

PLANNING COMMISSION RESOLUTION NO. P16- 0231

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CATHEDRAL CITY, CALIFORNIA RECOMMENDING THAT THE CITY COUNCIL APPROVE AN AMENDMENT TO SECTIONS 9.08.020, 9.30.030, 9.36.040, 9.40.040, AND 9.42.030 AND CHAPTER 9.108 OF THE ZONING ORDINANCE REGULATING MEDICAL CANNABIS BUSINESSES.

WHEREAS, Title 9 (Planning and Development) of the City of Cathedral City’s Municipal Code (“Zoning Code”) provides for the organized, predictable, and efficient development of land within the City; and

WHEREAS, the Zoning Code establishes land use districts throughout the City and regulates the development of land in each district; and

WHEREAS, Chapter 9.108 of the Code establishes requirements for medical marijuana dispensaries within the City; and

WHEREAS, the City proposes to amend Chapter 9.108 to modify the regulations applicable to dispensaries and expand the scope of the chapter to include regulations on all “medical cannabis businesses,” including dispensaries, cultivation sites, and manufacturing facilities, and has initiated Zone Ordinance Amendment No. 16-001 (“ZOA 16-001”) for that purpose; and

WHEREAS, the ZOA 16-001 further proposes to amend Sections 9.08.020, 9.30.030, 9.36.040, 9.40.040, and 9.42.030 of the Code to specify the zones where medical cannabis businesses will be permitted subject to a conditional use permit; and

WHEREAS, the City, acting as Lead Agency, has determined that ZOA 16-001 will not have a significant impact on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14, Chapter 3, Section 15303(c) of the California Code of Regulations 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; and

WHEREAS, the Planning Commission held a duly noticed public hearing on February 3, 2016, at which time the public was invited to present testimony regarding ZOA 16-001.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF CATHEDRAL CITY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Pursuant to the provisions of the California Environmental Quality Act (CEQA), the Planning Commission makes the following environmental determinations and recommendations:

- (a) Pursuant to Title 14, Chapter 3, Section 15303(c) of the California Code of Regulations, the approval of ZOA 16-001 is exempt from further review under CEQA 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.. Any land development project affected by this action will undergo its own environmental review.

Section 2. The Planning Commission bases its recommendation for the City Council to adopt the proposed ordinance on the following findings:

- (a) ZOA 16-001 is consistent with the intent of the Zoning Ordinance. The Zoning Ordinance is “intended to protect the public health, safety and general welfare of the residents and to provide economic and social benefits from an orderly planned use of land resources.” ZOA 16-001 is consistent with this intent in that it ensures that medical cannabis businesses are appropriately regulated and located within the City.
- (b) ZOA 16-001 is consistent with the established goals, policies and objectives of the General Plan. The General Plan aims to achieve “a land use plan and pattern that preserves and enhances the integrity of neighborhoods, districts and corridors, while optimizing the community’s natural assets, regional transportation systems, and opportunities for housing, employment and economic base-building.” ZOA 16-001 will further that purpose by allowing medical cannabis businesses in appropriate locations and subject to regulations.

Section 3. The Planning Commission hereby recommends as follows:

- (a) That the City Council adopt an ordinance to amend the Cathedral City Municipal Code to encompass Zone Ordinance Amendment No. 16-001, approving an amendment to Chapter 9.108 and Sections 9.08.020, 9.30.030, 9.36.040, 9.40.040, and 9.42.030 of the Code. Such recommended ordinance shall be substantially in the form as attached hereto as Exhibit A, subject to revision by the City Attorney.

Section 4. The Secretary shall certify as to the adoption of this resolution and shall cause the same to be processed in the manner required by law.

