

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF CATHEDRAL CITY,
CALIFORNIA, ADDING SECTION 5.88 OF THE CATHEDRAL CITY
MUNICIPAL CODE RELATING TO MEDICAL CANNABIS**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 and entitled “The Compassionate Use Act of 1996”), decriminalizing the use of cannabis for medical purposes; and

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program, codified as Health and Safety Code Section 11362.7 et. seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate medical cannabis without being subject to criminal prosecution; and

WHEREAS, in 2008, the Attorney General of the State of California set forth Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (“Guidelines”); and

WHEREAS, recently in October 2015, the State of California adopted AB 243, AB 266, and SB 643 (“Medical Marijuana Regulation and Safety Act” or “MMRSA”) to clarify legal requirements pertaining to medical cannabis; and

WHEREAS, the MMRSA and California Supreme Court empowers local incorporated cities and counties to enact laws or regulations pertaining to medical cannabis cultivation, dispensing, manufacturing, or distribution pursuant to zoning powers that the city or counties governing body allows which including either expanding and allowing such activity within its city zoning area or can restrict, ban or prohibit within its zoning area; and

WHEREAS, Cathedral City supports the right of patients with debilitating medical conditions to have safe access to medical cannabis; and

WHEREAS, it is necessary for Cathedral City to adopt regulations for the purpose of facilitating safe access of medical cannabis to patients; and

WHEREAS, Cathedral City currently regulates medical cannabis dispensaries in the City pursuant to the Guidelines and State law; and

WHEREAS, Cathedral City desires to license and permit the regulated cultivation of medical cannabis pursuant to state law; and

WHEREAS, Cathedral City intends to adopt further regulations governing medical cannabis businesses and “commercial cannabis activity,” as such term is defined in State law; and

WHEREAS, it is the purpose and intent of this Chapter to regulate medical cannabis in a manner that is consistent with State law and which promotes the health, safety, and general welfare of citizens of Cathedral City and limits impacts associated with medical cannabis cultivation; and

WHEREAS, nothing in this Section shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance as defined herein, allow the use or diversion of cannabis for nonmedical purposes, or allow any activity relating to the cultivation, distribution or consumption of cannabis that is otherwise illegal under California State law.

NOW, THEREFORE, THE CATHEDRAL CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. The above recitals are true and correct and incorporated herein.

Section 2. Chapter 5.88 of the Cathedral City Municipal Code is hereby added and shall read as follows:

Chapter 5.88 Medical Cannabis Businesses

5.88.010 Purpose and intent.

- A. This Chapter shall provide for the regulation and licensing of Medical Cannabis Businesses throughout the City in conformance with applicable state and local laws and regulations pertaining to Medical Cannabis.
- B. The City Council finds that it is necessary for Cathedral City to adopt local licensing standards for Medical Cannabis Businesses for the purpose of facilitating safe access of medical cannabis to patients.
- C. The purpose of this Chapter is to regulate all Commercial Cannabis Activity in Cathedral City, as defined in the MMRSA, to the extent authorized by State Law and in a manner designed to minimize negative impacts on the City and neighboring uses, and promote the health, safety, morals, and general welfare of residents and businesses within the City.

5.88.015 Findings

The City Council finds and determines that local licensing standards pertaining to Medical Cannabis Business activities are necessary to protect the public health and safety. The City Council further finds that public health and safety is best served by the adoption of the ordinance codified in this Chapter.

5.88.020 Relationship to other laws.

Except as otherwise specifically provided herein, this Chapter incorporates the

requirements and procedures set forth in the MMRSA. In the event of any conflict between the provisions of this Chapter and the provisions of the MMRSA or any other applicable state or local law, the more restrictive provision shall control.

5.88.025 General definitions.

Unless otherwise defined herein, the terms in this Chapter shall have the same meaning as set forth in the MMRSA and any rules promulgated pursuant thereto. In addition, the following terms shall be defined as follows:

- A. "Applicant" has the same meaning as that term is defined by Section 19300.5(b) of the Business and Professions Code.
- B. "City" means Cathedral City, California.
- C. "City Manager" shall mean the City Manager of the city of Cathedral City or duly authorized designee.
- D. "Commercial Cannabis Activity" has the same meaning as that term is defined by Section 19300.5(k) of the Business and Professions Code, including the exclusion in Section 19319 of the Business and Professions Code related to Qualified Patients and Primary Caregivers.
- E. "Community Development Director" or "Director" shall mean the community development director of the City of Cathedral City or duly authorized designee.
- F. "Cultivation Site" has the same meaning as that term is defined by Section 19300.5(x) of the Business and Professions Code.
- G. "Delivery" has the same meaning as that term is defined by Section 19300.5(m) of the Business and Professions Code.
- H. "Dispensary" has the same meaning as that term is defined by Section 19300.5(n) of the Business and Professions Code, except a facility that does not sell Medical Cannabis or Medical Cannabis Products shall not qualify as a Dispensary.
- I. "Edible Cannabis Product" means has the same meaning as that term is defined by Section 19300.5(s) of the Business and Professions Code.
- J. "Enclosed Locked Structure," means a structure that: 1) does not allow for the visibility of the interior from the outside; 2) is secured with a lock; 3) is completely surrounded on all sides by a wall; and 4) is roofed. Enclosed Locked Structures may include greenhouses and accessory buildings. All Enclosed Locked Structures shall comply with the City Building Code, Fire Code, and all other applicable laws.
- K. "Financial Interest" has the same meaning as that term is defined in Section 650.1 of the Business and Professions Code.
- L. "Good Cause" for purposes of refusing or denying an initial conditional use permit issuance, for revoking a conditional use permit, or for refusing or denying conditional use permit renewal or reinstatement, means:
 - 1. The Licensee or Applicant has violated any of the terms, conditions or provisions of this Chapter, of State Law, of any regulations and rules promulgated pursuant to State Law, any applicable local rules and

