



AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF
THE CITY OF MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY
BOARD OF LIBRARY TRUSTEES

October 24, 2017

SPECIAL MEETING – 6:00 PM

City Council Study Sessions

Second Tuesday of each month – 6:00 p.m.

City Council Meetings

Special Presentations – 5:30 P.M.

First & Third Tuesday of each month – 6:00 p.m.

City Council Closed Session

Will be scheduled as needed at 4:30 p.m.

City Hall Council Chamber – 14177 Frederick Street

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Guy Pegan, ADA Coordinator, at 951.413.3120 at least 72 hours before the meeting. The 72-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Victoria Baca, Mayor Pro Tem
David Marquez, Council Member

Dr. Yxstian A. Gutierrez, Mayor

Jeffrey J. Giba, Council Member
Ulises Cabrera, Council Member

**AGENDA
JOINT MEETING OF THE
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF THE
CITY OF MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY
AND THE BOARD OF LIBRARY TRUSTEES**

***THE CITY COUNCIL RECEIVES A SEPARATE STIPEND FOR CSD
MEETINGS***

**SPECIAL MEETING – 6:00 PM
OCTOBER 24, 2017**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

INTRODUCTIONS

PUBLIC COMMENTS ON MATTERS ON THE AGENDA ONLY

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council.

A. BUSINESS

- A.1. ORDINANCE ADDING CHAPTER 5.05 COMMERCIAL CANNABIS ACTIVITY PERMITTING PROCESS (Report of: City Attorney)

Recommendations: That the City Council:

1. Introduce and conduct the first reading by title only, of an Ordinance, which when adopted would amend Moreno Valley Municipal Code Title 5 to add Chapter 5.05 Commercial Cannabis Activity, and
 - 1a. Schedule the second reading and adoption for the next regularly scheduled meeting, or
2. Provide revisions to the draft Ordinance and direct staff to return with an amended draft for introduction and first reading at a future Council meeting, and

3. Direct staff to prepare a proposed ballot measure that would levy a cannabis commercial activity tax in Moreno Valley for the Council's consideration. If approved by the Council, such a measure could be placed on the November 2018 ballot.

A.2. RESOLUTION EXTENDING ORDINANCE 916 BANNING ALL COMMERCIAL CANNABIS ACTIVITY IN THE CITY (Report of: City Attorney)

Recommendation:

Staff recommends that the City Council adopt a Resolution, extending the existing ban on commercial cannabis activity, till permanent regulations can be adopted.

A.3. CITY COUNCIL REQUESTS AND COMMUNICATIONS

(ITEMS MAY BE DEFERRED BY COUNCIL IF TIME DOES NOT PERMIT FULL REVIEW.)

ADJOURNMENT

PUBLIC INSPECTION

The contents of the agenda packet are available for public inspection on the City's website at www.moval.org and in the City Clerk's office at 14177 Frederick Street during normal business hours.

Any written information related to an open session agenda item that is known by the City to have been distributed to all or a majority of the City Council less than 72 hours prior to this meeting will be made available for public inspection on the City's website at www.moval.org and in the City Clerk's office at 14177 Frederick Street during normal business hours.

CERTIFICATION

I, Pat Jacquez-Nares, City Clerk of the City of Moreno Valley, California, certify that 72 hours prior to this Study Session, the City Council Agenda was posted on the City's website at: www.moval.org and in the following three public places pursuant to City of Moreno Valley Resolution No. 2007-40:

City Hall, City of Moreno Valley
14177 Frederick Street

Moreno Valley Library
25480 Alessandro Boulevard

Moreno Valley Senior/Community Center
25075 Fir Avenue

Pat Jacquez-Nares, CMC & CERA
City Clerk

Date Posted: October 20, 2017



Report to City Council

TO: Mayor and City Council

FROM: Martin Koczanowicz, City Attorney

AGENDA DATE: October 24, 2017

TITLE: ORDINANCE ADDING CHAPTER 5.05 COMMERCIAL CANNABIS ACTIVITY PERMITTING PROCESS

RECOMMENDED ACTION

Recommendations: That the City Council:

1. Introduce and conduct the first reading by title only, of an Ordinance, which when adopted would amend Moreno Valley Municipal Code Title 5 to add Chapter 5.05 Commercial Cannabis Activity, and
 - 1a. Schedule the second reading and adoption for the next regularly scheduled meeting, or
2. Provide revisions to the draft Ordinance and direct staff to return with an amended draft for introduction and first reading at a future Council meeting, and
3. Direct staff to prepare a proposed ballot measure that would levy a cannabis commercial activity tax in Moreno Valley for the Council's consideration. If approved by the Council, such a measure could be placed on the November 2018 ballot.

SUMMARY

This report recommends consideration and first reading of an Ordinance to regulate the permitting process for commercial cannabis activity in the City of Moreno Valley. This is the first of two necessary code amendments, which when adopted would allow retail sales, cultivation, manufacturing and testing labs within City limits. The second step will entail an amendment to Title 9, to identify the zoning districts where cannabis activity would be allowed under a Conditional Use Permit, as well as the potential findings that would need to be made in order for the CUP to be granted.