THE FOREGOING RESOLUTION WAS APPROVED AND ADOPTED on this 3rd day of February, 2016, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

John Rivera, Chair

ATTEST AND APPROVED AS TO CONTENT:

Robert Rodriguez, Development Services Manager/
Secretary to the Planning Commission

PREPARED BY:

Robert Rodriguez
Development Services Manager

APPROVED AS TO LEGAL FORM:

Erica L. Vega
Assistant City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF CATHEDRAL CITY, CALIFORNIA, AMENDING SECTIONS 9.08, 9.30, 9.36, 9.40, 9.42, 9.108 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;

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, Cathedral City has a legitimate interest in maintaining an appropriate balance of land uses within its borders, and Cathedral City desires to ensure that there is an appropriate balance of medical cannabis cultivation sites and other uses; 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. Section 9.08.020 of the Cathedral City Municipal Code is hereby amended to read as follows:

Chapter 9.08 DEFINITIONS

9.08.020 Definitions.

...
“Convenience store” means a retail store that carries a range of merchandise oriented to convenience and travelers’ shopping needs, typically in smaller sizes than offered by a grocery store. Convenience stores may be part of a service station or an independent facility.

“Cultivation Site” has the same meaning as that term is defined by Section 19300.5(x) of the Business and Professions Code.

“Day-care center” has the same meaning as that term is defined by Health and Safety Code section (1596.76).

“Destroyed” means a structure or any other property improvement which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity of nature, act of God, accident or intentional act, to the extent that the cost of repairing, reconstructing or restoring the structure or improvement is greater than fifty percent of the cost of replacing the entirety of the building. The term “cost of replacing” as used in this definition means the costs as computed by the city planner or his delegated representative. In making said computation, said city official shall use those tables and figures provided in that publication entitled “Building Standards” as published by the International Conference of Building

Officials, and which issue is current at the time of such computations. Said tables and figures shall apply to a building which would conform to all the city and state regulations which are effective at the time of computation.

“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

“Disposal service operations” means areas for the storage and maintenance of vehicles and equipment used in the collection, transportation, and removal of trash, garbage and rubbish not including storage or dumping of trash, garbage or rubbish.

...

“Lot width” means the horizontal distance between the side lot lines, measured at right angles to the lot depth at a point midway between the front and rear lot lines.

“Medical Cannabis Business” has the same meaning as that term is defined by Section 9.108 of this Title 9.

“Mobile home park” means an area or tract of land where two or more mobile home lots are rented or leased or held out for rent or lease to accommodate manufactured homes or mobile homes used for human habitation. The rental paid for any such home shall be deemed to include rental for the lot it occupies. This definition will be deemed to include any revisions incorporated into Section 18214 of the California Health and Safety Code.

...

Section 3. Section 9.30.030 of the Cathedral City Municipal Code is hereby amended to read in its entirety as follows:

Chapter 9.30 PCC PLANNED COMMUNITY COMMERCIAL DISTRICT

9.30.030 Conditional uses.

The following uses may be permitted subject to the issuance of a conditional use permit pursuant to Chapter 9.72:

Any use involving outdoor activity or storage except those permitted uses listed in Section 9.30.020, parking appurtenant to other permissible uses;

Auctions;

Automobile repair shops;

Automobile service stations;

Carwashes, limited to self-serve and full-serve only;

Commercial recreation facilities;

Dispensaries;

Fast-food restaurants and drive-thru's;

Game arcades;

~~Medical marijuana dispensaries, subject also to compliance with all provisions of Chapter 9.108;~~

Private clubs and lodges;

Public service facilities and public utility structures;

Retail store—used;

Tattooing establishments (as defined by Chapter 5.34 of this Code);

Vehicle rental establishments and used vehicle sales (except used vehicles sold in conjunction with the operation of a manufacturer licensed new vehicle sales dealership) subject to the provisions of Section 9.96.170 pertaining to special provisions applying to miscellaneous problem uses;

Such other similar uses as are approved by the planning commission.

