AGENDA STAFF REPORT

DATE: December 19, 2018

TO: Mayor and City Council

APPROVED BY: David Dale, City Manager DD

PREPARED BY: Miguel Figueroa, Assistant City Manager MF
Carlos Campos & Jill Tremblay, City Attorney

SUBJECT: Hold a Public Hearing, and Review, Introduce, and Conduct a Second Reading of the Following Ordinances and Waive the Reading of the Full Ordinances and Read by Title Only:

Ordinance No. 1191 An Ordinance of the City Council of the City of Calexico, California, Amending Title 17 (Zoning), Chapter 17.11, Article X of the Calexico Municipal Code Regulating Commercial Cannabis Activity

Ordinance No. 1192 An Ordinance of the City Council of the City of Calexico, California, Amending Title 5 (Business Licenses and Regulations), Article II, Chapter 5.96 of the Calexico Municipal Code Regulating Commercial Cannabis Activity

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Recommendation:

Hold a public hearing and review, introduce, and conduct a second reading of Ordinance Nos. 1191 and 1192; approve waiving the reading of the full ordinances and read the ordinances by title only.

Background:

On November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older.

On June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act").

MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or

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operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018.

MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to three State agencies.

On July 5, 2017, the City Council adopted Ordinance No. 1177 allowing commercial cannabis cultivation, manufacturing, testing, and distribution in the Cannabis Overlay Zone. On the same date, Ordinance No. 1178 was also adopted, which created a regulatory permit scheme for commercial cannabis businesses.

On May 2, 2018, the City Council appointed two council members to serve on the Cannabis Industry Ad-Hoc Sub-Committee. The sub-committee met on June 21, 2018 and recommended to analyze expanding commercial cannabis activities within the Cannabis Overlay Zone to generate additional revenue to the City of Calexico. The City Council met on August 1, 2018, heard the recommendations from the sub-committee, and suggested that the City hold a Community Cannabis Forum.

The City publicized and held a Community Cannabis Forum on October 11, 2018, to provide information to the public regarding the City's current cannabis regulations and cannabis businesses permitted under State law that could be allowed in the City. Comments were taken from the public.

On November 19, 2018, the Planning Commission held a public hearing regarding zoning Ordinance and recommended approval of said ordinance, which amends the City's Zoning Code with regard to cannabis businesses.

On December 5, 2018, the City Council introduced and conducted a first reading of zoning, business license and regulation ordinances, and approved waiving the reading of the full ordinances and read the ordinances by title only.

Discussion & Analysis:

The proposed Zoning Ordinance Amendment would allow new cannabis business types (e.g. retail) to operate in the existing Cannabis Overlay Zone. The proposed Regulatory Permit Ordinance includes operating and building requirements for all cannabis business types allowed in the Cannabis Overlay Zone.

1. Proposed Zoning Ordinance Amendment

a. Summary

The proposed Zoning Ordinance Amendment (ZOA) does not change the area of the Cannabis Overlay Zone ("Zone") as it currently exists. Currently, the following commercial cannabis uses are allowed in this Zone: cultivation, manufacturing, testing and distribution. Each applicant may operate up to two separate commercial cannabis activities. The main change in the ZOA is that it

proposes to allow additional cannabis business types including shared use manufacturing facilities and retail cannabis businesses.

b. Each Applicant May Operate up to Two Separate Activity Operations

Each applicant may only apply for and operate two commercial cannabis activity facilities or businesses in the city. Testing laboratories are prohibited under state law from holding any other license type.

The City sees a benefit in taking this conservative approach in order to see how the market develops, to understand what the potential impacts of commercial cannabis will be, and to properly and comprehensively vet the applicants. Further, the City wants to avoid a single developer or a few developers monopolizing the industry in Calexico.

It is also important to consider potential drawbacks when enacting these types of restrictions. For example, number limits on dispensaries in certain cities, such as Cathedral City, Palm Springs, and Berkeley, have been legally challenged on the grounds of favoritism, discrimination, collusion with city officials; city allowing unlawful monopoly, and city forcing demand into illegal channels.

Another practical limit to cannabis business is electricity demand. At this point in time, electricity needs for cannabis businesses will also serve to limit the number of businesses that can feasibly operate.

It is key to remember that the State laws and regulations continue to develop, the industry is constantly changing, there is a degree of uncertainty at the federal level, technology is advancing, and any regulations that the City may impose can and would be reviewed and amended on an as needed basis.

c. Number of Applicants Per Category

The City may authorize up to ten (10) applicants to operate cultivation, laboratory testing, and distribution facilities. This provision remains unchanged from the existing Zoning Ordinance.

The City may authorize up to ten (10) applicants to operate primary manufacturing facilities, which remains unchanged from what is currently allowed. A primary manufacturing facility is any manufacturing facility or any "shared-use facility" operated for manufacturing.

A person permitted to operate a shared use facility shall be known as a primary shared use manufacturing permittee or primary permittee. A person permitted to operate *within* a shared use facility shall be known as a secondary shared-use manufacturing permittee or secondary permittee. The City may authorize up to fifteen (15) secondary permittees to operate within a shared-use facility within the City.

This "secondary permittee" permit type would allow for operations similar to a commercial kitchen or agreements in which larger manufacturers offer space and use of equipment to smaller ones. This permit type will open the door to many small manufacturers who have been unable to secure their own real estate in a highly competitive market, or do not possess the requisite capital for building out their own facility. The number of secondary permittees allowed is greater than the number of primary permittees because the City sees value in giving these smaller businesses greater accessibility to the marketplace.

In addition, the city may authorize up to five (5) retailer, non-storefront retailer, or microbusiness applicants to operate within the city. The City is looking to limit retail-type businesses to five at this time to take a conservative approach to these direct-to-consumer business types.

d. Commercial Cannabis Activity

In the proposed ZOA, commercial cannabis activity includes:

- Cultivation (including nurseries and industrial hemp),
- manufacturing,
- laboratory testing,
- distribution,
- retail sale (including delivery),
- non-storefront retail; and
- microbusinesses
- including possession, processing, storing, and labeling incidental to each activity of cannabis, and cannabis products.

Each activity listed above is specifically defined in the ZOA. The definitions conform to MCRSA, AUMA, and MAUCRSA. Currently, the City only allows cultivation, manufacturing, laboratory testing and distribution. The ZOA would expand the allowable business types to include retail businesses, which are called retailers, non-storefront retailers, and microbusinesses.

A retailer is a permittee that sells and/or delivers cannabis or cannabis products to customers. A retailer is like a dispensary, though that term is no longer used in State law. Retailers would be allowed to deliver cannabis to customers in strict compliance with the City's Municipal Code and State law.

A non-storefront retailer means a cannabis retailer that provides cannabis exclusively through delivery. Customers are not allowed to patronize non-storefront retailers.

Microbusinesses are similar to microbreweries. Microbusiness means a commercial business that engages in at least three of the following commercial cannabis activities: cultivation of cannabis on an area less than 10,000 square feet, Level 1 manufacturing, distribution, and retail sale, provided such permittee can demonstrate compliance with all requirements imposed by the Municipal Code and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

e. Cannabis Overlay Zone

The Cannabis Overlay Zone includes the approximately 354.02 acres within the area bounded by railroad tracks on the west; the Adler Canal on the north; West Van de Graff Avenue and Scaroni Avenue on the east; and Weakley Street and Camacho Road on the south. The Cannabis Overlay Zone includes Industrial (IND), Industrial Rail Served (IR) and Commercial.

City staff has chosen this particular area for commercial cannabis activity because it is highly industrialized, has some vacant parcels, and includes parcels that currently constitute a public nuisance due to blight and/or disrepair (e.g. wrecking yards) that should be cleaned up and revitalized. While there are some non-conforming residential uses, they are mostly in the southern portion of the Overlay Zone. As noted above, the Zone has not changed from its current area.

f. Development Agreement or Conditional Use Permit Requirement

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant will be required to obtain a validly issued CUP or enter into a fully executed development agreement approved by the city council.

Although the results must still be certified, it appears that Measure K has been approved, which provides a maximum tax rate on cannabis businesses of up to twenty-five dollars ($25) per square foot for space utilized in connection with a cannabis business and up to fifteen percent (15%) of gross receipts generated by a cannabis business. Measure K authorizes the City Council to set the actual tax rates, provided that the rates do not exceed the voter-approved maximum rates set by Measure K.

Each CUP or development agreement will include a condition or provision that the applicant shall also obtain and maintain a commercial cannabis activity regulatory permit required by this code. The regulatory permit mandates certain operating and building requirements and is further discussed, below.

g. Reimbursement Agreement

With each application, the applicant must provide an executed reimbursement agreement to fully reimburse the City for all fiscal impacts, costs, expenses, and fees, including but not limited to attorney fees and consultant fees, incurred by the City related to the commercial cannabis activity, and a deposit in an amount as provided for in the reimbursement agreement terms.