- regulations, or any special terms or conditions placed upon its conditional use permit, State License, or Local License;
2. The Licensed Premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located;
 3. The Licensee or Applicant has knowingly made false statements, misrepresentations or material omissions on an application form, renewal form, or any other document submitted to the City;
 4. The Applicant or Licensee's criminal history does not indicate that the Applicant or Licensee is of Good Moral Character; or the Applicant or Licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made; except that if the Local Licensing Authority determines that the Applicant or Licensee is otherwise suitable to be issued a License and granting the License would not compromise public safety, the Local Licensing Authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the Applicant or Licensee, and shall evaluate the suitability of the Applicant or Licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the Local Licensing Authority shall only consider the factors as set forth in Section 19323(b)(5) of the Business and Professions Code;
 5. The Licensee or Applicant is employing or being financed in whole or in part by any Person whose criminal history indicates that Person is not of Good Moral Character;
 6. The Applicant or Licensee fails to allow inspection of the security recordings, activity logs, or business records of the Licensed Premise by the City officials;
 7. The Applicant or Licensee is owned by, or has an officer or director who is, a licensed physician making recommendations for Medical Cannabis;
 8. The Applicant or Licensee has had a Local License revoked or has had more than one suspension on its Local License by the City; or
 9. The Applicant or Licensee operated a Medical Cannabis Business in violation of Section 5.88.035.
- M. "Good Moral Character" means having a personal history that demonstrates the propensity to serve the public in the licensed area in a manner that reflects openness, honesty, fairness, and respect for the rights of others and for the law. In determining Good Moral Character, the following standards shall apply:
1. A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, as proof of a person's lack of Good Moral Character. Such judgment may be used as evidence in the determination, and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that at the current time he has the ability to, and is likely to serve the public in a fair, honest and open manner, that he is

rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks to be licensed.

2. Except in the event of: (a) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor or (b) A felony conviction for drug trafficking with enhancements pursuant to Sections 11370.4 or 11379.8 of the Business and Professions Code and notwithstanding Chapter 2 of Division 1.5 of the Business and Professions Code, a prior conviction where the sentence, including any term of probation, incarceration, or supervised release is completed for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance, is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to Local Licensure shall be grounds for revocation of a Local License or denial of the renewal of a Local License.

- N. "Identification Card" or "ID Card" means a valid identification card issued pursuant to Section 113672.7 et. seq. of the California Health and Safety Code.
- O. "Licensed Premises" means the premises specified in an application for a Local License under this Chapter, which is owned or in possession of the Licensee and within which the Licensee is authorized to cultivate, manufacture, distribute, test, or sell Medical Cannabis in accordance with the provisions of this Chapter, the MMRSA, and any rules adopted thereto.
- P. "Licensee" means a person who has been issued a Local License pursuant to this Chapter.
- Q. "Limited Access Area" means and shall be a building, room or other area upon the Licensed Premises where medical cannabis is grown, cultivated, stored, weighed, displayed, packaged, or sold to other Medical Cannabis Businesses, under control of the Licensee, with limited access to only authorized personnel.
- R. "Local License" means a business license granted by the Local Licensing Authority, pursuant to this Chapter.
- S. "Local Licensing Authority" means the City Manager or its designee.
- T. "Manufactured Cannabis" has the same meaning as that term is defined by Section 19300.5(ae) of the Business and Professions Code.
- U. "Medical Cannabis" has the same meaning as that term is defined by Section 19300.5(ag) of the Business and Professions Code.
- V. "Medical Cannabis Business" means any Person engaged in Commercial Cannabis Activity, including a Medical Cannabis Collective or Cooperative.
- W. "Medical Cannabis Collective or Cooperative" or "Cooperative or Collective" means any group that is collectively or cooperatively cultivating and distributing cannabis for medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use as may be amended from time to time, that was issued by the office of the Attorney General for the state of California and is on file in the office

of the city clerk, and subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996), and California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

- X. "Medical Marijuana Regulation and Safety Act" or "MMRSA" means Chapter 3.5 of Division 8 of the Business and Professions Code
- Y. "Outdoors" means any location within the City that is not within an Enclosed Locked Structure.
- Z. "Owner" means, pursuant to Section 19300.5(b) of the Business and Professions Code, owner of a Medical Cannabis Business, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.
 - 1. If the Owner is an entity, "Owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.
 - 2. If the Applicant is a publicly traded company, "Owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- AA. "Person" has the same meaning as that term is defined by Section 19300.5(aj) of the Business and Professions Code.
- BB. "Physician," as used in this Chapter, shall mean a medical doctor licensed by the state of California to practice as such.
- CC. "Primary Caregiver" shall have the meaning set forth in Section 11362.7(d) of the California Health and Safety Code.
- DD. "Protected Health Information" means documentation of a Qualified Patient or ID Card holder's medical history or condition, pursuant to 45 CFR § 160.103, other than a Physician's recommendation, an identification card issued pursuant to Health and Safety Code Section 11362.7 et seq., or the written designation of a Primary Caregiver by a Qualified Patient or ID Card holder. Protected Health Information shall not include information conveyed by a Primary Caregiver, Qualified Patient or ID Card holder to a Dispensary regarding such Qualified Patient's medical condition, information conveyed by a Primary Caregiver, Qualified Patient or ID Card holder to a Dispensary regarding efforts to ameliorate or otherwise address symptoms associated with such Qualified Patient's or ID Card holder' medical condition, or information regarding the risks and benefits of Medical Cannabis provided to a Primary Caregiver, Qualified Patient or ID Card holder.
- EE. "Qualified Patient" shall have the meaning set forth in Section 11362.7(f) of the California Health and Safety Code.
- FF. "Restricted Access Area" means all areas where Medical Cannabis is sold, possessed for sale, displayed, or dispensed for sale to Qualified Patients, ID Card holders, and Primary Caregivers and where no one without a valid doctor's recommendation is permitted.
- GG. "Seed to Sale Software" means the track and trace inventory control system