Section 4. Section 9.36.040 of the Cathedral City Municipal Code is hereby amended to read in its entirety as follows:

Chapter 9.36 CBP-2 COMMERCIAL BUSINESS PARK DISTRICT

9.36.040 Conditional uses.

The following uses may be permitted subject to the issuance of a conditional use permit pursuant to Chapter 9.72:

Any permitted use proposing outside storage or outdoor activities other than outdoor off-street parking;

Automobile body and collision shops;

Automobile service stations;

Cocktail lounges and bars not located within three hundred feet of any residential district;

Cultivation Sites;

~~Medical marijuana d~~Dispensaries

Mini-warehouses;

Public service facilities and public utility structures;

Recycling center;

Recycling collection facility (large);

Retail store, used;

Tattooing establishments (as defined by Chapter 5.34 of this Code);

Such other uses as are listed as conditional uses in the CBP-1 and PCC districts.

Section 5. Section 9.40.040 of the Cathedral City Municipal Code is hereby amended to read in its entirety as follows:

Chapter 9.40 I-1 LIGHT INDUSTRIAL DISTRICT

9.40.040 Conditional uses.

The following uses may be permitted subject to the issuance of a conditional use permit pursuant to Chapter 9.72.

Animal boarding kennels and dog kennels;

Carwash, coin operated-manual, self-serve and full-serve permitted;

Corporation yards;

Cultivation Sites;

Dispensaries;

Feed and fuel yards;

Fuel storage yards;

Lumber yards;

Manufacturing and industrial uses which will not be extremely offensive or obnoxious by reason of emission of odor, dust, smoke, gas, light, noise or vibration;

~~Medical marijuana dispensaries, subject also to compliance with all provisions of Chapter 9.108;~~

Public buildings;

Public utility structures;

Recycling center;

Recycling collection facility (large);

Residential uses for caretakers;

Retail sales and services operated on the same property and in conjunction with uses specifically allowable in this district;

Retail store, used;

Rubber sales, or fabrication of products made from finished rubber;

Tire rebuilding, recapping and retreading;

Truck and automobile service stations;

Vehicle rental establishments and used vehicle sales (except used vehicles sold in conjunction with the operation of a manufacturer licensed new vehicle sales dealership) subject to the provisions of Section 9.96.170 pertaining to special provisions applying to miscellaneous problem uses.

Section 6. Section 9.42.030 of the Cathedral City Municipal Code is hereby amended to read in its entirety as follows:

Chapter 9.42 OS OPEN SPACE DISTRICT

9.42.030 Conditional uses.

The following uses may be permitted subject to a conditional use permit:

- A. Public utility structures and public service facilities; however, transmission lines serving only the immediate area are permitted without a conditional use permit;
- B. Cultivation Sites;
- C. Public parks and recreation facilities;
- D. Private recreational facilities and ancillary commercial uses;
- E. Other uses not involving buildings or other permanent improvements, and not involving undue present or future hazard to life or property, within the judgment of the planning commission.
- F. Public buildings; when the public building is ancillary to a public park and/or recreation facility.

Section 7. Chapter 9.108 “Medical Marijuana Dispensaries” of the Cathedral City Municipal Code, is hereby repealed in its entirety and replaced with the following:

CHAPTER 9.108 MEDICAL CANNABIS BUSINESSES

9.108.010 Purpose.

- A. The purpose of this Chapter is to regulate all Commercial Cannabis Activity in Cathedral City, as defined in Section 19300.5(k) of the Business and Professions Code, 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.-
- B. This Chapter is further adopted and established pursuant to the specific authority granted to Cathedral City in Section 7 of Article XI of the California Constitution and Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. These regulations shall govern all Commercial Cannabis Activity that occurs within the jurisdiction of Cathedral City.

9.108.020 Relationship to other laws.

Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. In the event of any conflict between the provisions of this Chapter and the provisions of that Chapter or any other applicable state or local law, the more restrictive provision shall control.

9.108.030 Definitions.

- 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 Business and Professions Code, including the exclusion in Section 19319 of 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 Business and Professions Code.
- G. "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.
- H. "Edible Cannabis Product" means has the same meaning as that term is defined by Section 19300.5(s) of the Business and Professions Code.
- I. "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.