DISCUSSION

At the October 10th study session City Council discussed potential approaches to regulating cannabis activity in the City, in view of the State law which allows recreational (Adult-Use) cannabis to be grown and distributed on a commercial basis in California beginning in January of 2018. Council received presentations from staff as well as input from the public and industry representatives. Staff outlined a dual regulatory process that would need to be in effect before any commercial cannabis activity could legally operate in the City. Staff also outlined the need to set fees for processing and monitoring of these businesses to help recover costs associated with regulating these activities.

The first part, which can be adopted in a relatively shorter period of time, is the licensing or permitting process which would be added to Title 5 of the Municipal Code and which would set out the regulatory authority of the City over such businesses.

The second, more time consuming part would require amendments to Title 9 of the Municipal Code, which would specify the entitlement process (most likely a Conditional Use Permit "CUP") and the zoning districts where various cannabis businesses could locate. As explained during the study session, this process would evaluate the different types of the commercial cannabis activity, and based on potential impacts, the policies of the General Plan and other related factors, arrive at recommended areas in the City that would allow establishment of those businesses. At minimum this process requires consideration by the Planning Commission, followed by City Council deliberation and action on potential Code changes that would put such regulations into place.

The representatives from the industry at the study session made clear their desire to obtain the necessary City approvals prior to January 1st 2018. They asserted that this would give businesses a higher priority in what they anticipate to be a large number of applicants for the State license which is also necessary to operate a commercial cannabis business in California.

As set out in the study session staff report and during the presentations, there is not enough time before January 1st, 2018, to have both Ordinances fully considered and completed, and to have a potential businesses go through the approval processes required for issuance of both a permit and land use entitlements being issued.

Based upon statutory and procedural requirements the process of amending Title 9 of the Municipal Code could take in excess of a year. Staff is developing an expedited timeline for adoption of Ordinances which would amend Title 9 and establish a process under which land use entitlements for the various commercial cannabis business activities can be issued.

Our office was directed to draft a regulatory Ordinance for Council's consideration and introduction at this special meeting. That Ordinance was to be drafted with the assumption that all forms of commercial cannabis activity would be allowed and

regulated in the City. The attached draft Ordinance is responsive to that request. It establishes foundational criteria, regulations and processes that would be in place for issuance of a Commercial Cannabis Business Permit (CCBP) for any such business in the City. It is important to note that due to the timeline provided by the Council for preparation of this Ordinance, numerous assumptions as to approval process and regulations have been made by staff. These usually are discussed in a workshop setting with the Council, but are being presented in the final draft of the Ordinance consistent with Council's direction. Council does have the option of directing staff to make revisions to the draft Ordinance and return the revised draft for an introduction and first reading at another Council meeting.

For all commercial activity, a permit would not be issued until/unless a land use entitlement was obtained by the applicant, most likely in the form of a CUP and the required State license. Only when both the CUP and the CCBP were issued, along with the State license, could a commercial cannabis establishment open doors and operate at an approved location within the City. The draft Ordinance is included as Attachment A to this staff report.

As is set out in the Ordinance, the new Chapter 5.05 would provide for a permitting process that would include background checks on owners and operators; control of the proposed property or proof of a landlord's consent; employee work permits; restrictions to on-site consumption, as well as alcohol sale on premises; detailed record keeping, labeling and packaging regulations; and operating requirements for specific types of businesses (dispensary, cultivation, testing, manufacturing). The Ordinance leaves some aspects of regulations to policies which would be adopted by the City in the future.

The Ordinance also authorizes the City to charge fees which will be set by resolution to reimburse the City for costs of processing of regulatory approvals, auditing/monitoring compliance and providing the necessary public safety measures to protect the public from potential impacts associated with operation of commercial cannabis businesses. Staff is in contact with a consulting firm that has expertise in the cannabis regulatory arena to initiate discussions about the fee setting methodology as well as overall regulatory operations. The City will consider engaging the consultant's assistance should the proposed Ordinance be adopted by the Council.

Another important topic for consideration at this time is the Council's potential interest in pursuing a voter-approved tax that could be levied on commercial cannabis activity within Moreno Valley. Voters throughout the state, including several communities in Riverside County, have approved such tax measures and will receive General Fund revenue to enhance delivery of local services to their residents. These measures received overwhelming support from the voters; in November, 2016, voters in California passed 37 of 38 cannabis-related general use tax measures. Details are contained in Attachment B to this staff report.

Staff recommends that the City Council direct staff to prepare and present to Council a potential ballot measure to tax commercial cannabis activity in the City, which could be

placed on the November 2018.

