

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF CATHEDRAL CITY,
CALIFORNIA, AMENDING CHAPTER 5.88 OF THE CATHEDRAL
CITY MUNICIPAL CODE REGULATING MEDICAL CANNABIS
TRANSPORTATION, DISTRIBUTION AND TESTING
LABORATORIES**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California 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 California 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 (the “Medical Cannabis Regulation and Safety Act” or the “MCRSA”) to clarify legal requirements pertaining to Medical Cannabis; and

WHEREAS, the MCRSA and California Supreme Court decisions empower cities and counties to enact laws or regulations pertaining to Medical Cannabis cultivation, dispensing, manufacturing or distribution pursuant to zoning powers that the agency’s governing body allows which include expanding and allowing or restricting, banning and prohibiting such activity within the locality; and

WHEREAS, the City has adopted regulations governing the licensing and regulation of medical cannabis dispensaries, cultivators, and manufacturers as permitted by state law;

WHEREAS, the City Council desires to establish reasonable regulations on the operation of transportation, distribution and testing businesses which are intended to operate in conjunction with the Cathedral City Municipal Code’s land use and zoning regulations; and

WHEREAS, it is the purpose and intent of this ordinance 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 commercial cannabis activity; and

WHEREAS, nothing in this ordinance 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 5.88.025 (“General Definitions”) of the Cathedral City Municipal Code is hereby amended as follows:

A. The following definitions shall be inserted in alphabetical order:

“Certificate of accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

“Distribution” has the same meaning as that term is defined by Section 19300.5(p) of the California Business and Professions Code.

“Distributor” has the same meaning as that term is defined by Section 19300.5(q) of the California Business and Professions Code.

“Distribution site” means a facility where medical cannabis is stored or inspected by a Distributor for the purposes of distribution.

“Testing laboratory” has the same meaning as that term is defined by Section 19300.5(ak) of the California Business and Professions Code.

“Transporter” has the same meaning as that term is defined by Section 19300.5(an) of the California Business and Professions Code.

“Transportation site” means means a physical location where a Transporter conducts business while not in transport or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.

B. The definition of “cultivation site” is amended to read as follows:

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

C. The definition of “commercial cannabis activity” is amended to read as follows:

“Commercial cannabis activity” has the same meaning as that term is defined by Section 19300.5(j) of the California Business and Professions Code, including the exclusion in Section 19319 of the California Business and Professions Code related to qualified patients and primary caregivers, and extending that exclusion to ID card holders.

D. The definition of “cultivation site” is amended to read as follows:

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

E. The definition of “good cause” is amended to replace the last sentence of paragraph 4 of that definition with the following:

“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 planning commission shall consider the factors as set forth in Section 19323(b)(4) of the California Business and Professions Code;”

F. The definition of “manufactured cannabis” is amended to read as follows:

“Manufactured cannabis” has the same meaning as that term is defined by Section 19300.5(ac) of the California Business and Professions Code.

G. The definition of “manufacturing site” is amended to read as follows:

“Manufacturing site” has the same meaning as that term is defined by Section 19300.5(ae) of the California Business and Professions Code.

H. The definition of “medical cannabis” is amended to read as follows:

“Medical cannabis” has the same meaning as that term is defined by Section 19300.5(af) of the California Business and Professions Code.

I. The definition of “medical cannabis business” is amended to read as follows:

“Medical cannabis business” means any person engaged in commercial cannabis activity.

J. The definition of “Medical Marijuana Regulation and Safety Act” or “MMRSA” is amended to read as follows:

“Medical Cannabis Regulation and Safety Act” or “MCRSA” means Chapter 3.5 of Division 8 of the California Business and Professions Code, Section 147.5 of the California Labor Code, Section 31020 of the California Revenue and Taxation Code, Section 12029 of the California Fish and Game Code, Sections 11362.769 and 11362.777 of the California Health and Safety Code, and Section 13276 of the California Water Code.

K. The definition of “person” is amended to read as follows:

“Person” has the same meaning as that term is defined by Section 19300.5(ah) of the California Business and Professions Code.

L. The definition of “State license” is amended to read as follows:

“State license” has the same meaning as that term is defined by Section 19300.5(aj) of the California Business and Professions Code.

Section 3. Paragraph 12 of Subsection 5.88.065(A) (“Requirements Applicable to All Medical Cannabis Businesses”) of the Cathedral City Municipal Code is hereby amended to read as follows:

“12. Advertising. A medical cannabis business shall not engage in advertising that is directed towards individuals less than eighteen years of age. It shall be unlawful for any medical cannabis business to make any claims that a product is safe because it is tested.”