This type of agreement is typical for development projects that may require additional legal, environmental, or other consultant review.

h. Other Land Use Restrictions

In addition to the above requirements, commercial cannabis activity must conform to the following:

- Commercial cannabis activity shall be limited to no more than seventy-five percent (75%) of the acreage of a legal parcel in the Cannabis Overlay Zone.

- Commercial cannabis activity shall be located a minimum distance of six hundred (600) feet away from any sensitive receptor. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the sensitive receptor. A "sensitive receptor" is defined as an institution of learning for persons under twenty-one (21) years of age, whether public or private, offering regular course of instruction including, without limitation, a kindergarten, elementary school, middle or junior high school, or senior high school; any licensed child care center, daycare center, or any preschool; and parks and playgrounds.

- Each commercial cannabis cultivation facility shall be at least five thousand (5,000) square feet in size, except for microbusinesses, and nurseries, which may be less than five thousand square feet in size.

- Cannabis cultivation, manufacturing, and testing may only occur indoors. Commercial cannabis activity shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of carbon filtration systems and other mitigation measures shall be used on all commercial cannabis activities that cause such odors.

Commercial cannabis activity permittees or developers shall not allow cannabis to be visible from the public right-of-way, the unsecured areas surrounding the commercial cannabis activity's site.

- No commercial cannabis activity shall operate unless it is in possession of all applicable state and local licenses or permits, except as otherwise permitted by state and/or local law. Every commercial cannabis activity shall submit to the city manager a copy of any and all of its state and local licenses and permits required for its operation. If any other applicable state or local license or permit for a commercial cannabis activity is denied, suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten (10) calendar days.

2. Proposed Municipal Code Amendment Regarding Commercial Cannabis Activity Regulatory Permits

At the time a commercial cannabis activity applicant obtains a CUP or enters into a development agreement, the applicant must also obtain a regulatory permit. The purpose of the regulatory permit is to provide operating and building standards to limit the potential for criminal activity, degradation of the natural environmental, electrical fire hazards, offensive odors and other potential impacts to the community.

The proposed revisions to Calexico Municipal Code Chapter 5.96 establish a process by which the City may issue regulatory permits for commercial cannabis activity.

In addition to complying with the ZOA, commercial cannabis activity would be subject to the following requirements:

- Comprehensive application, including, but not limited to:
    - Comprehensive applicant/entity information.
    - Extensive financial disclosures.
    - Copies of all other state or locally issued cannabis-related permits or licenses.
    - Security plan.
    - Odor control plan.
    - Business plan.
    - Community relations plan.
    - Neighborhood responsibility plan.
    - Proof of adequate insurance.
    - Budget.
    - Authorization for Livescan fingerprinting.
- Federal, state, and local background checks.
- Continued operation in compliance with:
    - Security plan.
    - Odor control plan.
    - Business plan.
    - Community relations plan.
    - Neighborhood responsibility plan.

- A 'track and trace' system that produces historical transactional data for review by the city manager for auditing purposes.
- All records must be available to the City for the past three (3) years on 24 hours' notice.
- Emergency contact manager contact information and 24/7 availability.
- Community relations manager.
- Cannabis consumption prohibited at certain businesses.
- Alcohol prohibited.
- Specialized building standards.
- Regulatory permit must be displayed in a prominent location.
- City manager or designee may make periodic, unannounced inspections.
- Full compliance with state law.

California Environmental Quality Act

The Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. The City has determined it can be seen with certainty that no environmental impacts can occur from allowing cannabis business in an existing industrial area because the uses are similar to those already allowed in this area and there are no operational components specific to cannabis uses that would result in impacts beyond those already allowed in the proposed Cannabis Overlay Zone.

Fiscal Impact:

None.

Recommendation:

Hold a public hearing and review, introduce, and conduct a second reading of Ordinance Nos. 1191 and 1192; approve waiving the reading of the full ordinances and read the ordinances by title only.

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Attachments:

1. ORDINANCE NO. 1191 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING TITLE 17 (ZONING), CHAPTER 17.11, ARTICLE X OF THE CALEXICO MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITY.

2. ORDINANCE NO. 1192 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING TITLE 5 (BUSINESS LICENSES AND REGULATIONS), ARTICLE II, CHAPTER 5.96 OF THE CALEXICO MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITY.

3. Redline document showing changes from existing Title 17 (Zoning), Chapter 17.11, Article X to proposed Title 17 (Zoning), Chapter 17.11, Article X.

4. Redline document showing changes from existing Title 5, Chapter 5.96 to proposed Title 5, Chapter 5.96.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING TITLE 17 (ZONING), CHAPTER 17.11, ARTICLE X OF THE CALEXICO MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITY.

WHEREAS, pursuant to the authority granted to the City of Calexico ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City's police power; and,

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and,

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act"); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, City Council Ordinance No. 1177 established the Cannabis Overlay District and regulates the number and type of commercial cannabis activities allowed to operate within the City; and,

WHEREAS, the proposed Ordinance would amend Title 17 (Zoning), Chapter 17.11, Article X to (i) comply with current City policies and State law; (ii) to allow cannabis manufacturing shared-use facilities as a permitted commercial cannabis activity; (iii) to allow retail cannabis businesses as permitted commercial cannabis activity; (iv) to allow cannabis nurseries as permitted commercial cannabis activity; and,

WHEREAS, the subject Municipal Code Amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378 of the California Public Resources Code, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant impact on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA; and,

WHEREAS, the Planning Commission of the City of Calexico ("Planning Commission") conducted a properly noticed public hearing on _____ at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and,

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance; and,

WHEREAS, the City Council City Council intends to adopt a revised Chapter 5.96 establishing a revised regulatory permit scheme for commercial cannabis activities, such that each proposed commercial cannabis activity must have both a conditional use permit, development agreement or other applicable entitlements *and* a regulatory permit prior to operation; and,

WHEREAS, the Planning Commission of the City of Calexico ("Planning Commission") conducted a properly noticed public hearing on _____, 2018 at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and,

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance; and,

WHEREAS, the City Council conducted a properly noticed public hearing on _____, 2018 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds that all of the foregoing recitals are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2. Amendment to the Calexico Municipal Code. Title 17 (Zoning), Chapter 17.11, Article X of the Calexico Municipal Code is hereby amended and restated as follows:

"Article X. - Commercial Cannabis Activity

17.11.1010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the commercial cultivation, manufacturing, testing, distribution, and retail sale and delivery of cannabis (including cannabis products, cannabis concentrate, and edible cannabis products) in accordance with State law in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is

authorized to regulate this activity pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

Nothing in this chapter shall be construed to:

A. Allow persons to engage in conduct that endangers others or causes a public nuisance; or

B. Allow any activity relating to the cultivation, manufacturing, testing, distribution, transportation, or use of cannabis that is otherwise illegal under California state law, or

C. Interfere with the use and possession of cannabis as authorized under MAUCRSA.

17.11.1020 - Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

"Applicant" means an owner applying for a conditional use permit, desiring to enter into a development agreement, or applying for any other applicable entitlement under this chapter.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. For purposes of this Code, "cannabis" includes industrial hemp.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"Cannabis Overlay Zone" means the approximately 354.02 acres within the area bounded by railroad tracks on the west; the Adler Canal on the north; West Van de Graff Avenue and Scaroni Avenue on the east; and Weakley Street and Camacho Road on the south. The Cannabis Overlay Zone includes Industrial (IND), Industrial Rail Served (IR) and Commercial.

"City manager" means the city manager of the city of Calexico or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, laboratory testing, distribution, delivery, and retail sale (including possession, processing, storing, and labeling incidental to each activity, as applicable) of cannabis, and cannabis products.

"Conditional Use Permit" or "CUP" means a conditional use permit issued under this chapter.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a "cultivation" use.

"Customer" means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Developer" means a person who has a fully negotiated and executed development agreement with the city under this chapter. A "developer" includes all representatives, agents, parent entities, or subsidiary entities of the developer.

"Development Agreement" means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, and State law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Indoor" means within a fully enclosed and secure building.

"Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Sections 66410 et seq. of the California Government Code).

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

"Manufacturer" means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

"Microbusiness" means a commercial business that engages in at least three of the following commercial cannabis activities: cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, distribution, and retail sale under this chapter, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retailer" means a cannabis retailer that provides cannabis exclusively through delivery.