- J. "Financial Interest" has the same meaning as that term is defined in Section 650.1 of the Business and Professions Code.
- K. "Good Cause" for purposes of refusing or denying an initial Local License issuance, for revoking a Local License, or for refusing or denying a Local License 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 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 consider the factors as set forth in Section 19323(b)(5) of the Business and Professions Code.
 - 5. 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.
 - 6. The Applicant or Licensee is owned by or has an officer or director who is, a licensed physician making recommendations for Medical Cannabis; or
 - 7. The Applicant or Licensee operated a Medical Cannabis Business in violation of Chapter 5.88 of this Code.
- L. "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 substantially related to the occupation or profession for which he seeks to be licensed.

2. 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, except that any of the following convictions shall be deemed substantially related and may be the sole grounds for denying a license or conditional use permit:
 - 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; or
 - b. A felony conviction for selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor; or
 - c. A felony conviction for drug trafficking with enhancements pursuant to Sections 11370.4 or 11379.8 of the Business and Professions Code.
 3. 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 license.
- M. "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.
- N. "Licensed Premises" means the premises specified in an application for a Local License under this Chapter, which are 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 pursuant thereto.
- O. "Licensee" means a person who has been issued a Local License pursuant to Chapter 5.88 and a conditional use permit issued pursuant to this Chapter.
- P. "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.
- Q. "Local License" means a business license granted by the Local Licensing Authority, pursuant to this Chapter.

- R. "Local Licensing Authority" means the City Manager or its designee.
- S. "Manufactured Cannabis" has the same meaning as that term is defined by Section 19300.5(ae) of the Business and Professions Code.
- T. "Medical Cannabis" has the same meaning as that term is defined by Section 19300.5(ag) of the Business and Professions Code.
- U. "Medical Cannabis Business" means any Person engaged in Commercial Cannabis Activity.
- V. "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).
- W. "Medical Marijuana Regulation and Safety Act" or "MMRSA" means Chapter 3.5 of Division 8 of the Business and Professions Code
- X. "Outdoors" means any location within the City that is not within an Enclosed Locked Structure.
- Y. "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.
- Z. "Person" has the same meaning as that term is defined by the Business and Professions Code.
- AA. "Physician," as used in this Chapter, shall mean a medical doctor licensed by the state of California to practice as such.
- BB. "Primary Caregiver" shall have the meaning set forth in Section 11362.7(d) of the California Health and Safety Code.
- CC. "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.

DD. "Qualified Patient" shall have the meaning set forth in Section 11362.7(f) of the California Health and Safety Code.

EE. "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, or Primary Caregivers (as such terms are defined in Chapter 5.88 of this Code) and where no one without a valid doctor's recommendation is permitted.

FF. "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.

GG. "State License" has the same meaning as that term is defined by Section 19300.5(ak) of the Business and Professions Code.

HH. "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 pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or any State agency authorized to take disciplinary action against such license.

9.108.040 Local License and conditional use permit required to operate.

A. Medical Cannabis Businesses shall only be permitted to operate in the City following application, investigation, verification, notice and public hearing, approval and issuance of both a Local License issued by the Local Licensing Authority in accordance with the criteria and procedures set forth in Chapter 5.88 of this Code and a conditional use permit issued by the planning commission in accordance with the criteria and procedures set forth in this Chapter and Chapter 9.72 of this Code. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a Medical Cannabis Business shall be granted or permitted unless a conditional use permit is first obtained and issued in conformance with the provisions of this Chapter and Chapter 9.72. If there is a conflict between the requirements of Chapter 9.72 and this Chapter, the requirements of this Chapter shall prevail. Notwithstanding anything herein to the contrary, a facility or entity that is operating in compliance with Title 9 of the Cathedral City Municipal Code and other state and local requirements on or before January 1, 2016, may continue its operations pursuant to its conditional use permit provided such permitted use is considered a compliant or nonconforming use in that location under Title 9 of the Cathedral City Code.