established pursuant to Section 19335 of the Business and Professions Code that utilizes a unique identifier pursuant to Section 113672.7(d) of the California Health and Safety Code and tracks transfers of Medical Cannabis from through sale. Until such a time that the State of California implements Section 19335 of the Business and Professions Code, the “Seed to Sale Software” shall refer to the third-party tracking software required by Section 5.88.065(A)(15) of Cathedral City Municipal Code.

- HH. “State Law(s)” shall mean and include California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act); the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008 (hereinafter “Guidelines”), as such guidelines may be revised from time to time by action of the Attorney General; MMRSA, and all other applicable laws of the state of California.
- II. “State License” has the same meaning as that term is defined by Section 19300.5(ak) of the Business and Professions Code.
- JJ. “State Licensing Authority” shall mean the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs, the State Department of Public Health, or any other state agency responsible for the issuance, renewal, or reinstatement of a license issued under MMRSA or the agency authorized to take disciplinary action against such license.

5.88.030 License in addition to business license or other permit.

The Local License required under the terms of this Chapter shall be in addition and supplemental to any business license or any permit required by any ordinance of the City. Notwithstanding anything herein to the contrary, the issuance of a Local License under this Chapter shall satisfy any requirements of Chapter 3.28 of this Code.

5.88.035 Local License required.

- A. On and after July 1, 2016, it shall be unlawful to operate any Medical Cannabis Business in Cathedral City without first having obtained a Local License under this Chapter.
- B. Notwithstanding the above, a Medical Cannabis Business that was issued a conditional use permit before January 1, 2016 and has submitted applications for a Local License under this Chapter on or before July 1, 2016 may continue in operation on and after July 1, 2016, provided that the Medical Cannabis Business is in good standing, until final action on the business's Local License application.
- C. Nothing in this section shall permit a Medical Cannabis Business to operate at any time in a manner that is in violation of Section 5.88.065 of this Chapter, the City Building Code, Fire Code, and all other applicable state and local laws.

- D. Except as otherwise permitted by the MMRSA, beginning January 1, 2018, it shall be unlawful for a Medical Cannabis Business to operate in the City unless it has been granted a State License.
- E. Notwithstanding subsection 5.88.035(B), any Medical Cannabis Business that has: (1) submitted an application for a State License prior to January 1, 2018 and (2) been in operation and good standing on or before January 1, 2018 may continue operations until its State License has been approved or denied by the State Licensing Authority. A Medical Cannabis Business shall be considered to be “in operation,” “in good standing,” and “operating in compliance with local zoning ordinances and other state and local requirements” for purposes of this section and Section 19321(c) of the Business and Professions Code if the business has been issued a conditional use permit in accordance with Chapter 9.108 and Chapter 9.72 of the Cathedral City Municipal Code, is exercising any of the privileges of its permit, and has applied for a Local License on or before January 1, 2018.
- F. All Medical Cannabis Businesses shall acquire an approved conditional use permit pursuant to Chapters 9.108 and 9.72 of the Cathedral City Municipal Code prior to commencing operations.

5.88.040 Local License application process.

- A. The Local Licensing Authority shall not accept an application for a Local License prior to April 1, 2016.
- B. All applications for Local Licenses required pursuant to this Chapter shall be made upon current forms prescribed by the Local Licensing Authority. All applications for Local Licenses must include application and permitting fees as established by resolution and adopted by the City Council as amended from time to time.
- C. The Local Licensing Authority shall not receive or act upon an application for the issuance of a Local License pursuant to this Chapter until it is established that the Applicant is, or will be, entitled to possession of the premises for which application is made. Evidence of lawful possession consists of properly executed deeds of trust, leases, evidence of ownership of the premises, or other written documents acceptable to the Local Licensing Authority.
- D. The Licensed Premise shall only be the geographical area that is specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location or modification of premises application, obtaining a conditional use permit for the new premises, and obtaining approval from the Local Licensing Authority.

- E. Licensees are not authorized to sublet any portion of a Licensed Premises for any purpose, unless all necessary applications to modify the existing Licensed Premises to accomplish any subletting have been approved by the Local Licensing Authority.
- F. Applicants must submit a complete application to the Local Licensing Authority before it will be accepted. An Applicant shall have an opportunity to cure any incomplete application within thirty (30) days of written notice of incompleteness by the Local Licensing Authority. The Local Licensing Authority may impose additional requirements necessary for making a determination of completeness and further submission of the application to the Local Licensing Authority for consideration of approval.
- G. All applications must be accompanied by a full remittance for the whole amount of the application and permit fees.
- H. The chief of police or designee shall conduct a criminal background check of any applicant for a Medical Cannabis Business Local License, including background checks on any person that is an Owner of the Applicant, any person who is managing or is otherwise responsible for the activities of the Medical Cannabis Business, and any officer or director, and shall prepare a report to the director (for incorporation into the report provided to the Local Licensing Authority) on the acceptability of the background of the applicant and such other persons requiring background checks as set forth herein.
- I. An Applicant shall file with the Local Licensing Authority the following at the time of application for a Local License:
 - 1. An operating plan for the proposed Medical Cannabis Business including the following information:
 - a. A general description of the types of products and services to be provided by the facility;
 - b. A floor plan designating all interior dimensions of the Licensed Premises and the layout of the Medical Cannabis Business, including all limited access areas, areas of ingress and egress, and all security cameras. Such floor plan shall also show the principal uses of the floor area depicted therein; For Cultivation Sites, such floor plan shall distinguish all dimensions of areas in which plants are located;
 - c. An employee list;
 - d. For a Dispensary, an estimate of the size of the group of ID Card holders and/or Qualified Patients who will be served by the Dispensary and a statement confirming whether delivery service of Medical Cannabis to any location outside the Dispensary will be provided and the extent of such service, and in the event delivery service is a provided, a detailed delivery plan detailing how the Dispensary will

comply with all requirements of this Chapter, Chapter 9.108, the MMRSA, and any other applicable state or local law; and