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

"Operation" means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

(1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer of an entity or nonprofit;

(3) All members of the board of directors of a nonprofit;

(4) An individual entitled to a share of at least 20 percent of the profits of the commercial cannabis business;

(5) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust; or

(6) An individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a conditional use permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

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

"Retailer" means a permittee that sells and/or delivers cannabis or cannabis products to customers.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a permittee to the permittee from whom the cannabis or cannabis product was purchased.

"Sensitive receptors" include an institution of learning for persons under twenty-one years of age, whether public or private, offering regular course of instruction including, without limitation, a

kindergarten, elementary school, middle or junior high school, or senior high school; any licensed child care center, daycare center, or any preschool; and parks and playgrounds.

"Shared-use facility" means a premises registered by a primary manufacturing permittee at which multiple cannabis manufacturers may operate at separate times.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

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

(2) Licensed by the Bureau of Cannabis Control within the Department of Consumer Affairs.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 ("CUA");

B. The Medical Marijuana Program ("MMP"); and

C. The Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

17.11.1030 - Commercial cannabis activity—Permitted locations and standards.

A. Commercial cannabis cultivation, manufacturing (including shared-use facilities), laboratory testing, distribution, retailers, non-storefront retailers, and microbusinesses may be located in the cannabis overlay district, upon either issuance of a CUP or full execution of a development agreement approved by city council and issuance of a regulatory permit, or as otherwise permitted in this code.

B. Commercial cannabis cultivation or manufacturing facilities shall be limited to no more than seventy-five percent of the acreage of a legal parcel in the cannabis overlay zone.

C. Each commercial cannabis cultivation facility shall be at least five thousand square feet (5,000 sf) in size, except for microbusinesses, and nurseries, which may be less than five thousand square feet (5,000 sf) in size.

D. Commercial cannabis activity shall be located a minimum distance of six hundred feet away from any sensitive receptor. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the sensitive receptor.

E. Cannabis cultivation, manufacturing, and laboratory testing may only occur indoors. Commercial cannabis activity shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of carbon filtration systems and other mitigation measures shall be used on all commercial cannabis activities that cause such odors. Commercial cannabis activity permittees or

developers shall not allow cannabis to be visible from the public right-of-way or the unsecured areas surrounding the commercial cannabis activity's site.

F. No commercial cannabis activity shall operate unless it is in possession of all applicable state and local licenses or permits, except as otherwise permitted by state and/or local law. Every commercial cannabis activity shall submit to the city manager a copy of any and all of its state and local licenses and permits required for its operation. If any other applicable state or local license or permit for a commercial cannabis activity is denied, suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten calendar days.

G. Except as required in this chapter, CUPs shall be reviewed, issued, denied, suspended, revoked, and/or renewed in accordance with Chapter 17.01, Article V, *Conditional Use Permit Regulations*. If any provision of this chapter conflicts with any provision of Title 17, Chapter 17.01, Article V, the provision in this chapter shall control.

17.11.1040 - Conditional use permit or development agreement required.

The city may authorize up to ten (10) applicants to operate each of the following types of facilities: cultivation, laboratory testing, and distribution. The City may authorize up to ten (10) applicants to operate primary manufacturing facilities. A primary manufacturing facility is any manufacturing facility or any shared-use facility operated for manufacturing. A person permitted to operate a shared use facility shall be known as a primary shared use manufacturing permittee or primary permittee. A person permitted to operate within a shared use facility shall be known as a secondary shared-use manufacturing permittee or secondary permittee. The City may authorize up to fifteen (15) secondary permittees to operate within a shared-use facility within the City. In addition, the city may authorize up to five (5) retailer, non-storefront retailer, or microbusiness applicants to operate within the city. Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant shall obtain a validly issued CUP or enter into a fully executed development agreement agreed to by the city council. Initially, applicants will be required to enter a development agreement with appropriate fiscal mitigation measures and terms as approved by the city council. Each applicant may only apply for and operate up to two commercial cannabis activity facilities in the city, unless said applicant is operating a microbusiness. Each CUP or development agreement will include a condition or provision that the applicant shall also obtain and maintain a commercial cannabis activity regulatory permit required by this code.

17.11.1050 - Application fee and reimbursement agreement.

At the time an applicant submits an application under this chapter, the applicant shall also supply an application fee in an amount to be determined by resolution by the city council, an executed reimbursement agreement on a form provided by the city to fully reimburse the city for all fiscal impacts, costs, expenses, and fees, including but not limited to attorney fees and consultant fees, incurred by the city related to the commercial cannabis activity, and a deposit in an amount as provided for in the reimbursement agreement terms.

17.11.1060 - Cannabis transfer between permitted commercial cannabis activities only.

A commercial cannabis activity shall not transfer cannabis or cannabis products to or from another commercial cannabis activity, unless both activities are in possession of all required state and local licenses and permits.

17.11.1070 - Permits not transferable.

CUPs may not be transferred, sold, assigned or bequeathed expressly or by operation by law. Any attempt to directly or indirectly transfer a cannabis business CUP shall be unlawful and void, and shall automatically revoke the permit.

17.11.1080 - Prohibited operations.

Any commercial cannabis activity that does not have both a CUP or development agreement and a regulatory permit required under this code is expressly prohibited in all city zones and is hereby declared a public nuisance that may be abated by the city and is subject to all available legal remedies, including, but not limited to civil injunctions.

17.11.1090 - Penalties for violations.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties.

B. Violations of this chapter constitute an infraction or misdemeanor and may be enforced by any applicable law.

C. Violations of this chapter are hereby declared to be public nuisances.

D. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof."

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 5. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is

passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 6. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. The City has determined it can be seen with certainty that no environmental impacts can occur from allowing cannabis business in an existing industrial area because the uses are similar to those already allowed in this area and there are no operational components specific to cannabis uses that would result in impacts beyond those already allowed in the proposed Cannabis Overlay Zone.

ORDINANCE PASSED AND APPROVED at a regular meeting of the City Council of the City of Calexico this _____th day of _____, 2018.

_____
Lewis Pacheco, Mayor

ATTEST:

_____
Gabriela T. Garcia, Deputy City Clerk

APPROVED AS TO FORM:

_____
Carlos Campos, Interim City Attorney

I, Gabriela T. Garcia, Deputy City Clerk, City of Calexico, California, certify that the foregoing Ordinance was adopted by the City Council at a regular meeting of the City Council held on the _____ day of _____ 2017 and was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Gabriela T. Garcia, Deputy City Clerk

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING TITLE 17 (ZONING), CHAPTER 17.11, ARTICLE X OF THE CALEXICO MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITY.

WHEREAS, pursuant to the authority granted to the City of Calexico ("City") by Article XI, Section 7 of the California Constitution, the City has the police power to regulate the use of land and property within the City in a manner designed to promote public convenience and general prosperity, as well as public health, welfare, and safety; and,

WHEREAS, adoption and enforcement of comprehensive zoning regulations and other land use regulations lies within the City's police power; and,

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and,

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act"); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, City Council Ordinance No. 1177 established the Cannabis Overlay District and regulates the number and type of commercial cannabis activities allowed to operate within the City; and,

WHEREAS, the proposed Ordinance would amend Title 17 (Zoning), Chapter 17.11, Article X to (i) comply with current City policies and State law; (ii) to allow cannabis manufacturing shared-use facilities as a permitted commercial cannabis activity; (iii) to allow retail cannabis businesses as permitted commercial cannabis activity; (iv) to allow cannabis nurseries as permitted commercial cannabis activity; and,

WHEREAS, the subject Municipal Code Amendment is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2), 15060(c)(3), and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; the activity is not a project as defined in Section 15378 of the California Public Resources Code, and the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant impact on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA; and,

WHEREAS, the Planning Commission of the City of Calexico ("Planning Commission") conducted a properly noticed public hearing on _____ at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and,

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance; and,

WHEREAS, the City Council City Council intends to adopt a revised Chapter 5.96 establishing a revised regulatory permit scheme for commercial cannabis activities, such that each proposed commercial cannabis activity must have both a conditional use permit, development agreement or other applicable entitlements *and* a regulatory permit prior to operation; and,

WHEREAS, the Planning Commission of the City of Calexico ("Planning Commission") conducted a properly noticed public hearing on _____, 2018 at which members of the public were afforded an opportunity to comment upon this Ordinance, the recommendations of staff, and other public testimony; and,

WHEREAS, after said public hearing, the Planning Commission recommended that the City Council approve this Ordinance; and,

WHEREAS, the City Council conducted a properly noticed public hearing on _____, 2018 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds that all of the foregoing recitals are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2. Amendment to the Calexico Municipal Code. Title 17 (Zoning), Chapter 17.11, Article X of the Calexico Municipal Code is hereby amended and restated as follows:

"Article X. - Commercial Cannabis Activity

17.11.1010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the commercial cultivation, manufacturing, testing, distribution, and retail sale and delivery of cannabis (including cannabis products, cannabis concentrate, and edible cannabis products) in accordance with State law in order to promote the health, safety, morals,

and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

Nothing in this chapter shall be construed to:

A. Allow persons to engage in conduct that endangers others or causes a public nuisance; or

B. Allow any activity relating to the cultivation, manufacturing, testing, distribution, transportation, or use of cannabis that is otherwise illegal under California state law, or

C. Interfere with the use and possession of cannabis as authorized under MAUCRSA.

17.11.1020 - Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

"Applicant" means an owner applying for a conditional use permit, desiring to enter into a development agreement, or applying for any other applicable entitlement under this chapter.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. For purposes of this Code, "cannabis" includes industrial hemp.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"Cannabis Overlay Zone" means the approximately 354.02 acres within the area bounded by railroad tracks on the west; the Adler Canal on the north; West Van de Graff Avenue and Scaroni Avenue on the east; and Weakley Street and Camacho Road on the south. The Cannabis Overlay Zone includes Industrial (IND), Industrial Rail Served (IR) and Commercial.