ALTERNATIVES

Council has the following alternatives to consider:

1. Conduct the first reading by title only of the Draft Ordinance and schedule it for second reading and consideration of adoption at the next regular City Council meeting.
2. Review the Ordinance and provide staff with additional direction and/or revisions to be brought back before the Council for introduction and first reading.
3. Take no action at this time and wait until the recommendations from the Planning Commission on the Municipal Code Title 9 Planning and Zoning amendments for Commercial Cannabis Business activity come before the Council.
4. Direct staff to prepare a proposed ballot measure that would levy a commercial cannabis activity tax in Moreno Valley for the Council's consideration. If approved by the Council, such a measure could be placed on the November 2018 ballot.

FISCAL IMPACT

There are no fiscal impacts anticipated from any of the alternatives.

NOTIFICATION

Agenda was posted in accordance with the Brown Act.

PREPARATION OF STAFF REPORT

Prepared By:
Martin D. Koczanowicz
City Attorney

Department Head Approval: NA

Concurred By:
Allen Brock
Community Development Director

CITY COUNCIL GOALS

Public Safety. Provide a safe and secure environment for people and property in the community, control the number and severity of fire and hazardous material incidents, and provide protection for citizens who live, work and visit the City of Moreno Valley.

CITY COUNCIL STRATEGIC PRIORITIES

1. Economic Development
2. Public Safety

- 3. Library
- 4. Infrastructure
- 5. Beautification, Community Engagement, and Quality of Life
- 6. Youth Programs

ATTACHMENTS

- 1. AttachmentB
- 2. MVTitle5Regulatory Ordinancefinaldraft 10 20 17

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/20/17 9:22 AM
City Attorney Approval	<u>✓ Approved</u>	10/19/17 1:38 PM
City Manager Approval	<u>✓ Approved</u>	10/20/17 10:50 AM

ATTACHMENT B

Voter Approved Cannabis Tax Measures: Cities in Riverside County

- San Jacinto:** Voters in San Jacinto approved a local gross receipts tax of up to 15% and up to a \$50.00 per square foot cultivation/manufacturing tax on all San Jacinto businesses that transact in marijuana and marijuana-containing products (oils, creams, candies and “edibles”). The tax would cover marijuana cultivation and marijuana-product manufacturing, processing, testing, distribution and retail sale. The Impartial Analysis published with the November 2016 ballot indicated that the taxes are estimated to generate \$1,250,000 annually to the City’s general fund. **Passed with 67.69% of votes.**
- Perris:** Voters in Perris approved a Marijuana Dispensary and Cultivation Tax with a maximum tax rate of 10¢ for each \$1 of dispensary proceeds. The Impartial Analysis published with the November 2016 ballot indicated that the tax is estimated to generate \$875,000 - \$1,200,000 annually to the City’s general fund. The measure also specified that if marijuana cultivation were to be permitted (if cultivation is authorized in the future by local, state, or federal law), that a maximum tax of \$25 per square foot for space used for marijuana cultivation (adjusted annually based on the Consumer Price Index) could generate an additional \$100,000 - \$1,000,000 annually. **Passed with 69.88% of votes.**
- Cathedral City:** In 2014, voters in Cathedral City approved a tax rate of up to 15¢ per each dollar of proceeds or fractional part thereof on marijuana collectives and dispensaries. Voters amended the tax in November 2016 by imposing a tax of \$25 per square foot of cultivation space, and \$1 for every gram of cannabis concentrate and every unit of cannabis-infused product. The Impartial Analysis of that ballot measure did not specify the amount of projected revenue associated with the measure. In April 2017, the Desert Sun newspaper reported that the City Council voted to reduce the tax on cultivation from \$25 to \$15 per square foot and the tax on manufacturing to 40¢ cents per gram of extract or per piece of item packaged for individual sale. The amount of projected annual revenues was not readily available at this time. **Passed with 76.26% of votes.**
- Coachella:** In 2016, voters approved a tax of \$15 per square foot on cultivation and manufacturing facilities and 6 percent of revenue on marijuana sales and applying this tax to both medical and recreational marijuana. The ballot language indicated estimated annual revenues of \$4 million. **Passed with 81.6% of votes.**