- e. Any additional document(s) or information reasonably requested by the Local Licensing Authority.
2. Authorization for the Local Licensing Authority and Community Development Director to seek verification of the information contained within the application and authorization for the chief of police to conduct background checks as set forth in subsection 5.88.040(H) above.
3. Each Applicant shall provide any additional information that the Local Licensing Authority may request to process and fully investigate the application. The additional information must be provided to the Local Licensing Authority no later than thirty days of the request unless otherwise specified by the Local Licensing Authority. Failure to provide such additional information by the requested deadline may result in denial of the application.
4. Proof of the nature of the Medical Cannabis Business's organizational status, such as articles of incorporation, by-laws, organizational minutes, partnership agreements, and other documentation as may be required by the City.
5. If the Local Licensing Authority issues the Local License, it shall thereafter issue said license only after the Applicant has paid the licensing fee and has posted with the Local Licensing authority a good and sufficient surety bond in the principal amount of \$5,000 executed as surety by a corporate surety in the State of California and as a principal by the applicant. The form of the bond shall have been approved by the City attorney and shall have been given to insure good faith and fair dealing on the part of the Applicant and as a guarantee of indemnity for any and all loss, damage, theft, or other unfair dealings suffered by any patron or customer of the applicant within the City during the term of the Local License. The license fee and term of bond shall be prorated between date of issuance and date of expiration.
6. A Local License provided and issued pursuant to this Chapter shall specify the date of issuance, the period of licensure, the name of the Licensee, and the address of the Licensed Premises.

5.88.045 Grounds for denial of Local License.

- A. A Local License provided by this Chapter shall not be issued to or held by any person or entity prohibited as Licensees under the provisions of this Chapter or the MMRSA.
- B. The Local Licensing Authority may deny the grant or renewal of a Local License for Good Cause as defined in Section 5.88.025(L) of this Chapter.

- C. The Local Licensing Authority may place conditions upon the approval of any Local License which are, in the opinion of the Local Licensing Authority, reasonably related to the protection of the health, safety and welfare of the neighborhood in which the proposed premise is to be located and of the general public.
- D. A Local License issued by the Local Licensing Authority constitutes a revocable privilege. The Applicant has the burden of proving its qualifications for a Local License at all times.
- E. All persons who are engaged in or who are attempting to engage in Commercial Cannabis Activity in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions of the MMRSA, this Chapter, the provisions of Chapters 9.108 and 9.72 of the Cathedral City Municipal Code, and all other State and local laws and regulations.
- F. The Local Licensing Authority is authorized to make policies and procedures consistent with the intent and spirit of this Chapter concerning the applications, the application process, the information required of Applicants, the application procedures and the administration and procedures to be used and followed in the application process.

5.88.050 Transfer of ownership, change of financial interest, change of location alteration or modification of premises, other material changes.

In addition to any requirements in Chapter 9.108 and Chapter 9.72 of this code, the following requirements apply to transfer of ownership, transfer of location change of Financial Interest, or modification of premise of a Local License. In the event of a conflict between this Section and other provisions of this Code, the provisions of this Section 5.88.050 shall control.

- A. Change of Ownership or Financial Interest. Subsequent to the issuance of a Local License, the Licensee shall report any transfer of ownership or change of financial interest of the Owner or Licensee to the Local Licensing Authority on forms prescribed by the Local Licensing Authority and receive approval from the Local Licensing Authority prior to any transfer or change.
- B. Modification of Premise. A Licensee shall not make physical change, alteration, or modification of the Licensed Premise that materially or substantially alters the Licensed Premise from the plans approved by the Local Licensing Authority without the prior written approval of the Local Licensing Authority and the planning commission as required by Chapter 9.108. Material changes include, but are not limited to: an increase or decrease in the total square footage of the Licensed Premise or the addition, sealing off, or relocation of a wall, common entryway, doorway, or other means of public ingress and/or egress. Applications

for modifications of premise shall be made on forms prescribed by the Local Licensing Authority.

C. Change in Manager. A Medical Cannabis Business shall provide the City Manager written notification of any change in manager of the Medical Cannabis Business within ten business days of the change.

D. Change of Location.

1. A Licensee may apply to the Local Licensing Authority to change the location previously approved for such Local License to any other place in Cathedral City, but it shall be unlawful to cultivate, manufacture, distribute, test, store or sell medical cannabis at any such place or location until express permission to do so is granted by Local Licensing Authority and the City has issued a conditional use permit to the Licensee at the new location. Applications for modifications of premise shall be made on forms prescribed by the Local Licensing Authority.
2. In permitting a change of location, the Local Licensing Authority shall consider all reasonable restrictions that are placed upon the current Local License and/or which may be placed upon the new location by the Local Licensing Authority pursuant to this Chapter and provided the new location complies with the provisions of Chapter 9.108.