"City manager" means the city manager of the city of Calexico or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, laboratory testing, distribution, delivery, and retail sale (including possession, processing, storing, and labeling incidental to each activity, as applicable) of cannabis, and cannabis products.

"Conditional Use Permit" or "CUP" means a conditional use permit issued under this chapter.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a "cultivation" use.

"Customer" means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Developer" means a person who has a fully negotiated and executed development agreement with the city under this chapter. A "developer" includes all representatives, agents, parent entities, or subsidiary entities of the developer.

"Development Agreement" means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, and State law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Indoor" means within a fully enclosed and secure building.

"Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Sections 66410 et seq. of the California Government Code).

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

"Manufacturer" means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

"Microbusiness" means a commercial business that engages in at least three of the following commercial cannabis activities: cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, distribution, and retail sale under this chapter, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retailer" means a cannabis retailer that provides cannabis exclusively through delivery.

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

"Operation" means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

(1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer of an entity or nonprofit;

(3) All members of the board of directors of a nonprofit;

(4) An individual entitled to a share of at least 20 percent of the profits of the commercial cannabis business;

(5) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust; or

(6) An individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a conditional use permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

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

"Retailer" means a permittee that sells and/or delivers cannabis or cannabis products to customers.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a permittee to the permittee from whom the cannabis or cannabis product was purchased.

"Sensitive receptors" include an institution of learning for persons under twenty-one years of age, whether public or private, offering regular course of instruction including, without limitation, a

kindergarten, elementary school, middle or junior high school, or senior high school; any licensed child care center, daycare center, or any preschool; and parks and playgrounds.

"Shared-use facility" means a premises registered by a primary manufacturing permittee at which multiple cannabis manufacturers may operate at separate times.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

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

(2) Licensed by the Bureau of Cannabis Control within the Department of Consumer Affairs.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 ("CUA");

B. The Medical Marijuana Program ("MMP"); and

C. The Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

17.11.1030 - Commercial cannabis activity—Permitted locations and standards.

A. Commercial cannabis cultivation, manufacturing (including shared-use facilities), laboratory testing, distribution, retailers, non-storefront retailers, and microbusinesses may be located in the cannabis overlay district, upon either issuance of a CUP or full execution of a development agreement approved by city council and issuance of a regulatory permit, or as otherwise permitted in this code.

B. Commercial cannabis cultivation or manufacturing facilities shall be limited to no more than seventy-five percent of the acreage of a legal parcel in the cannabis overlay zone.

C. Each commercial cannabis cultivation facility shall be at least five thousand square feet (5,000 sf) in size, except for microbusinesses, and nurseries, which may be less than five thousand square feet (5,000 sf) in size.

D. Commercial cannabis activity shall be located a minimum distance of six hundred feet away from any sensitive receptor. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the sensitive receptor.

E. Cannabis cultivation, manufacturing, and laboratory testing may only occur indoors. Commercial cannabis activity shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of carbon filtration systems and other mitigation measures shall be used on all commercial cannabis activities that cause such odors. Commercial cannabis activity permittees or

developers shall not allow cannabis to be visible from the public right-of-way or the unsecured areas surrounding the commercial cannabis activity's site.

F. No commercial cannabis activity shall operate unless it is in possession of all applicable state and local licenses or permits, except as otherwise permitted by state and/or local law. Every commercial cannabis activity shall submit to the city manager a copy of any and all of its state and local licenses and permits required for its operation. If any other applicable state or local license or permit for a commercial cannabis activity is denied, suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten calendar days.

G. Except as required in this chapter, CUPs shall be reviewed, issued, denied, suspended, revoked, and/or renewed in accordance with Chapter 17.01, Article V, *Conditional Use Permit Regulations*. If any provision of this chapter conflicts with any provision of Title 17, Chapter 17.01, Article V, the provision in this chapter shall control.

17.11.1040 - Conditional use permit or development agreement required.

The city may authorize up to ten (10) applicants to operate each of the following types of facilities: cultivation, laboratory testing, and distribution. The City may authorize up to ten (10) applicants to operate primary manufacturing facilities. A primary manufacturing facility is any manufacturing facility or any shared-use facility operated for manufacturing. A person permitted to operate a shared use facility shall be known as a primary shared use manufacturing permittee or primary permittee. A person permitted to operate within a shared use facility shall be known as a secondary shared-use manufacturing permittee or secondary permittee. The City may authorize up to fifteen (15) secondary permittees to operate within a shared-use facility within the City. In addition, the city may authorize up to five (5) retailer, non-storefront retailer, or microbusiness applicants to operate within the city. Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant shall obtain a validly issued CUP or enter into a fully executed development agreement agreed to by the city council. Initially, applicants will be required to enter a development agreement with appropriate fiscal mitigation measures and terms as approved by the city council. Each applicant may only apply for and operate up to two commercial cannabis activity facilities in the city, unless said applicant is operating a microbusiness. Each CUP or development agreement will include a condition or provision that the applicant shall also obtain and maintain a commercial cannabis activity regulatory permit required by this code.

17.11.1050 - Application fee and reimbursement agreement.

At the time an applicant submits an application under this chapter, the applicant shall also supply an application fee in an amount to be determined by resolution by the city council, an executed reimbursement agreement on a form provided by the city to fully reimburse the city for all fiscal impacts, costs, expenses, and fees, including but not limited to attorney fees and consultant fees, incurred by the city related to the commercial cannabis activity, and a deposit in an amount as provided for in the reimbursement agreement terms.

17.11.1060 - Cannabis transfer between permitted commercial cannabis activities only.

A commercial cannabis activity shall not transfer cannabis or cannabis products to or from another commercial cannabis activity, unless both activities are in possession of all required state and local licenses and permits.

17.11.1070 - Permits not transferable.

CUPs may not be transferred, sold, assigned or bequeathed expressly or by operation by law. Any attempt to directly or indirectly transfer a cannabis business CUP shall be unlawful and void, and shall automatically revoke the permit.

17.11.1080 - Prohibited operations.

Any commercial cannabis activity that does not have both a CUP or development agreement and a regulatory permit required under this code is expressly prohibited in all city zones and is hereby declared a public nuisance that may be abated by the city and is subject to all available legal remedies, including, but not limited to civil injunctions.

17.11.1090 - Penalties for violations.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties.

B. Violations of this chapter constitute an infraction or misdemeanor and may be enforced by any applicable law.

C. Violations of this chapter are hereby declared to be public nuisances.

D. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof."

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 5. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is

passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 6. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. The City has determined it can be seen with certainty that no environmental impacts can occur from allowing cannabis business in an existing industrial area because the uses are similar to those already allowed in this area and there are no operational components specific to cannabis uses that would result in impacts beyond those already allowed in the proposed Cannabis Overlay Zone.

ORDINANCE PASSED AND APPROVED at a regular meeting of the City Council of the City of Calexico this _____th day of _____, 2018.

