations, a commercial cannabis business must obtain a certification from the Community Development Director or his/her designee(s) certifying that the business is located on a site that meets all of the requirements of the Title 9 of the Municipal Code.

Section 5.05.230. Right to Occupy and to Use Property.

As a condition precedent to the City's issuance of a commercial cannabis business permit pursuant to this Title, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Title and consents to the operation of the commercial cannabis business on the owner's property.

Section 5.05.240. Location and Design of Cannabis Businesses.

Cannabis businesses permitted to engage in Cultivation, Distribution, Manufacturing, Testing Labs, and Retail Sales, for cannabis and cannabis products are subject to the zoning and locational requirements as set forth in Title 9 of the Municipal Code and amended from time to time.

Section 5.05.250. Limitations on City's Liability.

- (a) To the fullest extent permitted by law, the City of Moreno Valley shall not be liable whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Title or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:
 - (1) They must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Moreno Valley, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the commercial cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the commercial cannabis

business or any of its officers, employees or agents.

- (2) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Council or City Attorney.
- (3) Reimburse the City of Moreno Valley for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City of Moreno Valley may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit, or related to the City's approval of a commercial cannabis activity. The City of Moreno Valley may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Section 5.05.260. Records and Recordkeeping.

- (a) Each owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Title), or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to multiple regulatory compliance reviews and financial audits as determined by the CFO or his/her designee(s).
- (b) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the CFO or his/her designee(s) upon a reasonable request.
- (c) Once a state license is obtained, the commercial cannabis business must maintain such records as may be required by MAUCRSA.

- (d) All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth in MAUCRSA.
- (e) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA) regulations, each commercial cannabis business shall allow the City of Moreno Valley officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

Section 5.05.270. Security Measures.

- (a) A permitted commercial cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. Except as may otherwise be determined by the CFO or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (1) Preventing individuals from remaining on the Site and/or premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.
 - (2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
 - (3) Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
 - (4) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and

accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the CFO or his/her designee(s), and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the CFO or his/her designee(s). Video recordings shall be maintained for a minimum of forty-five (45) days, and shall be made available to the CFO or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.

- (5) Sensors shall be installed to detect entry and exit from all secure areas.
 - (6) Panic buttons shall be installed in all commercial cannabis businesses.
 - (7) Having a professionally installed, maintained, and monitored alarm system. Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
 - (8) Security personnel or consultants shall be on-site 24 hours a day or alternative security measures shall be instituted as authorized by the CFO or his/her designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services. Additionally, a commercial cannabis employee identification is required as set forth in section 5.05.070.
 - (9) Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (b) Each commercial cannabis business shall identify a designated security representative/liaison to the City of Moreno Valley, who shall be reasonably available to meet with the CFO or his/her designee(s) regarding any security related measures or and operational issues.
 - (c) As part of the application and permitting process each commercial cannabis business shall have a storage and distribution plan, which describes in detail the procedures for safely and securely storing and distributing all cannabis, cannabis products, and any currency.

- (d) The commercial cannabis business shall cooperate with the City whenever the CFO or his/her designee(s) makes a request, upon reasonable notice to the commercial cannabis business, to inspect or audit the effectiveness of any security plan or of any other requirement of this Title.
- (e) A commercial cannabis business shall notify the CFO or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the CFO or his/her designee(s).
 - (2) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.
 - (3) Any other breach of security.

Section 5.05.280. Restriction on Alcohol & Tobacco Sales.

- (a) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.
- (b) No person shall cause or permit the sale or tobacco products on or about the premises of the commercial cannabis business.

Section 5.05.290. Compliance with Laws.

It is the responsibility of the owners and operators of the commercial cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Title shall be construed as authorizing any actions that violate state law or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and the operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business

permit. Nothing in this Title shall be construed as authorizing any actions which violate state law with regard to the operation of a commercial cannabis business.

Section 5.05.300. Fees and Charges.

- (a) No person may commence or continue any commercial cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution of the City Council, which may be amended from time to time.
- (b) All commercial cannabis businesses authorized to operate under this Title shall pay all sales, use, business and other applicable taxes including those that may be adopted by the City, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with City with respect to any reasonable request to audit the commercial cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited, to a verification of the amount of taxes required to be paid during any period.

Section 5.05.310. Miscellaneous Operating Requirements.

- (a) Commercial cannabis businesses may operate only during the hours specified in the land use entitlement obtained under Title 9.
- (b) Cannabis shall not be consumed by any individual on the Site and or premises of any commercial cannabis businesses.
- (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (d) Reporting and Tracking of Product and of Gross Sales.
 - (1) Each commercial cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial cannabis business shall ensure that such information is compatible with the City's record-

keeping systems. In addition, the system must have the capability to produce historical transactional data for review and meet state and local requirements.