5.88.055 Renewal of a Local License.

- A. A Medical Cannabis Business may apply for the renewal of a Local License no less than 30 days prior to the Local License's expiration date. If the Medical Cannabis Business files a renewal application within 30 days prior to expiration, the Medical Cannabis Business must provide a written explanation detailing the circumstances surrounding the late filing. The Local Licensing Authority may accept or reject such late filing in its discretion. The Local Licensing Authority may elect to administratively continue a Local License past its expiration date, provided that the Licensee has submitted a renewal application that is still pending final action.
- B. An application for renewal will only be accepted if it is accompanied by the requisite licensing fees.
- C. Each application for renewal shall include updated information for any part of the application that has undergone a change in circumstance since the original application or last renewal filing.
- D. All Owners of the Medical Cannabis Business must be fingerprinted each year at renewal if required in the discretion of the Local Licensing Authority or Chief of Police.

- E. Unless administratively continued pursuant to subsection 5.88.055(A) above, a Local License is immediately invalid upon expiration and the Medical Cannabis Business shall cease operations.
- F. All Local Licenses are valid for one year. A Local License may be valid for less than the applicable license term if revoked, suspended, voluntarily surrendered, or otherwise disciplined.

5.88.060 Appeal of Local License.

Any decision regarding the approval, conditional approval, denial, or revocation of a Local License may be appealed to the City Council in accordance with the provisions of Sections 2.04.100 *et seq.* of this Code.

5.88.065 Medical Cannabis Business Operational Requirements.

- A. Requirements Applicable to all Medical Cannabis Businesses. A Medical Cannabis Business must comply with the requirements set forth in this subsection. Failure to comply with any of these requirements shall be considered grounds for disciplinary action.
 - 1. General Obligation to Operate in Compliance. A Medical Cannabis Business shall comply fully with all of the applicable restrictions and mandates set forth in State and local laws.
 - 2. General Obligation to Pay Taxes. A Medical Cannabis Business must pay any applicable sales tax pursuant to federal, state, and local law, and all other legally required taxes and fees, including but not limited to, the Cannabis Tax required by Chapter 3.48.
 - 3. General Obligation for Compliant Facilities. The Licensed Premises as well as all operations as conducted therein, shall fully comply with all applicable rules, regulations, and laws including, but not limited to, Chapter 9.108 of this Code requiring application and issuance of a conditional use permit, the California Revenue and Taxation Code, the Americans with Disabilities Act, and all applicable State Laws.
 - 4. Volunteer and Employee Background Checks. Prior to commencing any work within or on behalf of a Medical Cannabis Business, all volunteers or employees must have completed, and the Licensee shall keep on file at the Licensed Premise, a sufficient and current background check that demonstrates compliance with the suitability requirements set forth in Section 5.88.045(B).
 - a. A background check will be considered sufficient provided that it was conducted by the Cathedral City Police Department or any other party determined to be satisfactory by the Cathedral City Police Department.
 - b. A background check will be considered current provided that the report was issued no longer than 12 months prior to any date in which the

volunteer or employee worked at the Licensed Premises.

- c. Medical Cannabis Businesses must maintain a complete register of the all volunteers and employees that work at the Licensed Premises. This register must include:
 1. The individual's complete name, address, and last known telephone number;
 2. The individual's hire date and, if applicable date of termination;
 3. A copy of each background check required under subparagraph (A)(4);
 4. A copy of the written notification provided to the City Manager after any felony criminal charge or conviction pursuant to subsection 5.88.065(A)(5).
 - d. The register and required records must be made available for inspection by any City officer or official for purposes of determining compliance with the requirements of this Chapter.
5. Notification Required for Arrests or Convictions. A Medical Cannabis Business shall notify the City Manager in writing of any felony criminal charge or felony conviction against any manager, employee, or Owner of the Medical Cannabis Business within ten days of such person's arrest or felony summons and within ten days of the disposition of any arrest summons. Failure to make proper notification to the City Manager may be grounds for disciplinary action. Licensees shall cooperate in any investigation conducted by the Local Licensing Authority.
 6. Employees and Volunteers Age Requirement. A Medical Cannabis Business shall not employ a person under eighteen years of age, nor may a Medical Cannabis Business permit a person under eighteen years of age to volunteer at the Medical Cannabis Business.
 7. Age Restricted Limited Access Areas. A Medical Cannabis Business may not permit a person less than eighteen years of age to enter, or be within, a Limited Access Area.
 8. Secure Storage of Product. Medical Cannabis possessed by a Medical Cannabis Business shall be kept and stored in a secured manner within a Limited Access Area or Restricted Access Area at all times.
 9. Prohibition on Cannabis Consumption on Premises. On-site smoking, ingestion, or consumption of cannabis shall be prohibited on the premises of all Medical Cannabis Businesses. The term "premises" as used in this subsection includes the actual building, as well as any accessory structures, common areas and parking areas. A sign shall be posted at each entrance of a Medical Cannabis Business facility that clearly and legibly states, "Smoking, ingestion, or consumption of cannabis on these Licensed Premises or in their vicinity is prohibited and a violation of the Cathedral City Municipal Code."
 10. Prohibition on Alcohol Sales, Distribution, or Consumption on Licensed Premises. A Medical Cannabis Business shall not sell, provide, store, or distribute any product that would require that the Seller possess an alcoholic