_____
Lewis Pacheco, Mayor

ATTEST:

_____
Gabriela T. Garcia, Deputy City Clerk

APPROVED AS TO FORM:

_____
Carlos Campos, Interim City Attorney

I, Gabriela T. Garcia, Deputy City Clerk, City of Calexico, California, certify that the foregoing Ordinance was adopted by the City Council at a regular meeting of the City Council held on the _____ day of _____ 2017 and was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Gabriela T. Garcia, Deputy City Clerk

Article X. - Commercial Cannabis Activity

17.11.1010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the commercial cultivation, manufacturing, testing, distribution, and retail sale and delivery of cannabis (including cannabis products, cannabis concentrate, and edible cannabis products) in accordance with State law in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

Nothing in this chapter shall be construed to:

A. Allow persons to engage in conduct that endangers others or causes a public nuisance; or

B. Allow any activity relating to the cultivation, manufacturing, testing, distribution, transportation, or use of cannabis that is otherwise illegal under California state law, or

C. Interfere with the use and possession of cannabis as authorized under MAUCRSA.

17.11.1020 - Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

"Applicant" means an owner applying for a conditional use permit, desiring to enter into a development agreement, or applying for any other applicable entitlement under this chapter.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. For purposes of this Code, "cannabis" includes industrial hemp.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"Cannabis Overlay Zone" means the approximately 354.02 acres within the area bounded by railroad tracks on the west; the Adler Canal on the north; West Van de Graff Avenue and Scaroni Avenue on the east; and Weakley Street and Camacho Road on the south. The Cannabis Overlay Zone includes Industrial (IND), Industrial Rail Served (IR) and Commercial.

"City manager" means the city manager of the city of Calexico or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, laboratory testing, distribution, delivery, and retail sale (including possession, processing, storing, and labeling incidental to each activity, as applicable) of cannabis, and cannabis products.

"Conditional Use Permit" or "CUP" means a conditional use permit issued under this chapter.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a "cultivation" use.

"Customer" means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Developer" means a person who has a fully negotiated and executed development agreement with the city under this chapter. A "developer" includes all representatives, agents, parent entities, or subsidiary entities of the developer.

"Development Agreement" means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, and State law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Indoor" means within a fully enclosed and secure building.

"Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Sections 66410 et seq. of the California Government Code).

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

"Manufacturer" means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

"Microbusiness" means a commercial business that engages in at least three of the following commercial cannabis activities: cultivation of cannabis on an area less than ten thousand (10,000) square feet, Level 1 manufacturing, distribution, and retail sale under this chapter, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retailer" means a cannabis retailer that provides cannabis exclusively through delivery.

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

"Operation" means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

(1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer of an entity or nonprofit;

(3) All members of the board of directors of a nonprofit;

(4) An individual entitled to a share of at least 20 percent of the profits of the commercial cannabis business;

(5) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust; or

(6) An individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a conditional use permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

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

"Retailer" means a permittee that sells and/or delivers cannabis or cannabis products to customers.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a permittee to the permittee from whom the cannabis or cannabis product was purchased.

"Sensitive receptors" include an institution of learning for persons under twenty-one years of age, whether public or private, offering regular course of instruction including, without limitation, a kindergarten, elementary school, middle or junior high school, or senior high school; any licensed child care center, daycare center, or any preschool; and parks and playgrounds.

"Shared-use facility" means a premises registered by a primary manufacturing permittee at which multiple cannabis manufacturers may operate at separate times.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

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

(2) Licensed by the Bureau of Cannabis Control within the Department of Consumer Affairs.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 ("CUA");

B. The Medical Marijuana Program ("MMP"); and

C. The Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

17.11.1030 - Commercial cannabis activity—Permitted locations and standards.

A. Commercial cannabis cultivation, manufacturing (including shared-use facilities), laboratory testing, distribution, retailers, non-storefront retailers, and microbusinesses may be located in the cannabis overlay district, upon either issuance of a CUP or full execution of a development agreement approved by city council and issuance of a regulatory permit, or as otherwise permitted in this code.

B. Commercial cannabis cultivation or manufacturing facilities shall be limited to no more than seventy-five percent of the acreage of a legal parcel in the cannabis overlay zone.

C. Each commercial cannabis cultivation facility shall be at least five thousand square feet (5,000 sf) in size, except for microbusinesses, and nurseries, which may be less than five thousand square feet (5,000 sf) in size.

D. Commercial cannabis activity shall be located a minimum distance of six hundred feet away from any sensitive receptor. The distance shall be measured at the nearest point between any part of the building containing the cannabis use and any lot line of the sensitive receptor.

E. Cannabis cultivation, manufacturing, and laboratory testing may only occur indoors. Commercial cannabis activity shall not result in the creation of any odors detectable from anywhere off the property boundaries. The use of carbon filtration systems and other mitigation measures shall be used on all commercial cannabis activities that cause such odors. Commercial cannabis activity permittees or developers shall not allow cannabis to be visible from the public right-of-way or the unsecured areas surrounding the commercial cannabis activity's site.

F. No commercial cannabis activity shall operate unless it is in possession of all applicable state and local licenses or permits, except as otherwise permitted by state and/or local law. Every commercial cannabis activity shall submit to the city manager a copy of any and all of its state and local licenses and permits required for its operation. If any other applicable state or local license or permit for a commercial cannabis activity is denied, suspended, modified, revoked, or expired, the permittee shall notify the city manager in writing within ten calendar days.

G. Except as required in this chapter, CUPs shall be reviewed, issued, denied, suspended, revoked, and/or renewed in accordance with Chapter 17.01, Article V, *Conditional Use Permit Regulations*. If any provision of this chapter conflicts with any provision of Title 17, Chapter 17.01, Article V, the provision in this chapter shall control.

17.11.1040 - Conditional use permit or development agreement required.

The city may authorize up to ten (10) applicants to operate each of the following types of facilities: cultivation, laboratory testing, and distribution. The City may authorize up to ten (10) applicants to operate primary manufacturing facilities. A primary manufacturing facility is any manufacturing facility or any shared-use facility operated for manufacturing. A person permitted to operate a shared use facility shall be known as a primary shared use manufacturing permittee or primary permittee. A person permitted to operate within a shared use facility shall be known as a secondary shared-use manufacturing permittee or secondary permittee. The City may authorize up to fifteen (15) secondary permittees to operate within a shared-use facility within the City. In addition, the city may authorize up to five (5) retailer, non-storefront retailer, or microbusiness applicants to operate within the city. Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the applicant shall obtain a validly issued CUP or enter into a fully executed development agreement agreed to by the city council. Initially, applicants will be required to enter a development agreement with appropriate fiscal mitigation measures and terms as approved by the city council. Each applicant may only apply for and operate up to two commercial cannabis activity facilities in the city, unless said applicant is operating a microbusiness. Each CUP or development agreement will include a condition or provision that the applicant shall also obtain and maintain a commercial cannabis activity regulatory permit required by this code.

17.11.1050 - Application fee and reimbursement agreement.

At the time an applicant submits an application under this chapter, the applicant shall also supply an application fee in an amount to be determined by resolution by the city council, an executed reimbursement agreement on a form provided by the city to fully reimburse the city for all fiscal impacts, costs, expenses, and fees, including but not limited to attorney fees and consultant fees, incurred by the city related to the commercial cannabis activity, and a deposit in an amount as provided for in the reimbursement agreement terms.

17.11.1060 - Cannabis transfer between permitted commercial cannabis activities only.

A commercial cannabis activity shall not transfer cannabis or cannabis products to or from another commercial cannabis activity, unless both activities are in possession of all required state and local licenses and permits.

17.11.1070 - Permits not transferable.

CUPs may not be transferred, sold, assigned or bequeathed expressly or by operation by law. Any attempt to directly or indirectly transfer a cannabis business CUP shall be unlawful and void, and shall automatically revoke the permit.

17.11.1080 - Prohibited operations.

Any commercial cannabis activity that does not have both a CUP or development agreement and a regulatory permit required under this code is expressly prohibited in all city zones and is hereby

declared a public nuisance that may be abated by the city and is subject to all available legal remedies, including, but not limited to civil injunctions.

17.11.1090 - Penalties for violations.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is subject to criminal sanctions, civil actions, and administrative penalties.

B. Violations of this chapter constitute an infraction or misdemeanor and may be enforced by any applicable law.

C. Violations of this chapter are hereby declared to be public nuisances.

D. Each person is guilty of a separate offense each day a violation is allowed to continue and every violation of this chapter shall constitute a separate offense and shall be subject to all remedies.

E. All remedies prescribed under this chapter shall be cumulative and the election of one or more remedies shall not bar the city from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

Summary report: Litéra® Change-Pro 7.5.0.135 Document comparison done on 11/28/2018 10:15:29 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS:iw://iManage/iManage/31189039/1	
Modified DMS: iw://iManage/iManage/31189164/2	
Changes:	
Add	56
~~Delete~~	37
~~Move From~~	8
Move To	8
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	109

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, AMENDING TITLE 5 (BUSINESS LICENSES AND REGULATIONS), ARTICLE II, CHAPTER 5.96 OF THE CALEXICO MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS ACTIVITY.