Voter Approved Cannabis Tax Measures: Statewide Results Nov. 2016

Source: CaliforniaCityFinance.com

Cannabis Taxes - Majority Vote General Use			
<u>Agency Name</u>		<u>YES%</u>	<u>NO%</u>
Del Rey Oaks	Measure A	83.1%	16.9% PASS
Coachella	Measure II	81.6%	18.5% PASS
King City	Measure J	80.5%	19.5% PASS
Cathedral City	Measure P	76.2%	23.8% PASS
County of Monterey - unincorp	Measure Y	74.6%	25.4% PASS
San Leandro	Measure NN	74.4%	25.6% PASS
Watsonville	Measure L	74.2%	25.8% PASS
Salinas	Measure L	74.1%	25.9% PASS
Cloverdale	Measure P	73.9%	26.1% PASS
Gonzales	Measure W	73.9%	26.2% PASS
Grover Beach	Measure L	71.4%	28.6% PASS
Santa Babara	Measure D	69.6%	30.4% PASS
Perris	Measure J	69.4%	30.6% PASS
San Diego	Proposition N	68.4%	31.6% PASS
Pittsburg	Measure J	68.0%	32.0% PASS
Long Beach	Measure MA	67.7%	32.3% PASS
County of Calaveras - unincorp	Measure C	67.5%	32.5% PASS
Adelanto	Measure R	67.0%	33.0% PASS
San Jacinto	Measure AA	66.4%	33.6% PASS
Point Arena	Measure AE	66.3%	33.7% PASS
County of Humboldt - unincorp	Measure S	66.1%	34.0% PASS
Dixon	Measure K	65.0%	35.0% PASS
County of Inyo - unincorp	Measure I	64.7%	35.3% PASS
Fillmore	Measure i	63.9%	36.2% PASS
Stockton	Measure Q	63.8%	36.2% PASS
Greenfield	Measure O	63.6%	36.4% PASS
County of Mendocino -	Measure AI	63.6%	36.4% PASS
Carson	Measure KK	63.5%	36.5% PASS
County of Solano - unincorp	Measure C	62.7%	37.3% PASS
Marysville	Measure F	62.5%	37.5% PASS
County of Lake - unincorp	Measure C	62.2%	37.8% PASS
Hayward	Measure EE	59.5%	40.5% PASS
Coalinga	Measure E	59.5%	40.5% PASS
Fillmore	Measure H	59.3%	40.7% PASS
San Bernardino INT	Measure O	54.1%	45.9% PASS
Costa Mesa	Measure X	53.6%	46.4% PASS
Coalinga	Measure G	51.5%	48.6% PASS
Avalon INT	Measure X	36.0%	64.0% FAIL

ORDINANCE NO. ____

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, DISPENSATION, TRANSPORTATION AND TESTING 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 desires to establish reasonable land use controls and reasonable regulations on the operation of marijuana-related businesses which are intended to operate in conjunction with the City of Moreno Valley Municipal Code Title 9 land use regulation and which are intended to address the negative impacts and nuisance impacts of marijuana-related businesses; and

WHEREAS, the City Council desires also to establish reasonable land use controls and reasonable regulations on the operation of marijuana-related business consistent with the state law; and

WHEREAS, marijuana-related businesses will be subject to the zoning and land use regulations of the zone in which such business is established and operates, as will be set forth in Title 9, of the City of Moreno Valley Municipal Code; 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, distribution, testing 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, Commercial Cannabis Activity is hereby added to the Moreno Valley Municipal Code 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 Cannabis Employee Permit Required
- 5.05.080 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted
- 5.05.090 Initial Application Procedure
- 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 registration form
- 5.05.190 Transfer of 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 Medicinal Cannabis Businesses**
- 5.05.250 Limitations on City’s Liability**
- 5.05.260 Records and Recordkeeping**
- 5.05.270 Security Measures**

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, processing, manufacturing testing, sale, delivery, distribution and transportation 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 and 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, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (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. Nothing in this Title shall be construed as authorizing any actions that violate federal or state law regarding the operation of a commercial cannabis business.

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.

- (a) "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.
- (b) "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.
- (c) "Applicant" means an owner applying for a City Permit pursuant to this division.
- (d) "Batch" means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:
 - (1) "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.
 - (2) "Manufactured cannabis batch" means either of the following:
 - (A) An amount of cannabis concentrates or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.
 - (B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.
- (e) "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.

(f) “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.

(g) “Cannabis accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.

(h) “Cannabis Business Park” a park or campus is one contiguous commercial area of land which 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.

(i) “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.

(j) “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.

(k) “Cannabis products” has the same meaning as in Section 11018.1 of the Health and Safety Code.

(l) “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.

(m) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

(n) “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.

(o) “City” means the City of Moreno Valley, a California a general law city.

(p) “Commercial cannabis activity” includes the dispensing, cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of medicinal and adult-use cannabis and cannabis products as provided for in this division.

(q) “Commercial cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

- (r) “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.
- (s) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (t) “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.
- (u) “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.
- (v) “Day care center” has the same meaning as in Section 1596.76 of the Health and Safety Code.
- (w) “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.
- (x) “Director” means the Director of Consumer Affairs.
- (y) “Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- (z) “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- (aa) “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.
- (ab) “Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (ac) “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.
- (ad) “Fund” means the Cannabis Control Fund established pursuant to Section 26210.15
- (ae) “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.
- (af) “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.
- (ag) “Labeling” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container.
- (ah) “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.

(ai) "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.

(aj) "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.

(ak) "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.

(al) "Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(am) "Local jurisdiction" means a city, County or city and County.

(an) "Lot" means a batch or a specifically identified portion of a batch.

(ao) "M-license" means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.

(ap) "M-licensee" means any person holding a license under this division for commercial cannabis activity involving medicinal cannabis.

(aq) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(ar) "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.

(as) "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.

(at) "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.

(au) "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.

(av) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically, for the propagation and cultivation of cannabis.

(aw) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of cannabis or cannabis products.