- beverage license under state law.
11. Outdoor Signage. Signage for a Medical Cannabis Business that is viewable from the exterior of the Medical Cannabis Business shall comply with all local signage laws applicable to the Licensed Premises, including Chapter 9.62 of this code. Signage may not be designed to appeal to children, or contain any false or misleading statements, or make any misrepresentations.
 12. Display of License and Conditional Use Permit. A Medical Cannabis Business shall display a copy of its Local License issued pursuant to this Chapter and conditional use permit issued pursuant to Chapter 9.108 in a conspicuous place at the entrance to the Licensed Premises.
 13. No Physician Evaluations on Licensed Premises. A Medical Cannabis Business shall not permit a physician to evaluate patients or to provide recommendations for Medical Cannabis within its Licensed Premises. Medical Cannabis Businesses shall not offer or provide any form of remuneration to a physician who recommends Medical Cannabis.
 14. Community Relations Designee. A Medical Cannabis Business must provide the Community Development Director with the name, phone number, facsimile number, and email address of an on-site community relations representative or staff person or other representative to whom the City can provide notice if there are operating problems associated with the Medical Cannabis Business or refer members of the public who may have complaints or concerns regarding the Medical Cannabis Business. The Medical Cannabis Business shall also provide this contact information to all neighboring businesses located within one hundred feet of the Medical Cannabis Business, as measured in a straight line without regard to intervening structures, between the front doors of each establishment.
 15. Seed to Sale Tracking Required. Until such a time that the State of California fully implements section 19335 of the Business and Professions Code, a Medical Cannabis Business must utilize third-party software that tracks all sales, transfers, purchases, receipts, deliveries of Medical Cannabis and Medical Cannabis Products. The software must be capable of producing electronic shipping manifests, tracking all Medical Cannabis inventory in possession of the Medical Cannabis Business, promptly identifying a discrepancy in the stock, and tracking Medical Cannabis from a Qualified Patient, ID Card holder, or Primary Caregiver back to its source in the event of a serious adverse event.
 16. Accurate Weights and Measures. Scales and weighing mechanisms used by a Medical Cannabis Business must be able to weigh to within 1/100th of a gram, shall be maintained in good working order and shall be subject to annual inspection by either a Riverside County Agricultural Commissioner's Office Weights and Measures official or a licensed scale company.
 17. General Sanitary Requirements. A Medical Cannabis Business must ensure that its Licensed Premises are maintained in a sanitary manner and activities on its Licensed Premises are conducted in a sanitary manner.
 - a. All facilities of a Medical Cannabis Business must have adequate and

sufficient access to bathrooms and hand-washing facilities with running water at a suitable temperature.

- b. Hand-washing facilities shall be located where good sanitary practices require employees or volunteers to wash or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.
- c. All employees and volunteers that engage in the preparation or dispensing of Edible Cannabis Products must comply with the provisions of all relevant state and local laws regarding the preparation, distribution, and sale of food.

18. Security Requirements. The Licensed Premises of a Medical Cannabis business must comply with all of the following security requirements:

- a. Video Surveillance. The Licensed Premises must be equipped with a video surveillance system that meets all of the requirements set forth in this subsection.
 - 1. Security cameras and digital storage of recordings shall be maintained in good condition and used in an on-going manner, twenty-four hours per day, seven days per week.
 - 2. The security system must maintain at least one hundred twenty concurrent hours of digitally recorded video for each security camera in the Licensed Premises. Security footage should be stored in an MPEG4, MJPEG, H.264, or another format approved by the Local Licensing Authority in writing.
 - 3. Security Cameras must provide adequate and sufficient coverage for the facility, which must include but need not to be limited to, all Restricted and Limited Access areas, all areas of ingress and egress, point of sale, the public areas, storage areas, and any other areas as required by this Chapter and the MMRSA. Notwithstanding anything herein to the contrary, in the interior locations, cameras shall be positioned so as not to view or otherwise record patients' Protected Health Information, such as those patient records visible on computer screens or other printed files, the confidentiality of which shall be maintained in accordance with applicable federal or state laws.
 - 4. The video surveillance system must be equipped with a failure notification system that provides prompt notification to the manager of record of the Licensed Premises of the Medical Cannabis Business of any surveillance interruption or complete failure of the surveillance system that lasts longer than 15 minutes.
 - 5. The video surveillance system shall have sufficient battery backup to support a minimum of fifteen minutes of recording in the event of a power outage.

- b. Alarm System. The Licensed Premises shall have an audible interior and exterior security alarm system installed on all perimeter entry points and perimeter windows, operated, and monitored by a security company licensed by the Department of Consumer Affairs, Bureau of Security & Investigative Services.
- c. Signage Requirement. The Licensed Premises must comply with the following signage requirements.
 - 1. A sign shall be posted in a conspicuous place near each point of public access which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than one inch in height, stating "All Activities Monitored by Video Camera."
 - 2. Limited Access Areas shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Limited Access Area – Authorized Personnel Only."
- d. Lighting. The business entrance(s) and all window areas shall be illuminated during evening hours. The applicant shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed.
- e. Commercial-grade Locks. All points of ingress and egress to a Licensed Premises shall ensure the use of commercial-grade, nonresidential door locks or window locks.

B. Operational Requirements Applicable to Dispensaries. A Dispensary must comply with the requirements set forth in this subsection and subsection (A). Failure to comply with any of these requirements shall be considered grounds for disciplinary action.

- 1. Limited Hours of Operation. A Dispensary may only be open to the public and serve patients between the hours of eight (8:00) a.m. and ten (10:00) p.m.
- 2. Restricted Access Area.
 - a. Restricted Access Areas shall be secured and maintained separately from any lobby or waiting area, and shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Restricted Access Area – Only Qualified Patients, Primary Caregivers, and ID Cardholders Allowed."
 - b. A Restricted Access Area must be supervised by a staff member at all times when Qualified Patients, ID Card holders or Primary Caregivers are present to ensure that only Qualified Patients, ID Card holders or Primary Caregivers are permitted to enter. When allowing a Qualified Patient, ID Card holder or Primary Caregiver access to a Restricted Access Area, staff members shall make reasonable efforts to limit the

number of Qualified Patients and Primary Caregivers in relation to the number of staff members in the Restricted Access Area at any time.