- (2) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and distributed by licensed facilities that maintain operations in full conformance with the state and local regulations.
 - (3) There shall not be a physician located in or around any commercial cannabis business at any time for the purpose of evaluating patients for the issuance of a cannabis recommendation or card where applicable.
- (e) Prior to dispensing medicinal cannabis or medicinal cannabis products where applicable to any person, the commercial medicinal cannabis business shall obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient.
- (f) Emergency Contact.
- (1) Each commercial cannabis business shall provide the CFO or his/her designee(s) with the name, telephone number (both land-line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- (g) Signage and Notices.
- (1) Commercial cannabis businesses shall maintain compliance with Title 9 requirements.
- (h) Minors.
- (1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of an A-Type commercial cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Title for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age. Persons under the age of eighteen (18) years shall not be allowed on the premises of an M-Type commercial cannabis business.
 - (2) The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises

of an A-Type commercial cannabis business and under the age of eighteen (18) years of age of an M-Type commercial cannabis business.

(i) Odor Control.

- (1) Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the Community Development Director or his/her designee(s) determine is a more effective method or technology;
- (2) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
- (3) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

(j) Display of Permit and City Business License.

- (1) The original copy of the commercial cannabis business permit issued by the City pursuant to this Title and the City issued business license shall be posted inside the commercial cannabis business in a location readily visible to the public.

(k) Background Check.

- (1) Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation. Every person listed as an owner, manager,

supervisor, employee or volunteer, of the commercial cannabis business must submit fingerprints and other information deemed necessary by the CFO or his/her designee(s) for a background check by the City of Moreno Valley. Pursuant to California Penal Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a commercial cannabis business or a related work permit unless they have first cleared the background check, as determined by the City Attorney or his/her designee(s), as required by this section. A fee as set forth in section 5.05.300 for the cost of the background investigation, which shall be the actual cost to the City of Moreno Valley to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.

(l) Loitering for Unlawful Purposes.

- (1) The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises and site.

(m) Permits and other Approvals.

- (1) Prior to the establishment of any commercial cannabis business or the operation of any such business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

Section 5.05.320. Other Operational Requirements.

The CFO or his/her designee may develop other commercial cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

Section 5.05.330. Operating Requirements for Retailer Facilities; Delivery.

It is the stated intent of this Section to regulate commercial cannabis activity in the City of Moreno Valley in compliance with all provisions MAUCRSA and any subsequent state legislation.

Section 5.05.340. Operating Requirements for Cultivation Facilities.

- (a) Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors. All outdoor cultivation is prohibited.
- (b) In no case, shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- (c) If a commercial cannabis cultivation is permitted in the City of Moreno Valley then it shall only be allowed to cultivate the square feet of canopy space permitted by state law and City's zoning laws.
- (d) Commercial cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (e) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- (f) The cultivation of commercial cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- (g) All applicants for a commercial cannabis cultivation permit shall submit the following in addition to the information generally otherwise required for a commercial cannabis business:
 - (1) A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).
 - (2) A description of a legal water source, irrigation plan, and projected water use.
 - (3) Identification of the source of electrical power and plan for compliance

with applicable Building Codes and related codes.

- (4) Plan for addressing odor and other public nuisances that may derive from the cultivation site.

Section 5.05.350. Operating Requirements for Testing Labs.

- (a) Testing Labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code 26100 and shall be subject to state and local law. Each Testing Lab shall be subject to additional regulations as determined from time to time as more regulations are developed under Section 5.05.350 (a) of this Title, Title 9 and any subsequent State of California legislation regarding the same.
- (b) Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- (c) All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
- (d) Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the bureau.
- (e) Except as provided by state law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or distribution shall be performed pursuant to a specified chain of custody protocol.
- (f) A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing lab shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.

Section 5.05.360. Commercial Cannabis Manufacturing Type-6 License only.

- (a) Only commercial cannabis manufacturing facilities requiring a Type-6 state license (using non-volatile compounds) as defined in MAUCRSA are allowed to operate within City limits and may be permitted to operate within those zone districts as defined in Title 9 of this Municipal Code.
- (b) Any compressed gases used in the manufacturing process shall not be stored on any property within the City of Moreno Valley in containers that exceeds the amount which is approved by the Fire Department and authorized by the regulatory permit. Each site or parcel subject to a commercial cannabis business permit shall be limited to a total number of tanks as authorized by the Fire Department on the property at any time.

Section 5.05.365. Operating Requirements for Micro-Businesses.

- (a) A Micro-business must operate with at least three of the four allowed uses, cultivation (not to exceed 10,000 sq.ft.), manufacturing, distribution and retail dispensing.
- (b) Micro-businesses shall comply with all of the operational requirements of this Title for each of the commercial cannabis activities that are present on site of the micro-business.
- (c) Micro-business shall comply with all applicable state laws with regard to its licensing and operation, as well as the provisions of City Municipal Code Title 5 and 9.

Section 5.05.370. Promulgation of Regulations, Standards and Other Legal Duties.