(ax) "Owner" means any of the following:

- (1) 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.
- (2) The Executive Officer of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.
- (4) 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

(ay) "Package" means any container or receptacle used for holding cannabis or cannabis products.

(az) "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.

(ba) "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.

(bb) "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.

(bc) "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.

(bd) "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 a M-License and a A-License for the same type of activity and such operation is lawful under state and local laws, rules and regulations.

(be) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.

(bf) "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.

(bg) "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.

(bh) "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.

(bi) "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:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.

(2) Licensed by the Bureau.

(bj) "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.

(bk) "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.

(bl) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(bm)) "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.

- (a) 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.
- (b) Until Health & Safety Code Section 11362.775, subdivision (a), is repealed, the City intends that person's eligible to operate collectives or cooperatives under that subdivision shall be eligible to apply for a City conditional permit to conduct commercial cannabis activities, but only to the degree those activities are authorized under state law for collectives and cooperatives. When the Health &

Safety Code Section 11362.775, subdivision (a), is repealed, or as soon as collectives and cooperatives are no longer permitted to engage in commercial cannabis activity without a state license under state law, any conditional permit issued to a commercial cannabis business that has not obtained a state license for the commercial cannabis activities shall expire and shall be null and void. Such businesses shall no longer be authorized to engage in any commercial cannabis activities in the City until they obtain both a City issued Commercial Cannabis Business Permit and a state license for that commercial cannabis activity.

Section 5.05.070. Cannabis Employee Permit 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 who otherwise works or volunteers within a commercial cannabis business must obtain a commercial cannabis employee work permit from the City prior to performing any work at any commercial cannabis business.
- (c) Applications for a commercial cannabis employee work permit shall be developed, made available, and processed by the City Manager 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) Age and verification of applicant. 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 fingerprints and a recent photograph of the applicant in a form and manner as required by the City Manager or his/her designee(s).
 - (7) A signed statement under penalty of perjury that the information provided is true and correct.

- (8) If applicable, verification that the applicant is a qualified patient or primary caregiver.
 - (9) A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the employee work permit programs. The fee is non-refundable and shall not be returned in the event the work permit is denied or revoked.
- (d) The City Manager 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) was convicted for the 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 permit. 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 work permit. Furthermore, an applicant shall not be denied a permit 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 City Manager or his/her designee(s) shall issue the commercial cannabis work permit or a written denial to the applicant within thirty (30) days of the date the application was deemed complete. In the event the cannabis work permit can't be issued within this time period then the City Manager or his/her designee(s) may issue a temporary work permit for an employee upon completing a preliminary background check and if the business can demonstrate to the City Manager or his/her designee(s) that the employee is necessary for the operation of the business. The temporary permit may be immediately revoked by the City Manager or his/her designee(s) upon determination that the applicant

has failed the background check or upon the issuance of the permanent work permit.

- (f) A work permit 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 (b) above including the payment of a renewal application fee in an amount to be set by resolution of the City Council.
- (g) In the event a person changes employment from one commercial cannabis business in the City to another, the work permit holder shall notify the City Manager or his/her designee(s) in writing of the change within ten (10) days, or the work permit 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 work permit should the permit holder be convicted of a crime listed in subsection (c) and (d) above or if facts become known to the City Manager or his/her designee(s) that the permit holder has engaged in activities showing that he or she is dishonest.
- (i) The City Manager or his/her designee(s) is hereby authorized to promulgate all regulations necessary to implement the work permit process and requirements.
- (j) The applicant may appeal the denial or revocation of a commercial cannabis work permit by filing a notice of appeal with the City Clerk within ten (10) days of the date the applicant received the notice of denial, which appeal shall be conducted as set forth in Section 5.05.140 of this Title.
- (k) The City Manager or his/her designee(s) shall issue a permit 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.

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 may be established and set forth in Title 9, or by resolution of the City Council.

Section 5.05.090 Initial Application Procedure.

- (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 City Manager 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 City Manager 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 established by resolution of the City Council, to cover all costs incurred by the City in the application process.
- (c) After the initial review, ranking, and scoring under the Review Criteria, the City Manager or his/her designee(s) will make a final determination in accordance with Chapter 5.05.090. City Manager's decision is appealable to the City Council in accordance with the provisions of Section 5.05.140.
- (d) THE CITY 'S RESERVATION OF RIGHTS:

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 from any candidate submitting an application. In addition to any other justification provided a failure to comply with other requirements in this Title, an application RISKS BEING REJECTED for any of the following reasons:

- (1) Proposal received after designated time and date.
- (2) Proposal not containing the required elements, exhibits, nor organized in the required format.
- (3) Proposal considered not fully responsive to this request for permit application.

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 law and/or any rule, regulation and/or standard adopted pursuant to this Title 5.05.130.