- c. The display of Medical Cannabis for sale is allowed only in Restricted Access Areas and shall not be visible from outside the Licensed Premises.
 - d. A Dispensary may not permit a person less than eighteen (18) years of age into its Restricted Access Area unless that person is verified by the Dispensary as a Qualified Patient, Primary Caregiver, or ID Card holder and accompanied by the person's parent or legal guardian.
3. Sales Limited to Qualified Patients, ID Card holders and Primary Caregivers.
- a. A Dispensary may not permit persons into its Restricted Access Area unless an employee has verified that the individual is an ID Card holder, Qualified Patient, or Primary Caregiver for a patient who has a valid recommendation from their physician recommending the use of cannabis. The Dispensary employee may either contact the recommending physician, or, in the case of a registry identification card, use the California Department of Health Medical Marijuana Program Internet Web Site, in order to perform such verification. Such verification must occur at least annually, and a physical or digital record shall be kept of such verification. A recommendation that is more than twelve (12) months old, unless the recommendation expressly states that it has a longer term or does not expire, shall not be considered a valid recommendation.
 - b. A Dispensary shall not distribute, sell, or dispense Medical Cannabis to anyone other than ID Card holders, Qualified Patients or their Primary Caregivers.
4. Non-Medical Cannabis Sales. Dispensaries may sell or otherwise provide equipment, supplies, and general information related to Medical Cannabis to Qualified Patients, ID Card holders or Primary Caregivers, provided that such material is only displayed or sold in the Restricted Access Area.
5. Electronic Point-of-Sale System Required. Dispensaries must have an electronic point of sale system that is either part of their Seed to Sale Software or integrates with their Seed to Sale Software. The electronic point of sale system must be capable of producing an electronic or automatic paper record for all transactions associated with any product sold, rented, or otherwise provided to the patients.
6. No Sales of Expired Product. A Dispensary may not sell any expired products, Medical Cannabis or Medical Cannabis Product. A Dispensary shall not alter, edit, or adjust in any manner an expiration date on any item or product once affixed by its manufacturer.
7. Acceptable Forms of Payment. The City Manager may adopt regulations that prohibit a Dispensary from accepting certain forms of payment from Qualified Patients, Primary Caregivers, and ID Card holders for Medical Cannabis. A

Dispensary may accept cash payments unless the City Manager has adopted a regulation prohibiting the acceptance of cash.

8. Handling of Edible Cannabis Products. A Dispensary that possesses Edible Cannabis Products shall comply with the provisions of all relevant state and local laws regarding the storage, handling, and sale of food.

C. Operational Requirements Applicable to Cultivation Site and any Medical Cannabis Business Engaged in the Cultivation of Medical Cannabis. A Cultivation Site and any Medical Cannabis Business Engaged in the Cultivation of Medical Cannabis must comply with the requirements set forth in this subsection and Subsection (A). Failure to comply with any of these requirements shall be considered grounds for disciplinary action.

1. Compliance with the federal Worker Protection Standard (40 CFR 170).
2. The cultivation of Medical Cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides.
3. The use of pesticides must be recorded in a log in accordance with 16 CCR § 1970.
4. The cultivation of Medical Cannabis shall be conducted in a secure manner and shall not be visible from a public street as used in this subsection 5.88.065 (C)(4), the term "visible" means capable of being seen, whether or not legible, without visual aid by a person of normal acuity.
5. A Licensee may not distribute, sell, dispense, or administer Medical Cannabis on the Licensed Premises of a Cultivation Site except for as authorized by the MMRSA and other applicable State Law. Licensees issued a conditional use permit for multiple license types at the same physical address shall maintain clear separation from all cultivation, manufacturing, and dispensing activities.

5.88.070 Confidentiality of information.

- A. The City's review of information submitted or maintained pursuant to this Chapter shall preserve the confidentiality of all information about Licensees, Applicants, Owners, employees, members, or volunteers to the maximum extent consistent with state and local law. The City shall incur no liability for the inadvertent or negligent disclosure of such information. Disclosure of any Licensee or Applicant information to the City for purposes of this Chapter shall not be deemed a waiver of confidentiality.
- B. The City shall treat all financial information provided pursuant to this Chapter as confidential information.
- C. Information identifying the names, addresses, or social security numbers of Qualified Patients, ID Card holders, their medical conditions, or the names of their Primary Caregivers, received and contained by a Medical Cannabis Business or any City official are hereby deemed "medical information" within the

meaning of the Confidentiality of Medical Information Act (Civil Code § 56, et seq.) and shall not be disclosed by the Medical Cannabis Business or by any City official except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.

- D. Within 24 hours of receiving any request to disclose the name, address, or social security number of a Qualified Patient or ID Card holder, their medical condition, or the name of their Primary Caregiver, the Medical Cannabis Business or any City official shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.
- E. Notwithstanding Section 56.10 of the Civil Code, neither a Medical Cannabis Business nor any City official, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.
- F. The information required by Section 5.88.065 and Section 5.88.070, recordings from security cameras, shall be confidential and shall not be subject to public inspection or disclosure except to City employees for purposes of law enforcement.
- G. In order to protect confidentiality, Dispensaries shall not collect or maintain Protected Health Information. Dispensaries shall maintain membership records and information about members in a manner that ensures that the information will not be disclosed except as required by this Chapter or other laws. If a Dispensary maintains information conveyed by a Member to a Dispensary regarding such Member's medical condition, information conveyed by a Member to a Dispensary regarding efforts to ameliorate or otherwise address symptoms associated with such Member's medical condition, or information regarding Medical Cannabis, Medical Cannabis Products and/or Edibles provided to a Member, such information shall be kept in a manner that is in compliance with the Confidentiality of Medical Information Act. Membership lists shall be available to City employees charged with the administration of this Chapter for inspection on site without a warrant during business hours or by appointment.