WHEREAS, on November 8, 2016, California voters passed Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), legalizing the use and possession of cannabis and cannabis products by adults aged 21 years and older; and,

WHEREAS, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act ("MCRSA"), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single regulatory scheme for both medicinal and non-medicinal cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act"); and,

WHEREAS, MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether non-commercial and commercial cannabis activities could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state licensing authority and shall not approve an application for a state license for a business to engage in commercial cannabis activity if approval by the state license will violate the provisions of any local ordinance or regulation. State licensing authorities began issuing licenses to cannabis businesses beginning January 1, 2018; and,

WHEREAS, MAUCRSA establishes a regulatory structure for cultivation, processing, manufacturing, tracking, quality control, testing, inspection, distribution, and retail sale of commercial cannabis, including medicinal and adult-use cannabis. The Act designates applicable responsibilities for oversight of cannabis commerce to several State agencies; and,

WHEREAS, the City Council of the City of Calexico ("City Council") desires to update Title 5, *Business Licenses and Regulations*, Article II, Chapter 5.96, which has established a regulatory permit scheme for cannabis cultivation, manufacturing, distribution, testing, and transportation activities, such that each proposed commercial cannabis activity must have both a conditional use permit, development agreement or other applicable entitlements *and* a regulatory permit prior to operation; and,

WHEREAS, the City Council conducted a properly noticed public hearing on _____, 2018 at which members of the public were afforded an opportunity to comment on this Ordinance, the recommendations of staff, and other public testimony.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds that all of the foregoing recitals are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 2. Amendment to the Calexico Municipal Code. Title 5 (Business Licenses and Regulations), Article II, Chapter 5.96 of the Calexico Municipal Code is hereby amended and restated as follows:

"Chapter 5.96 - COMMERCIAL CANNABIS ACTIVITY REGULATORY PERMIT

5.96.010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the commercial cultivation, manufacturing, testing, distribution, and retail sale and delivery of cannabis (including cannabis products, cannabis concentrate, and edible cannabis products) in accordance with State law in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

Nothing in this chapter shall be construed to:

A. Allow persons to engage in conduct that endangers others or causes a public nuisance; or

B. Allow any activity relating to the cultivation, manufacturing, testing, distribution, retail sale, delivery, or use of cannabis that is otherwise illegal under California state law, or

C. Interfere with the use and possession of cannabis as authorized under MAUCRSA.

5.96.020 - Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

"Applicant" means a person applying for a regulatory permit under this chapter. An "applicant" includes all representatives, agents, parent entities, or subsidiary entities of the applicant.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. For purposes of this Code, "cannabis" includes industrial hemp.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes

from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"City manager" means the city manager of the city of Calexico or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, laboratory testing, distribution, delivery, and retail sale (including possession, processing, storing, and labeling incidental to each activity, as applicable) of cannabis, and cannabis products.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a "cultivation" use.

"Customer" means a natural person twenty one (21) years of age or older or a natural person eighteen (18) years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Development Agreement" means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, or state law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Limited access area" means an area in which cannabis goods are stored or held and is only accessible to a permittee, its employees and contractors.

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

"Manufacturer" means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

"Microbusiness" means a commercial business that engages in at least three of the following commercial cannabis activities: cultivation of cannabis on an area less than 10,000 square feet, Level 1 manufacturing, distribution, and retail sale under this chapter, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retailer" means a cannabis retailer that provides cannabis exclusively through delivery.

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

"Operation" means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

(1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer of an entity or nonprofit;

(3) All members of the board of directors of a nonprofit;

(4) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust; or

(5) An individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a regulatory permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structure or structures and land specified in the regulatory permit application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises must be a contiguous area and may only be occupied by one licensee.

"Retailer" means a person or entity that sells cannabis or cannabis products to customers.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a permittee to the permittee from whom the cannabis or cannabis product was purchased.

"Shared-use facility" means a manufacturing premises registered by a primary permittee at which multiple cannabis manufacturers may operate at separate times.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

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

(2) Licensed by the Bureau of Cannabis Control within the Department of Consumer Affairs.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 ("CUA");

B. The Medical Marijuana Program ("MMP"); and

C. The Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

5.96.030 - Regulatory permit required.

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the legal representative of the persons wishing to operate and/or lease out a facility for commercial cannabis activity shall obtain a conditional use permit or fully execute a development agreement approved by city council or other entitlement as required under Title 17 (Zoning), Chapter 17.11, Article X, obtain a regulatory permit from the city manager pursuant to this chapter, and shall pay any application fees as established by resolution adopted by the city council as amended from time to time. A regulatory permit is required for each business location and each commercial cannabis activity type.

5.96.040 - Regulatory permit application.

An application for a regulatory permit shall include, but shall not be limited to, the following information:

A. The name, address, email address, and telephone number of the applicant.

B. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement operating agreement, and fictitious business name statement. If the commercial cannabis activity business is held in trust, the applicant shall provide a copy of the trust.

C. The name, address, telephone number, title, and function of each of the interested parties described in Section 5.96.150.

D. A legible copy of each applicant's photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.

E. A list of the license or permit types (including license or permit numbers) held by the applicant that involve the operation of a commercial cannabis activity, including the date the license or permit was issued and the jurisdiction or state license authority that issued the license or permit.

F. Whether the applicant has been denied a license or permit by the city, any other jurisdiction, and/or the state that involves the operation of a commercial cannabis activity. The applicant shall provide a description of the license or permit applied for, the name of the jurisdiction or state license authority that reviewed the license or permit application, and the date of denial.

G. The proposed commercial cannabis activity's physical address, telephone number, website address, and email address.

H. Contact information for the applicant's designated primary contact person including the name, title, address, phone number, and email address of the individual.

I. A list of every fictitious business name the applicant is operating under including the address where the business is located.

J. Financial information including the following:

   1. A list of funds belonging to the commercial cannabis business held in savings, checking, or other accounts maintained by a financial institution. The applicant shall provide for each account, the financial institution's name, the financial institution's address, account type, account number, and the amount of money in the account.

   2. A list of loans made to the commercial cannabis business. For each loan, the applicant shall provide the amount of the loan, the date of the loan, term(s) of the loan, security provided for the loan, and the name, address, and phone number of the lender.

   3. A list of investments made into the commercial cannabis business. For each investment, the applicant shall provide the amount of the investment, the date of the investment, term(s) of the investment, and the name, address, and phone number of the investor.

   4. A list of all gifts of any kind given to the applicant for its use in conducting commercial cannabis activity. For each gift the applicant shall provide the value of the gift or description of the gift, and the name, address, and phone number of the provider of the gift.

K. A copy of the applicant's completed application for electronic fingerprint images submitted to the Department of Justice and Federal Bureau of Investigation.

L. A list of each applicant's misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendre.

M. A complete and detailed diagram of the proposed premises showing the boundaries of the property and the proposed premises to be permitted, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, doorways, and common or shared entryways, storage areas and exterior lighting. The diagram must show

the areas in which all commercial cannabis activity will take place, including, but not limited to, limited-access areas.

N. Security Plans

1. Cultivation, Manufacturing, Distribution Facility. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises. As part of the security plan, a lighting plan is required that shows existing and proposed exterior and interior lighting that will provide adequate security lighting for the commercial cannabis activity and premises. The security plan must be prepared by a qualified professional and include provisions in compliance with the following:

a. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least two hundred forty concurrent hours of digitally recorded documentation in a format approved by the city manager. The cameras shall be in use twenty-four hours per day, seven days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the city manager.

b. The premises shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the city manager that is operated and monitored by a recognized security company, deemed acceptable by the city manager. Any change in the security company shall be subject to the approval of the city manager. All current contact information regarding the security company shall be provided to the city manager.

c. Entrance to the cultivation, manufacturing, and storage areas shall be locked at all times, and under the control of cannabis facility staff.

d. All cannabis shall be securely stored, and a reliable, commercial alarm system shall be installed and maintained where the cannabis is secured.

e. A licensed security guard, licensed by the California Department of Consumer Affairs, shall be present at the premises during all hours of operation. If the security guard is to be armed, then the security guard shall possess at all times a valid security guard card and firearms permit issued by the California Department of Consumer Affairs.

f. A heavy-gauge chain-link (or other material as approved by the city manager) fence a minimum of eight-feet in height shall be constructed around the perimeter of the premises to prevent public access and obscure the cannabis cultivation facility from public view. Screening can include landscaping or vinyl slats, as permitted by law enforcement.

The security plan will be reviewed by the Calexico Police Department and the city manager, or his or her designee, and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

2. Retailer, Non-storefront Retailer, Microbusiness, Testing Laboratories. A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into the premises, including limited access areas, and theft of cannabis, in accordance with minimum security measures required by state law. The security plan shall be reviewed by the Calexico Police Department and the city manager,

or his or her designee, and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

O. An odor control plan that describes the air treatment system or other methods that will be implemented to prevent odors generated by the commercial cannabis activity from being detected outside the building(s) on the premises.