- B. 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, the provisions of Chapter 5.88, this Chapter, and Chapter 9.72 of the Cathedral City Code, and all other applicable State and local laws and regulations.
- C. The Community Development Director 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 and hearing process.

9.108.050 Conditional use permit application process.

- A. Prior to initiating operations and as a continuing requisite to operating Medical Cannabis Business, the Applicant shall obtain conditional use permit under the terms and conditions set forth in this Chapter and Chapter 9.72 of this Code. If there is a conflict between the requirements of Chapter 9.72 and this Chapter, the requirements of this Chapter shall prevail. The Applicant shall file an application for a conditional use permit with the Director on the official form supplied by the City and shall pay the applicable application fee as established by resolution of the City Council, as may be amended from time to time.
- B. An application for a conditional use permit shall include, but shall not be limited to, the following information:
 - 1. For a Cultivation Site, an environmental plan indicating how cultivation will be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, and agricultural discharges.
 - 2. Confirmation that that the premises proposed to be licensed is not currently permitted as a retail food establishment or wholesale food registrant.
 - 3. The address of the location of the Medical Cannabis Business.
 - 4. A site plan and floor plan of the Medical Cannabis Business denoting all the use of areas of the dispensary or Cultivation Site, including storage, employee areas, exterior lighting, restrooms, security cameras, areas of ingress and egress, and signage.
 - 5. Plans and specifications for the interior of the Licensed Premise if the building to be occupied is in existence at the time of the application. If the building is not in existence or alteration to the building is required at the time of the application, the Applicant shall file a plot plan and a detailed sketch for the interior and shall further submit an architect's drawing of the building to be constructed.
 - 6. The name and address of any person who is an Owner of the

Applicant business entity, is managing or responsible for the Medical Cannabis Business's activities, the names and addresses of any employees, or volunteers, if any, and a statement as to whether such person or persons has or have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received for such conviction(s).

7. The name and address of the owner and lessor of the real property upon which the Medical Cannabis Business is to be operated. In the event the Applicant is not the legal owner of the property, the application must be accompanied by a notarized acknowledgement from the owner of the property that a Medical Cannabis Business will be operated on his or her property.
8. An operating plan for the proposed Medical Cannabis Business including the following information:
 - a. A floor plan showing 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.
 - b. A description of the design of the Licensed Premises evidencing that the design conforms to applicable City laws.
 - c. A description of the source of power for any Cultivation (electric utility company, solar, diesel generators), the size of the electrical service or system, and the total demand to be placed on the system by all proposed uses on site.
 - d. Verification of all water sources used by the Licensed Premises and verification that the Licensed Premise does not utilize water that has been or is illegally diverted from any stream, creek, or river.
 - e. Any additional document(s) or information reasonably requested by the Local Licensing Authority.
9. A security plan that, to the satisfaction of the City Manager and Chief of Police, addresses how the applicant intends to comply with and implement all requirements under Section 5.88.065 and Chapter 9.108 of this Code, and the MMRSA, including, but not limited to, a description of how the security measures are sufficient to ensure the safety of members and employees, protect the Licensed Premises from diversion and theft, and ensure that all buildings where Medical Cannabis is cultivated or stored are secured sufficiently to prevent unauthorized entry, and the following requirements:
 - a. A diagram indicating all areas to be covered by the twenty-four (24) hour security cameras which shall include, but are not limited to, all Limited and Restricted Access Areas, all areas of ingress and egress, point of sale, the public areas, storage areas, all doors and windows, and any other areas as required by this Chapter and the MMRSA.
 - b. A basic explanation of the methods the Medical Cannabis Business will undertake to ensure Medical Cannabis is under

secure control of the Medical Cannabis Business staff at all times pursuant to Section 5.88.065(A)(5) of this Code.

10. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
 11. Authorization for the community development director to seek verification of the information contained within the application.
 12. Any such additional and further information as is deemed necessary by the community development director to administer this section or this Chapter.
- C. All Applicants for a conditional use permit under this Chapter shall provide verification that the proposed premise to be licensed will be equipped with an odor filtration system that meets the following requirements:
1. All Medical Cannabis Businesses shall install or provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the Medical Cannabis Business that is distinctive to its operation is not detected outside the Medical Cannabis Business, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breeze-ways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the Medical Cannabis Business. As such, Medical Cannabis Businesses must install and maintain the following equipment or any other equipment which Local Licensing Authority determines has the same or better effectiveness:
 - a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or
 - b. An air system that creates negative air pressure between the Medical Cannabis Businesses' interior and exterior so that the odors generated inside the Medical Cannabis Business are not detectable outside the Medical Cannabis Business.
 2. For enforcement purposes, the standard for determining what constitutes an unlawful odor under this subsection shall be whether such an odor would be deemed offensive to a reasonable number of persons on an ongoing or periodic basis and personally detectable by City staff or law enforcement personnel.
- D. The Director and appropriate City staff shall review, verify and investigate all information on the application and prepare a report for the planning commission incorporating the findings of such investigation and verification, including, but not limited to, the suitability of the proposed location, and the Applicant's compliance with the requirements of this Chapter, Chapter 5.88 and Chapter 9.72-
- E. All renewals and time limitations on conditional use permits shall be governed by Chapter 9.72.

9.108.060 Grounds for denial of conditional use permit—additional conditions imposed.

- A. The planning commission shall reject any application for a conditional use permit to operate a Medical Cannabis Business where the Applicant does not hold a Local License in good standing.
- B. In addition to the findings set forth in Section 9.72.010 of the Cathedral City Code, a conditional use permit shall only be granted with the establishment of certain conditions to protect the health, safety and general welfare of the neighborhood or community, subject to the following findings:
 - 1. The Licensed Premises–Medical Cannabis Business is located as well as all operations as conducted therein, fully comply with all applicable building, zoning and fire Codes, accessibility requirements of the Americans with Disability Act, and all relevant City and State Law; and
 - 2. The Medical Cannabis Business fully complies with and meet all operating criteria required pursuant to State Laws, Chapter 5.88 of this Code, any other provisions of this Code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval in the conditional use permit; and
 - 3. For Dispensaries, the number, type, and availability of Dispensaries located in or near the Licensed Premises is such that the issuance of issuance of a conditional use permit to the Applicant will result in or add to an undue concentration of Dispensaries and/or result in a need for additional law enforcement resources.
- C. Following the public hearing required by Section 9.72.070 of the Cathedral City Code, the planning commission shall deny an application for a conditional use permit upon making any of the following findings, which shall be made part of the record of the meeting/public hearing:
 - 1. The findings required by Section 9.72.010, Section 9.108.080 or subsection 9.108.060(A) of this Code for the granting of a conditional use permit cannot be made; or
 - 2. Good Cause, as defined in this Chapter.
- D. Based on the information set forth in the application and City staff's report and testimony presented at the public hearing, the planning commission may impose reasonable terms and conditions on the proposed operations in addition to those specified in and required to be included in every conditional use permit granted under this Chapter. All such additional terms and conditions shall be supported by written findings that substantiate a need for the additional terms and conditions to mitigate or eliminate any potential secondary effects associated with the public health, safety and welfare.

9.108.070 Appeals.

Any decision regarding the planning commission's approval, conditional approval, denial, or revocation of a conditional use permit for a Medical Cannabis Business may be appealed to the City Council in accordance with the provisions of Section 9.72.080 of this Code, and is subject to de novo review by the City Council pursuant to Section 9.72.090 of this Code.

9.108.080 Conditional use permit requirements for dispensaries and cultivation sites: permitted zones—distance and other conditions for approval.

All conditional use permits for Medical Cannabis Businesses shall be processed pursuant to the terms and conditions set forth in this Chapter and Chapter 9.72 of this Code. If there is a conflict between the requirements of Chapter 9.72 and this Chapter, the requirements of this Chapter shall prevail.