5.88.075 Limitations on City's liability.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any Local License pursuant to this Chapter or the operation of any Medical Cannabis Business approved for such Local License pursuant to this Chapter. As a condition of approval of a Local License granted under this Chapter, the applicant or its legal representative shall:

- A. Execute an agreement indemnifying and holding the City harmless from any and

all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the Medical Cannabis Business; and

- B. Maintain insurance in the amounts and of the types that are acceptable to the City pursuant to guidelines and policies set forth by the Local Licensing Authority; and
- C. Name the City as an additionally insured on all city required insurance policies; and
- D. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a Local License or conditional use permit or the operation of the Medical Cannabis Business; and
- E. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge (or federal enforcement action) related to the City's approval of a Local License or conditional use permit. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

5.88.080 Inspections.

- A. Recordings made by security cameras at any Medical Cannabis Business shall be confidential and not subject to public inspection or disclosure; except that such recordings shall be made immediately available to the Local Licensing Authority, the City Manager, the chief of police or their designee upon verbal request for law or regulatory enforcement and criminal investigation purposes.
- B. The Local Licensing Authority, the City Manager, or their designated code enforcement officers shall have the right to enter all Medical Cannabis Businesses from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter. Such inspections shall be limited to observing the Licensed Premises for purposes of determining whether the Medical Cannabis Business is being operated or maintained in compliance with this Code, state law, and other applicable laws and regulations.
- C. The Director or the City Manager shall have the right to inspect membership records for the sole purpose of determining whether all members of the Dispensary's related collective or cooperative are qualified. Such inspections of membership records shall not be used for any other purposes, nor shall the records be removed off-site by the City without a court order.
- D. The City Manager may delegate an act required to be performed pursuant to this

Section to any code enforcement officer or official of the City, including without limitation the chief of police, the fire chief, the building official, the finance director, the city attorney, or any designee of such officers or officials, including day-to-day operations.

- E. Applicants and Licensees must cooperate with employees and investigators of the City Manager who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to this Chapter.

5.88.085 Enforcement.

- A. In addition to any other civil or criminal sanction prescribed by California law or rules promulgated pursuant thereto, the Local Licensing Authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the Licensee shall be afforded an opportunity to be heard, to fine, restrict, suspend or revoke a Local License for Good Cause or for a violation by the Licensee or by any of the agents or employees of the Licensee of the provisions of this Chapter, the MMRSA and/or of any of the other terms, conditions or provisions of the State or Local License.
- B. Operation of the Medical Cannabis Business in non-compliance with any conditions of approval or the provisions of this Chapter, Chapter 9.108 or Chapter 9.72 shall constitute a violation of this Code and shall be enforced pursuant to the provisions of this Chapter and this Code.
- C. The Local Licensing Authority in its discretion may revoke or elect not to renew any Local License if it determines that the Licensed Premises have been inactive, without reasonable cause as determined by the Local Licensing Authority, for a period of at least one year.

5.88.090 Compliance with State Law.

- A. To the extent the State has adopted or adopts in the future any additional or stricter laws or regulations governing the sale or distribution of Medical Cannabis, the additional or stricter regulations shall control the establishment or operation of any Medical Cannabis Business in Cathedral City. Compliance with any applicable State Law or regulation shall be deemed an additional requirement for issuance or denial of any Local License under this Chapter, and noncompliance with any applicable State Law or regulation shall be grounds for fines, administrative action, revocation, or suspension of any license issued hereunder.
- B. Any Medical Cannabis Business licensed pursuant to this Chapter may be required to demonstrate, upon demand by the Local Licensing Authority or by law enforcement officers that the source and quantity of any Medical Cannabis found upon the Licensed Premises is in full compliance with any applicable local or State Law or regulation.

5.88.100 Unlawful acts, violations.

- A. Public Nuisance. Unless otherwise expressly authorized by this Chapter, it is unlawful and it shall be a public nuisance subject to the provisions of Chapter 13.90 of this Code, to establish, maintain, or operate a Medical Cannabis Business within the city without having received a Local License pursuant to this Chapter and conditional use permit pursuant Chapter 9.108 and Chapter 9.72 of this Code.
- B. Violations. The City Manager may establish a schedule of fines, suspension, or revocation as the standard punishment for specific violations of this Chapter. Any violation without a scheduled punishment shall constitute an infraction violation which shall be subject to the provisions set forth in Chapter 13.65, including but not limited to the imposition of any and all criminal penalties set forth therein.

Section 3. ENVIRONMENTAL FINDINGS

The City Council finds that this Ordinance is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303(c), as it would only permit projects consisting of a limited number of new, small facilities; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

Section 4. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 5. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after certification.

Section 6. REPEAL OF CONFLICTING PROVISIONS

Except as otherwise provided in this Ordinance, all the provisions of the Cathedral City Municipal Code as heretofore adopted that are in conflict with the provisions of this Ordinance are hereby repealed as of the Effective Date.

Section 7. POSTING

The City Clerk shall within 15 days after passage of this Ordinance, cause it to be posted in at least three (3) designated public places; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification, together with proof of posting, to be entered in the Book of Ordinances of this City.

The foregoing Ordinance was introduced at a regular meeting of the City Council held on the 13th day of January, 2016 and adopted at a regular meeting of the City Council held on 27th day of January, 2016, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Stanley E. Henry, Mayor

Attest:

Gary Howell, City Clerk

Approved as to Form:

Eric S. Vail, City Attorney