- (a) In addition to any regulations adopted by the City Council, the CFO or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Title.
- (b) Regulations promulgated by the CFO shall become effective upon date of publication. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the CFO or his/her designee.
- (c) Testing Labs and Distribution facilities shall be subject to state law and shall be subject to additional regulations as determined from time to time

as more regulations are developed under Section 5.05.370 (a) of this Title and any subsequent State of California legislation regarding the same.

Section 5.05.380. Community Relations.

- (a) Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business site.
- (b) The owner, manager, and community relations representative from each commercial cannabis business shall meet with the CFO or his/her designee(s) when and as requested by the CFO or his/her designee(s).
- (c) Commercial cannabis businesses to which a permit is issued pursuant to this Title shall develop a city approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

Section 5.05.390. Fees Deemed Debt to the City of Moreno Valley.

The amount of any fee, cost or charge imposed pursuant to this Title shall be deemed a debt to the City of Moreno Valley that is recoverable via an authorized administrative process as set forth in the City ordinance, or in any court of competent jurisdiction.

Section 5.05.400. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Title shall be responsible for all violations of the laws of the State of California or of the regulations and/or the provisions of this Title or other City adopted policies and procedures, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.

Section 5.05.410. Inspection and Enforcement.

- (a) The CFO, or his/her designee(s) charged with enforcing the provisions of this Title, or any provision thereof, may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this Title or under applicable

provisions of state law.

- (b) It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Title or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Title or under state or local law.
- (c) The CFO, or his/her designee(s) charged with enforcing the provisions of this Title may enter the location of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Moreno Valley shall be logged, recorded, and maintained in accordance with established procedures by the CFO or these regulations.

Section 5.05.420. Compliance with State Regulation.

It is the stated intent of this Title to regulate commercial cannabis activity in the City of Moreno Valley in compliance with all provisions MAUCRSA and any subsequent state legislation.

Section 5.05.430. Violations Declared a Public Nuisance.

Each and every violation of the provisions of this Title is hereby deemed unlawful and a public nuisance.

Section 5.05.440. Each Violation a Separate Offense.

Each and every violation of this Title shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Moreno Valley Municipal Code. Additionally, as a nuisance per se, any violation of this Title shall be subject to injunctive relief, any permit issued pursuant to this Title being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Moreno Valley may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the CFO, or his/her designee(s), may take immediate action to temporarily suspend a

commercial cannabis business permit issued by the City, pending a hearing before the City Manager, or his/her designee(s).

Section 5.05.450. Criminal Penalties.

Each and every violation of the provisions of this Title may in the discretion of the City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 5.05.460. Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

PART 2. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be in violation of the law, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared in violation of the law.

PART 3. This Ordinance shall become effective thirty (30) days after the date of its adoption, and within fifteen (15) days after its adoption, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

INTRODUCED at a regular meeting of the City Council on October 16, 2018 and PASSED, APPROVED, and ADOPTED by the City Council on December 18, 2018 by the following roll call vote, to wit:

AYES: Council Member Thornton, Council Member Cabrera, Mayor Pro Tem Baca and Mayor Gutierrez

NOES: None

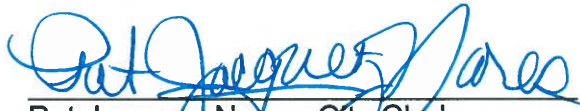
ABSENT: Council Member Marquez

ABSTAIN: None



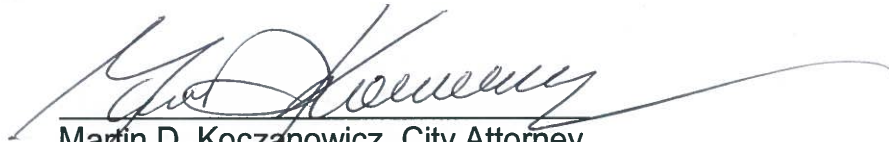
Dr. Yxstian A. Gutierrez
Mayor
City of Moreno Valley

ATTEST:



Pat Jacquez-Nares, City Clerk

APPROVED AS TO FORM:



Martin D. Koczanowicz, City Attorney

ORDINANCE JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF MORENO VALLEY)

I, Pat Jacquez-Nares, City Clerk of the City Council of the City of MORENO VALLEY, California, do hereby certify that the foregoing Ordinance No. 944, was introduced at a regular meeting of the City Council of the City of MORENO VALLEY held on the 16th day of October, 2018 and was passed by the City Council of the City of MORENO VALLEY at a regular meeting held the 18th day of December, 2018, by the following vote:

AYES: Council Member Thornton, Council Member Cabrera, Mayor Pro Tem Baca and Mayor Gutierrez

NOES: None

ABSENT: Council Member Marquez

ABSTAIN: None

(Council Members, Mayor Pro Tem and Mayor)


PAT JACQUEZ-NARES, CITY CLERK

(SEAL)