A. Dispensaries.

1. No Dispensary shall be or located:
 - a. Within six hundred feet of a school, child care or day care facility, or youth center; or
 - b. In any residential zone; or
 - c. Within two hundred fifty feet of East Palm Canyon Drive or a residential zone.
2. The restrictions in subsection 9.108.080(A)(1) shall not apply to any location where the City previously issued a conditional use permit under this Chapter and Chapter 9.72 of this Code and a permitted Dispensary has existed in continuous operations at the subject location since the time of original permitting.
3. Subject to the distance and other requirements of this Chapter a Dispensary may only be located or established on property within the I-1 Light Industrial District Zone, the CBP-2 Commercial Business Park District Zone or the PCC Planned Community Commercial District Zone, and following the application for and granting of a conditional use permit by the planning commission in accordance with this Chapter and Chapter 9.72 of this Code. In addition to the findings required by Section 9.72.010 of this Code, the planning commission shall also consider whether the approval of the proposed use will violate the minimum requirements set forth in this Chapter for distance separations between Dispensaries and other specific land uses.

B. Cultivation Sites.

1. No Cultivation Site shall be located within six hundred feet of a school, child care or day care facility, or youth center or within three hundred feet of a residential zone, except that the restrictions in this subsection 9.108.080(B)(1) shall not apply to any location where the City previously issued a conditional use permit authorizing cultivation under this Chapter and Chapter 9.72 of this Code and such cultivation has

existed in continuous operations at the subject location since the time of original permitting.

2. Subject to the distance and other requirements of this Chapter, a Cultivation Site may only be located on a property within the I-1 Light Industrial District Zone, CBP-2 Commercial Business Park Zone, and S Open Space Zone, and following the application for and granting of a conditional use permit by the planning commission in accordance with this Chapter and Chapter 9.72 of this Code. In addition to the findings required by Section 9.72.010 of this Code, the planning commission shall also consider whether the approval of the proposed use will violate the minimum requirements set forth in this Chapter for distance separations between other Cultivation Sites and other specific land uses.
 3. All Cultivation of Medical Cannabis shall occur in an Enclosed Locked Structure. All outdoor cultivation of Medical Cannabis within the City is prohibited.
 4. Cultivation Sites shall not exceed the square footage authorized pursuant to the conditional use permit.
 5. From a public right of way, there should be no exterior evidence of the Cultivation of Medical Cannabis except for any signage authorized by this Chapter.
 6. All Cultivation Sites shall comply with the City's lighting standards including without limitation fixture type, wattage, illumination levels, shielding, and secure the necessary approvals and permits as needed.
 7. All windows on the Licensed Premise of the Cultivation Sites shall be appropriately secured and all Medical Cannabis securely stored.
- C. Any Dispensary or Cultivation Site established or operating in the City in violation of the ban established by Ordinance Nos. 675 and 677, shall not be considered a lawful or permitted nonconforming use, and no such Dispensary or Cultivation Site shall be eligible for issuance of a Medical Cannabis Business–conditional use permit. Further, any such unlawfully established-Medical Cannabis Business shall constitute a public nuisance subject to abatement by the City, pursuant to Section 9.108.150.
- D. All distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Medical Cannabis Business is, or will be located, to the nearest property line of those uses described herein.

9.108.090 Notification and approval of transfer of Ownership, change of Financial Interest, alteration or modification of premises, other material changes.

In addition to any requirements in Chapter 5.88 and Chapter 3.28 of this Code, the following requirements for transfer of ownership, change of financial interest, or modification of premise of a Local License apply. In the event of a conflict between this Section, Chapter 5.88 or Chapter 3.28, the provisions of this Section 9.108.090 shall control.

- A. Changes of ownership of conditional use permits shall be governed by Section 9.72.100 of the Cathedral City Code. A new Owner may not commence operations at the Licensed Premises until the change of ownership of both the conditional use permit and Local License have been approved by the City.
- B. All modifications to the Licensed Premise shall be subject to the provisions of Section 9.72.120 of the Cathedral City Code. 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 and planning commission without the prior written approval of the Local Licensing Authority and planning commission pursuant to Section 9.72.120 of the Cathedral City Code. 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.