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 be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Title.
- (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) days before its expiration.
 - (2) The Commercial Cannabis Business Permit is suspended or revoked at the time of the application.
 - (3) The commercial cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
 - (4) The commercial cannabis business has failed to conform to the requirements of this Title, any regulations adopted pursuant to this Title, Title 9, or any Conditional Use Permit.
 - (5) The permittee fails or is unable to renew its State of California license.
 - (6) If the City or state has determined, based on substantial 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 City Manager or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager 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. Appeals from the decision of the City Manager or his/her designee(s) shall be handled pursuant to Chapter 5.05.140.
- (f) If a renewal application is rejected, a person may file a new application pursuant to this Title no sooner than one (1) year from the date of the rejection.

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 immediately suspend the ability of a commercial cannabis business to operate within the City, 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 revoke or terminate the ability of a commercial cannabis business to operate within the City of Moreno Valley.

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 City Manager or his/her designee(s), the appeal shall be conducted as prescribed in Sections 5.05.150 and 5.05.160.

Section 5.05.150. Written request for Appeal.

- (a) Within ten (10) calendar days after the date of a decision of the City Manager 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 by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- (b) At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

Section 5.05.160. Appeal Hearing.

- (a) Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
- (b) The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) 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 any 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 Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be final.

Section 5.05.170 Permittee Selection Process.

- (a) The City Council shall adopt by resolution a procedure guideline and Review Criteria by which the top applicants in each category of each commercial cannabis business will be evaluated by the City Manager or his/her designee.
- (b) The top final applicants for each category may be invited to attend a meeting with the City Manager or his/her designee where they may be expected to make a presentation introducing their team and providing an overview of their proposal. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary.
- (c) At least ten (10) days prior to such a hearing, notice of the hearing must be sent to all property owners located within three hundred (300) feet of the proposed business locations of each of the finalists to be considered by the City Manager.
- (d) Official issuance of the Commercial Cannabis Business Permit(s), however, is conditioned upon the prevailing candidate(s) obtaining all required land use

approvals. The candidate(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. Land use approvals shall include compliance with all applicable provisions of CEQA. The City Manager 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 have been obtained.

- (f) 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.
- (g) Notwithstanding anything in this Title to the contrary, the City reserves the right to reject any or all applications if it determines it 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 permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Title.
- (h) If an application is denied, a new application may not be filed for one (1) year from the date of the denial.
- (i) Each person granted a Commercial Cannabis Business Permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the Commercial Cannabis Business Permit program created in this Title along with any other fees set by the City to cover other related costs.

5.05.180 Change in location; updated registration form.

- (a) Any time the dispensing, cultivation, manufacturing, transportation and distribution location specified in the regulatory permit is changed, the applicant shall re-register with the City Manager or his/her designee(s). The process and the fees for re-registration shall be the same as the process and fees set forth for registration in sections 5.05.090 and 5.05.120.
- (b) Within fifteen (15) calendar days of any other change in the information provided in the registration 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 registration form with the City Manager or his/her designee(s) for review along with a registration amendment fee, as set forth in section 5.05.090 and 5.05.120.

Section 5.05.190. Transfer of 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 City Manager 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 City Manager or his/her designee in accordance with all provisions of this Chapter (as though the transferee were applying for an original Commercial Cannabis Business Permit) accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee), and the City Manager or his/her designee determines, after hearing, in accordance with this section that the transferee passed the background check required for permittees and meets all other requirements of this Chapter.
- (b) Commercial Cannabis Business Permit issued through the grant of a transfer by the City Manager or his/her designee shall be valid for a period of one year beginning on the day the City Manager or his/her designee approves the transfer of the 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 51% of the original ownership), must be approved by the City Manager 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 City Manager 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 (at least 51% of the membership is identical), 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.
- Although a transfer is not required in these two circumstances, the permit holder is required to notify the City Manager 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 City Manager 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 this Code and amended from time to time.

Section 5.05.250. Limitations on City's Liability.

To the fullest extent permitted by law, the City of Moreno Valley shall not assume any liability 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:

- (a) 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, to 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.

- (b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Council or City Attorney.
- (c) 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 a regulatory compliance review and financial audit as determined by the City Manager 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 City Manager or his/her designee(s) upon a reasonable request.
- (c) Prior to state licensing, each commercial cannabis business shall maintain a record of all persons, patients, collectives and primary caregivers served by the commercial cannabis business, for a period of no less than four (4) years. Once

a state license is obtained, the commercial cannabis business must maintain such records only to the extent permitted or 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 City Manager 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 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 City Manager 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 City Manager 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 City Manager 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.
 - (8) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
 - (9) Security personnel shall be on-site 24 hours a day or alternative security as authorized by the City Manager or his/her designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
 - (10) 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 City Manager 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 transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
 - (d) The commercial cannabis business shall cooperate with the City whenever the City Manager 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 City Manager 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 City Manager 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.
- (3) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.
- (4) 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 and documented in the commercial cannabis business permit issued by the City.
- (b) Cannabis shall not be consumed by any retail customer on the premises of any commercial cannabis businesses.
- (c) No 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. 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. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.
- (e) All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- (f) 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.
- (g) 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.
- (h) Emergency Contact. Each commercial cannabis business shall provide the City Manager 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.
- (i) Signage and Notices.
 - (1) In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the City of Moreno Valley Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.