Section 4. Paragraph (b) of Subsection 5.88.065(C)(5) (“Extraction Requirements”) of the Cathedral City Municipal Code is hereby amended to read as follows:

“b. Within the limitations set forth by state law, a medical cannabis business that extracts medical cannabis or produces cannabis concentrate using a solvent must use a professional-grade, closed-loop extraction system capable of recovering the solvent used and must only use a solvent that is permissible under the MCRSA.”

Section 5. Section 5.88.065 (“Medical Cannabis Business Operational Requirements”) of the Cathedral City Municipal Code is hereby amended as follows:

A. The first paragraph of subsection (C) is amended to read as follows:

“C. Operational Requirements Applicable to Manufacturing Sites and any Medical Cannabis Business Engaged in the Preparation of Manufactured Cannabis. A manufacturing site and any medical cannabis business engaged in the preparation of manufactured 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.”

B. New subsections (E) and (F) are added which shall read as follows:

E. Operational Requirements Applicable to Distributors and Transporters.

1. Prior to distribution, the distributor shall inspect medical cannabis for quality assurance as required by state law.
2. Distributors and transporters shall maintain records of transactions and shipping manifests at its distribution or transportation site.
3. Distributors and transporters shall maintain compliance with Section 5.88.080.
4. Distributors and transporters shall not receive edible cannabis products unless they are individually packaged and ready for sale.
5. Transporters and distributors may only conduct business with medical cannabis businesses licensed and operating in good standing with applicable local law and who have not been denied a state license.

6. A distributor shall also hold a transporter license.
7. Transporters shall comply with applicable state laws and regulations, if any, requiring that they be bonded and insured.

F. Operational Requirements Applicable to Testing Laboratories

1. An owner of a testing laboratory shall not have an ownership or other direct financial interest in any other commercial cannabis business license type.
2. A testing laboratory shall obtain a Certificate of Accreditation prior to commencing operations and shall maintain such certificate in good standing.
3. Testing laboratories shall adopt and adhere to standard operating procedures to ensure the reporting of accurate test results, including but not limited to equipment, calibration, and methodology standards, that are consistent with those established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025, to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.
 - a. Testing laboratories shall obtain samples of medical cannabis and manufactured cannabis for testing in accordance with a statistically valid method designed to ensure that a sample is representative of the whole. Sampling methods should have at least a 95% confidence rate.
 - b. Testing laboratories shall destroy and safely dispose of the remains of any samples of medical cannabis or manufactured cannabis tested upon completion of the analysis and the expiration of any retention time pursuant to its standard operating procedures.
 - c. Testing laboratories shall maintain all testing results as a part of their respective business records and must keep such records pursuant to Section 5.88.090.

Section 6. Subsection (A) of Section 5.88.075 (“Testing Requirements”) of the Cathedral City Municipal Code is hereby amended to read as follows:

“A. Voluntary Testing. A medical cannabis business may transfer a sample of medical cannabis or manufactured cannabis to a testing laboratory licensed or permitted by its governing local authority for purposes of potency or contaminant testing.”

Section 7. Paragraph (6) of Subsection 5.88.040(I) of the Cathedral City Municipal Code is hereby amended to read as follows:

“6. If the local licensing authority issues the local license, it shall thereafter issue said local license only after the applicant has paid the licensing fee, if any, established by resolution of the City Council.”

Section 8 Title 5 of the Cathedral City Municipal Code is hereby amended to replace all references to the “Medical Marijuana Regulation and Safety Act” with the “Medical Cannabis Regulation and Safety Act” and all references to “MMRSA” with

“MCRSA.”

Section 9. 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 10. FORCE AND EFFECT

Except as expressly modified herein, all provisions of Chapter 5.88 of the Cathedral City Municipal Code shall remain in full force and effect.

Section 11. 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 12. EFFECTIVE DATE

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

Section 13. POSTING

The City Clerk shall within 15 days after passage of this Ordinance, cause it to be posted or published in accordance with Government Code section 36933; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification, together with proof of posting or publication, to be entered in the Book of Ordinances of this City.

Section 14. CERTIFICATION

The foregoing Ordinance was approved and adopted at a meeting of the City Council held on the ____ day of _____, 2017, by the following vote:

Ayes:

Noes:

Absents:

Abstains:

Stan Henry, Mayor

ATTEST:

Gary F. Howell, City Clerk

APPROVED AS TO FORM:

Eric S. Vail, City Attorney