9.108.100 Suspension or revocation of conditional use permit.

- A. Suspensions or revocations of conditional use permits under this Chapter shall be governed by Section 9.72.130. In addition to the grounds for revocation set forth in Section 9.72.130(c), the planning commission and/or the City Council may suspend or revoke a conditional use permit if the planning commission and the City Council find:
 - 1. Good Cause; or
 - 2. The Medical Cannabis Business has failed to comply with this Chapter or any condition of approval or a circumstance or situation has been created that would have permitted the planning commission to initially deny the Medical Cannabis Business License or conditional use permit under Section 9.108.100 or Chapter 9.72 of this Code; or
 - 3. The Licensee fails to allow inspection of the security recordings, membership records, the employee register, the point of sale transaction data or inspection of the premises, as provided for herein above, by authorized City officials.

9.108.110 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, principals, Qualified Patients, ID Card holders, 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 principal, member, 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 financial data in accordance with the California Public

Records Act (§§ 6254(d),(k),(l), 6276).

- C. The City shall maintain information identifying the names, addresses, or social security numbers of Qualified Patients, ID Card holders, disclosing an individual's medical conditions and any treatment proscribed, recommended, or discussed, or disclosed, or the names of their Primary Caregivers received pursuant to this Chapter in a manner that is in compliance with the Confidentiality of Medical Information Act (Civil Code § 56, *et seq.*) and shall not be disclosed by any City official except in accordance with the restrictions on disclosure of "individually identifiable medical information" under the Confidentiality of Medical Information Act (Civil Code § 56, *et seq.*).
- 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, a 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 City official, shall 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 9.108.130 and recordings from security cameras, as well as operating plans and security plans required by Section 9.108.050(B)(8) and 9.108.050(B)(9) shall be confidential and shall not be subject to public inspection or disclosure except to City employees for purposes of law enforcement.

9.108.120 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 conditional use permit pursuant to this Chapter or the operation of any Medical Cannabis Business approved for such permit pursuant to this Chapter. As a condition of approval a conditional use permit 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 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 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.

9.108.130 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 Director, the city manager, the chief of police or their designee upon verbal request for law or regulatory enforcement and criminal investigation purposes.
- B. The Director, 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.

9.108.140 Enforcement.

- A. Operation of the Medical Cannabis Business in non-compliance with any conditions of approval or the provisions of this Chapter, Chapter 5.88 or Chapter 9.72 shall constitute a violation of the Municipal Code and shall be enforced pursuant to the provisions of this Chapter and the Code.
- B. Applicants and Licensees must cooperate with employees and investigators of the City who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to this Chapter. No Applicant or Licensee shall by any means interfere with, obstruct or impede the Director, City Manager, law enforcement, or other City official from exercising their duties under the provisions of this Chapter and all rules promulgated pursuant to it.

9.108.150 Unlawful Acts, violations.

- A. Public Nuisance. 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 and conditional use permit pursuant to, in this Chapter 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.
- C. Administrative Citations. In lieu of issuing a citation, the city may issue an administrative citation, pursuant to Chapter 13.58, to any person responsible for committing, causing or maintaining a violation of this Chapter. Nothing in this subsection shall preclude the city from also issuing a citation upon the occurrence of the same offense on a separate day against the same person or entity.

Section 8. 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 9. 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 10. EFFECTIVE DATE

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

Section 11. REPEAL OF CONFLICTING PROVISIONS

Except as otherwise provided herein, 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 12. 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 approved and adopted at a meeting of the City Council held on _____, 2016 by the following vote:

Ayes:
Noes:
Abstain:
Absent:

Stan Henry, Mayor

ATTEST:

Gary F. Howell, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Eric S. Vail, City Attorney

Pat Milos, Community Dev. Dir.

REVIEWED:

Charlie McClendon, City Manager