- (2) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - (3) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited except as provided in 5.05.310(c).
 - (4) Business identification signage shall be limited to that needed for identification only, and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
 - (5) Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.
 - (6) In accordance with state law and regulations or as stipulated in the City of Moreno Valley regulatory permit, holders of a Commercial Cannabis Business Permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit must be in compliance with all signage and advertising regulations contained in this Code and as may be adopted by Resolution of the City Council. This paragraph is not intended to place limitations on the ability of a commercial cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.
- (j) Minors.
- (1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of a 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.
 - (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 the commercial cannabis business.
- (k) Odor Control. 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:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - (2) 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.
- (l) Display of Permit and City Business License. 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.
- (m) Background Check. 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 to be transmitted to 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 City Manager or his/her designee(s) for a background check by the City of Moreno Valley's Police Department. 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 Police Department or his/her designee(s), as required by this section. A fee 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.
- (n) Loitering. 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.
- (o) Permits and other Approvals. 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.

- (p) If a commercial cannabis business permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), members of the applicant authorized to possess cannabis shall sign an agreement with the commercial cannabis business which states that members shall not distribute cannabis or cannabis products to non-members or in violation of the "Memorandum for all United States Attorneys," issued by the United States Department of Justice, from James M. Cole, Deputy Attorney General and any other applicable state and federal laws, regulations, or guidelines.
- (q) If the commercial cannabis business permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), the commercial cannabis business shall terminate the membership of any member violating any of the provisions of this Title.

Section 5.05.320. Other Operational Requirements.

The City Manager 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.

- (a) No more than the number of retailers adopted by resolution may operate within the City of Moreno Valley at any one time and no more than that number adopted by resolution shall be issued a permit by the City of Moreno Valley to operate a retailer at one time. Both retailers offering storefront purchase (customers purchase and obtain cannabis onsite) and retailers offering delivery only shall be permitted. Each shall be required to maintain a physical location from which commercial cannabis activities are conducted that is permitted under this Title.
- (b) Retailers may only deliver to customers within a County or City that does not expressly prohibit delivery by ordinance. Security plans developed pursuant to this chapter shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
- (c) For M-type Retailers, verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and that the potential customer has a valid doctor's recommendation. For A-type retailers, verify the age of customers to ensure persons under the age of twenty-one (21) are not permitted.
- (d) Entrances into the retailer shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area. Individuals must show their cannabis card in order to gain access into the retailer.

- (e) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.
- (f) Retailers may have only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale on-site in the retail sales area of the retailer.
- (g) All restroom facilities shall remain locked and under the control of management.

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 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) 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 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 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) Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.
- (f) 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 transportation shall be performed pursuant to a specified chain of custody protocol.
- (g) 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. Cannabis Manufacturing Type-6 License only

- (a) Only 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 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 5.05.370. Promulgation of Regulations, Standards and Other Legal Duties.

- (a) In addition to any regulations adopted by the City Council, the City Manager 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 shall be published on the City's website.
- (c) Regulations promulgated by the City Manager 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 City Manager or his/her designee.
- (d) Testing Labs, 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.
- (b) After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager 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 the City of Moreno Valley Municipal Code 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 City Manager, or his/her designee(s) charged with enforcing the provisions of the City of Moreno Valley Code, 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 City Manager, 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 City of Moreno Valley City Manager 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 City Manager, 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 special meeting of the City Council on October 23rd, 2017 and PASSED, APPROVED, and ADOPTED by the City Council on the following roll call vote, to wit:

- AYES: Council Members -
- NOES: Council Members -
- ABSENT: Council Members -
- ABSTAIN: Council Members -

**** DRAFT ****

_____, Mayor

Attest:

Pat Jacquez-Nares, CMC & CERA, City Clerk

APPROVED AS TO FORM:

Martin D. Koczanowicz, City Attorney



Report to City Council

TO: Mayor and City Council

FROM: Martin Koczanowicz, City Attorney
Allen Brock, Community Development Director

AGENDA DATE: October 24, 2017

TITLE: RESOLUTION EXTENDING ORDINANCE 916 BANNING ALL COMMERCIAL CANNABIS ACTIVITY IN THE CITY

RECOMMENDED ACTION

Recommendation: Staff recommends that the City Council adopt a Resolution, extending the existing ban on commercial cannabis activity, till permanent regulations can be adopted.

SUMMARY

This report recommends adoption of Resolution 2017- , which would extend the current urgency Ordinance, banning all commercial cannabis activity in City of Moreno Valley. This extension would provide sufficient amount of time for staff to finalize and for Council to consider and adopt permanent cannabis regulations in the City, consistent with whatever direction is provided by Council during the October 10th workshop.