P. A comprehensive business operations plan that includes the following:

1. Business Plan. A plan describing how the commercial cannabis activity business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include plans for handling cash and transporting cannabis and cannabis products to and from the premises, if applicable.

2. Community Relations Plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.

3. Neighborhood Responsibility Plan. A plan addressing any adverse impacts of the proposed commercial cannabis activity on the surrounding area.

4. Cannabis Waste Procedures. Applicant's procedures for securing and disposing of cannabis waste.

5. Delivery Procedures, if applicable. Applicant's procedures for accepting and processing orders and delivering cannabis to customers, if applicable.

6. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the commercial cannabis activity.

7. Budget. A copy of the applicant's most recent annual budget for operations.

Q. The name and address of the owner and lessor of the real property upon which the commercial cannabis activity is to be operated. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a commercial cannabis activity will be operated on his or her property.

R. Authorization for the city manager to seek verification of the information contained within the application.

S. 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.

T. A full and complete copy of the applicant's most current application that will be submitted or has been submitted to the applicable State licensing authority. Once a license is issued by the State, the applicant shall provide a copy of said license to the City.

U. Any such additional and further information as is deemed necessary by the city manager to administer this chapter.

5.96.050 – Special/Temporary Event Permit.

Temporary cannabis events are permitted provided that the cannabis event organizer first obtain the required licenses under State law, a fully executed development agreement with the City or conditional use permit for each commercial cannabis activity proposed for the event, a regulatory permit for each commercial cannabis activity proposed for the event, and a special event permit issued by the City, as required under Chapter 12.18 of this Code. Temporary cannabis events are limited to up to four (4) days in duration. No special event permit for a temporary cannabis event will be issued for more than four (4) days.

5.96.060 - Background check.

The city will provide each applicant, including any management personnel who are responsible for the day-to-day operations of the commercial cannabis activity, with a 'request for live scan service' form, which must be taken to a live scan operator for fingerprinting. Each applicant must submit their fingerprint images to the Calexico Police Department, California Department of Justice, and the Federal Bureau of Investigation for fingerprint-based criminal history records review and reporting to the city.

5.96.070 - Additional terms and conditions.

Based on the information set forth in the application, the city manager may impose reasonable terms and conditions on the proposed operations of the commercial cannabis activity in addition to those specified in this chapter.

5.96.080 - Regulatory permit denial.

The city manager may deny an application for a regulatory permit or renewal of a regulatory permit upon making any of the following findings:

A. The applicant or the premises for which a regulatory permit is applied does not qualify for a permit under this chapter.

B. The applicant fails to comply with the provisions of this chapter.

C. The applicant has failed to provide information required by the city manager.

D. The applicant or permittee 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 city manager determines that the applicant or permittee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the city manager shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee to be issued a permit 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 city manager shall include, but not be limited to, the following:

1. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

2. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

3. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the California Penal Code.

4. A felony conviction involving fraud, deceit, or embezzlement.

E. The applicant, or any of its officers, directors, or owners, has been sanctioned by a state licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a state license revoked in the three years immediately preceding the date the application is filed with the city manager.

F. The commercial cannabis activity is not properly organized or operating in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), as amended, and any other applicable law, rules and regulations.

5.96.090 - Regulatory permit term.

A regulatory permit is valid for two (2) years from the date that the permit is issued, unless suspended or revoked sooner.

5.96.100 - Regulatory permit renewal process.

A. To renew a regulatory permit, a completed permit renewal form and renewal permit fee shall be received by the city manager from the permittee no earlier than sixty (60) calendar days before the expiration of the permit and no later than the last business day before the expiration of the permit.

B. In the event the regulatory permit is not renewed prior to the expiration date, the permittee must cease all commercial cannabis activity.

5.96.110 - Regulatory permit surrender.

Every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding thirty (30) consecutive calendar days after a certificate of occupancy is issued, unless as otherwise provided by the city manager, shall, within thirty (30) calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the city manager. The city manager may seize the permit of a permittee who fails to comply with the surrender provisions of this section and may proceed to revoke the permit.

5.96.120 - Regulatory permit suspension and revocation.

The city manager may suspend, modify, or revoke a cannabis cultivation permit issued pursuant to the provisions of this chapter for any of the following reasons:

A. One or more of the circumstances upon which a regulatory permit could be denied exists or has occurred;

B. One or more conditions of the regulatory permit has been violated; or

C. The permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this chapter.

D. Operations cease for more than thirty (30) calendar days, including during change of ownership proceedings, unless otherwise allowed by the city manager;

E. Ownership is changed without securing a regulatory permit;

F. The cannabis facility fails to maintain two hundred forty (240) continuous hours of security recordings; or

G. The commercial cannabis activity facility fails to allow inspection of the records, security recordings, the activity logs, or the premises by authorized city officials.

5.96.130 - Appeals.

Any decision regarding the denial, suspension, or revocation of a regulatory permit may be appealed to a hearing officer. Notice of and the procedures governing such hearing shall be provided pursuant to Title 1, Chapter 1.26. The appellant shall request an appeal within thirty calendar days from the date of the decision.

5.96.140 - Operating standards.

A. Compliance with Business Operations Plan. A permittee shall substantially comply with the complete business operations plan proposed in the permittee's application.

B. Indoor Cultivation Only. A permittee shall only cultivate cannabis in a fully enclosed and secure building. A permittee shall not allow cannabis or cannabis products on the premises to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the premises, or the premises' main entrance and lobby.

C. Odor Control. A permittee shall comply with the odor control plan that is submitted during the application process and approved by the city manager. Commercial cannabis activity premises shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the building(s) that is distinctive to its operation is not detected outside the premises, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, 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 commercial cannabis activity. As such, applicants must install and maintain the following equipment or any other equipment which the city manager or designee determines has the same or better effectiveness:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or

2. An air system that creates negative air pressure between the cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.

Should compliance with the odor control plan fail to properly control odor, the city manager may impose additional or modified plan restrictions.

D. Track and Trace. Commercial cannabis activity businesses shall have an electronic 'track and trace' system that produces historical transactional data for review by the city manager for auditing purposes.

E. Records. A commercial cannabis activity business shall maintain the following records in printed format for at least three years on the premises and shall produce them to the city within twenty-four hours after receipt of the city's request:

1. The name, address, and telephone numbers of the owner and landlord of the property.
2. The name, date of birth, address, and telephone number of each manager and staff of the commercial cannabis activity business; the date each was hired; and the nature of each manager's and staff's participation in the business.
3. A written accounting of all income and expenditures of the commercial cannabis activity business, including, but not limited to, cash and in-kind transactions.
4. A copy of the commercial cannabis activity business' commercial general liability insurance policy and all other insurance policies related to the operation of the business.
5. A copy of the commercial cannabis activity business' most recent year's financial statement and tax return.
6. An inventory record documenting the dates and amounts of cannabis received at the premises, the daily amounts of cannabis on the premises, and the daily amounts of cannabis transported from the premises.

A commercial cannabis activity business shall report any loss, damage, or destruction of these records to the city manager within twenty-four hours of the loss, damage, or destruction.

E. Security. A permittee shall comply with the security plan that is submitted during the application process as approved by the city manager. A permittee shall report to the Calexico Police Department all criminal activity occurring on the premises. Should compliance with the security plan fail to properly secure the commercial cannabis activity premises, the city manager may impose additional or modified plan restrictions.

F. Cannabis Consumption – Permitted Business Types. On-site consumption of cannabis is permitted on the premises of a retailer or microbusiness as long as (1) access to the area where cannabis consumption is allowed is restricted to persons twenty one (21) years of age and older; (2) cannabis consumption is not visible from any public place or nonage-restricted area; and (3) sale or consumption of alcohol or tobacco is not allowed on the premises.

G. Cannabis Consumption – Prohibited Business Types. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within twenty feet of, the premises of a cultivation, manufacturing, testing, or distribution facility.

H. Shared-Use Facilities. Each shared-use facility must meet all requirements outlined in the State cannabis manufacturing regulations, and include secured storage for the primary permittee's cannabis and cannabis products. The primary permittee will assign a designated area to be used as shared space. An occupancy schedule, outlining the days and/or times that the space will be used by individual cannabis manufacturers, must be posted. Only one permittee can utilize the space at a time.

I. Alcohol Prohibited. No person shall possess, consume, or store any alcoholic beverage on the premises.

5.96.150 - Interested parties.