DISCUSSION

In anticipation of passage of Proposition 65, on November 1st, 2016 City Council adopted urgency Ordinance 916, which banned both medical and non-medical commercial cannabis activity in the City. The ban was installed in order to provide time for staff to present and City Council to consider what type of regulations would be installed in Moreno Valley on permanent basis.

The Ordinance was then extended from its original sunset date to October 31st, 2017, to provide time for District 4 seat to be filled in the June 2017 election and to have full Council deliberate on this important issue.

Due to summer recess and other scheduling issues, the study session on the subject originally considered for mid-summer had to be rescheduled to October 10th, 2017.

Also several priority projects (i.e. Amazon HQ2, Mayor's Challenge) impacted staff schedules and workload. Another extension of Ordinance 916 is necessary in order to provide time for processing any type of regulations that the City Council deems appropriate. Whether a ban or a regulatory scheme, which allows some commercial cannabis uses in certain areas of the City, time will be needed to evaluate and process Municipal Code amendments to put such regulations into place.

Failure to extend the Ordinance would put the City in a position where State regulations could preempt any future Code amendments.

Staff recommends October 31st, 2018 as the new sunset date, with the provision that when new regulations are adopted and effective prior to that time, that date would no longer be in effect.

ALTERNATIVES

1. Adopt Resolution 2017 - , extending the current cannabis ban till October 31st, 2018 or the effective date of any new regulations, whichever comes first. *Staff recommends this alternative as it allows the City to retain local control over the commercial cannabis industry and provides time for any regulations to be considered, vetted and adopted.*
2. Do not adopt the Resolution and risk loss of local control over cannabis regulations. *Staff does not recommend this alternative.*

FISCAL IMPACT

There is no anticipated Fiscal impact from the recommended alternative. Failure to adopt the extension could have fiscal consequences to the City in unfunded compliance with State regulations which would be applicable in the City.

NOTIFICATION

Agenda was posted in accordance with the Brown Act.

PREPARATION OF STAFF REPORT

Prepared By:
Martin D. Koczanowicz
City Attorney

Department Head Approval: NA

Concurred By:
Allen Brock
Community Development Director

CITY COUNCIL GOALS

Public Safety. Provide a safe and secure environment for people and property in the community, control the number and severity of fire and hazardous material incidents, and provide protection for citizens who live, work and visit the City of Moreno Valley.

Community Image, Neighborhood Pride and Cleanliness. Promote a sense of community pride and foster an excellent image about our City by developing and executing programs which will result in quality development, enhanced neighborhood preservation efforts, including home rehabilitation and neighborhood restoration.

CITY COUNCIL STRATEGIC PRIORITIES

- 1. Economic Development
- 2. Public Safety
- 3. Library
- 4. Infrastructure
- 5. Beautification, Community Engagement, and Quality of Life
- 6. Youth Programs

ATTACHMENTS

- 1. Reso Extending Ord916 till0618

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	10/11/17 11:30 AM
City Attorney Approval	<u>✓ Approved</u>	10/11/17 2:39 PM
City Manager Approval	<u>✓ Approved</u>	10/12/17 4:05 PM

HISTORY:

10/17/17 City Council CONTINUED
 Next: 10/24/17

Council Member Giba was not in consensus to move this item to the October 24, 2017 Special Council Meeting. Council Member Giba voted (Aye) on the Consent Calendar with the removal of Item A.14.

RESOLUTION NO. 2017-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
 MORENO VALLEY, CALIFORNIA, EXTENDING THE
 SUNSET DATE OF ORDINANCE 916 AND THE BAN ON
 COMMERCIAL CANNABIS ACTIVITY IN THE CITY TILL
 JUNE 30, 2018

WHEREAS, On November 1st, 2016 City Council duly adopted Urgency Ordinance No. 916, to ban all commercial cannabis activity in the City of Moreno Valley; and

WHEREAS, by its own terms the Ordinance 916 was to sunset on April 30th, 2017, unless otherwise extended by City Council's action; and

WHEREAS, City Council did extend the term of the Ordinance to sunset on October 30th, 2017; and

WHEREAS, due to the complexity of the potential commercial cannabis regulations, changes in City Council study session schedule and staff workload additional time is needed to finalize Council's direction regarding commercial cannabis activity provided to staff during the October 10th, 2017 study session; and

WHEREAS, the conditions giving rise to the need for a ban until regulations are established continue to exist in form of various illegal commercial cannabis businesses attempting to establish in the City without any regulation; and

WHEREAS, for the reasons stated above City Council has determined that it is in the best interests of the City of Moreno Valley that the City Council extend the Sunset Date of Ordinance No. 916 and the ban on commercial cannabis activity till October 31st, 2018.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

1. Consistent with Section 4 of Ordinance No. 916 the Sunset Date of the Ordinance No. 916 is hereby extended to October 31st, 2018, or until an ordinance establishing permanent regulations of cannabis in City limits becomes effective, whichever comes first.

APPROVED AND ADOPTED this 17th day of October 2017.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2017- __ was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 17th day of October, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK

(SEAL)