A. A permittee shall provide the city with names and addresses of all of the following interested parties:

1. Persons with at least a ten percent interest in the commercial cannabis activity;

2. Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least ten percent of the stock, capital, profits, voting rights, or membership interest of the commercial cannabis activity or that is one of the partners in the commercial cannabis activity;

3. The managers of the commercial cannabis activity; and

4. The staff of the commercial cannabis activity.

B. The permittee shall notify the city of any change in the information above within thirty calendar days of the change. A permittee shall not engage in a new commercial cannabis activity until they have obtained a fully executed development agreement or conditional use permit and a regulatory permit, as required under this Chapter.

C. All interested parties, as described in subsection A, must submit to fingerprinting and a criminal background check by the city.

D. No person shall be an interested party, as described in subsection A, if he or she is charged with or convicted of a felony; has been charged with or convicted of a violation of California Penal Code section 186.22 (participation in a criminal street gang); or is currently on parole or probation for an offense relating to the sale or distribution of a controlled substance. "Convicted" within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted. "Charged" within the meaning of this section means:

1. An indictment was issued by a grand jury, or an information, complaint, or similar pleading was issued by the United States Attorney, district attorney, city attorney, or other governmental official or agency authorized to prosecute crimes; and

2. The criminal proceedings are currently pending.

5.96.160 - Emergency contact manager.

A commercial cannabis activity permittee shall provide the city manager with the current name and primary and secondary telephone numbers of at least one twenty-four-hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the commercial cannabis activity.

5.96.170 - Community relations manager.

Each commercial cannabis activity permittee shall provide the city manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis facility. Each commercial cannabis activity permittee shall also provide the above information to its business neighbors located within one hundred feet of the commercial cannabis activity facility as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

5.96.180 - Display of regulatory permit.

The permittee shall display its current valid permit issued in accordance with this chapter inside the lobby or waiting area of the main entrance to the premises. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the premises.

5.96.190 - Inspections and enforcement.

A. Recordings made by security cameras at any commercial cannabis activity business shall be made immediately available to the city manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

B. The city manager shall have the right to enter all cannabis facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.

C. Operation of the cannabis facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code.

5.96.200 - Permits not transferable.

Regulatory permits issued pursuant to this chapter are not transferable.

5.96.210 - 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 regulatory permit pursuant to this chapter or the operation of any commercial cannabis activity approved pursuant to this chapter. As a condition of approval a regulatory permit as provided in this chapter, the applicant or its legal representative shall:

A. Execute an agreement indemnifying the city from any claims, damages, etc., associated with the operation of the cannabis facility;

B. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee;

C. Name the city as an additionally insured on all city required insurance policies;

D. Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a regulatory permit; 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 related to the city's approval of a regulatory 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.

5.96.220 - Compliance with state law.

All commercial cannabis activity shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

5.96.230 - Violations.

A. Any violation of any of the provisions of this chapter is unlawful and a public nuisance.

B. Any violation of any of the provisions of this chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

C. In lieu of issuing a misdemeanor citation, the city may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars for each violation of this chapter.

D. A separate offense occurs for each day any violation of this chapter is continued and/or maintained.

E. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the city may pursue any administrative citations, administrative proceedings, criminal or civil proceedings or actions or remedies otherwise provided by law."

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

SECTION 5. Certification. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local newspaper of general circulation and which is hereby designated for that purpose.

SECTION 6. CEQA. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

ORDINANCE PASSED AND APPROVED at a regular meeting of the City Council of the City of Calexico this _____ day of _____, 2018.

Lewis Pacheco, Mayor

ATTEST:

Gabriela T. Garcia, Deputy City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

I, Gabriela T. Garcia, Deputy City Clerk, City of Calexico, California, certify that the foregoing Ordinance was adopted by the City Council at a regular meeting of the City Council held on the _____ day of _____ 2018 and was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Gabriela T. Garcia, Deputy City Clerk

Chapter 5.96 - COMMERCIAL CANNABIS ACTIVITY REGULATORY PERMIT

5.96.010 - Purpose and intent.

It is the purpose and intent of this chapter to regulate the commercial cultivation, manufacturing, testing, distribution, and retail sale and delivery of cannabis (including cannabis products, cannabis concentrate, and edible cannabis products) in accordance with State law in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

Nothing in this chapter shall be construed to:

A. Allow persons to engage in conduct that endangers others or causes a public nuisance; or

B. Allow any activity relating to the cultivation, manufacturing, testing, distribution, retail sale, delivery, or use of cannabis that is otherwise illegal under California state law, or

C. Interfere with the use and possession of cannabis as authorized under MAUCRSA.

5.96.020 - Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not explicitly defined in this chapter, the common and ordinary meaning of the word shall apply.

"Applicant" means a person applying for a regulatory permit under this chapter. An "applicant" includes all representatives, agents, parent entities, or subsidiary entities of the applicant.

"Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. For purposes of this Code, "cannabis" includes industrial hemp.

"Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

"Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. When the term "cannabis" is used in this chapter, it shall include "cannabis products."

"City manager" means the city manager of the city of Calexico or designee.

"Commercial cannabis activity" includes the cultivation, manufacture, laboratory testing, distribution, delivery, and retail sale (including possession, processing, storing, and labeling incidental to each activity, as applicable) of cannabis, and cannabis products.

"Cultivate" or "cultivation" means any commercial activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. A cannabis nursery is considered a "cultivation" use.

"Customer" means a natural person twenty one (21) years of age or older or a natural person eighteen (18) years of age or older who possesses a physician's recommendation, or a primary caregiver.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer.

"Development Agreement" means an agreement entered into between the city and an applicant under this chapter pursuant to Section 65865 of the California Government Code.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities permitted or licensed under this chapter, another local California jurisdiction, or state law.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 of the California Food and Agricultural Code. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code. When the term "cannabis" is used in this chapter, it shall include "edible cannabis products."

"Limited access area" means an area in which cannabis goods are stored or held and is only accessible to a permittee, its employees and contractors.

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

"Manufacturer" means a permittee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

"Microbusiness" means a commercial business that engages in at least three of the following commercial cannabis activities: cultivation of cannabis on an area less than 10,000 square feet, Level 1 manufacturing, distribution, and retail sale under this chapter, provided such permittee can demonstrate compliance with all requirements imposed by this chapter and State law on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the permittee engages in such activities.

"Non-storefront retailer" means a cannabis retailer that provides cannabis exclusively through delivery.

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

"Operation" means any act for which a permit is required under the provisions of this chapter, or any commercial transfer of cannabis or cannabis products.

"Owner" means any of the following:

(1) A person with an aggregate ownership interest of twenty percent (20%) or more in the applicant, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer of an entity or nonprofit;

(3) All members of the board of directors of a nonprofit;

(4) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust; or

(5) An individual that will be participating in the direction, control, or management of the permitted commercial cannabis activity.

"Permittee" means the individual or applicant to whom a regulatory permit has been issued under this chapter. A permittee includes all representatives, agents, parent entities, or subsidiary entities of the permittee.

"Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

"Premises" means the designated structure or structures and land specified in the regulatory permit application that is owned, leased, or otherwise held under the control of the applicant or permittee where the commercial cannabis activity will be or is conducted. The premises must be a contiguous area and may only be occupied by one licensee.

"Retailer" means a person or entity that sells cannabis or cannabis products to customers.

"Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a permittee to the permittee from whom the cannabis or cannabis product was purchased.

"Shared-use facility" means a manufacturing premises registered by a primary permittee at which multiple cannabis manufacturers may operate at separate times.

"Testing" means subjecting cannabis to laboratory testing for active compounds and purity prior to distribution for consumption.

"Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

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

(2) Licensed by the Bureau of Cannabis Control within the Department of Consumer Affairs.

Words and phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 ("CUA");

B. The Medical Marijuana Program ("MMP"); and

C. The Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

5.96.030 - Regulatory permit required.

Prior to initiating operations and as a continuing requisite to operating a commercial cannabis activity, the legal representative of the persons wishing to operate and/or lease out a facility for commercial cannabis activity shall obtain a conditional use permit or fully execute a development agreement approved by city council or other entitlement as required under Title 17 (Zoning), Chapter 17.11, Article X, obtain a regulatory permit from the city manager pursuant to this chapter, and shall pay any application fees as established by resolution adopted by the city council as amended from time to time. A regulatory permit is required for each business location and each commercial cannabis activity type.

5.96.040 - Regulatory permit application.

An application for a regulatory permit shall include, but shall not be limited to, the following information:

A. The name, address, email address, and telephone number of the applicant.

B. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement operating agreement, and fictitious business name statement. If the commercial cannabis activity business is held in trust, the applicant shall provide a copy of the trust.

C. The name, address, telephone number, title, and function of each of the interested parties described in Section 5.96.150.

D. A legible copy of each applicant's photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.

E. A list of the license or permit types (including license or permit numbers) held by the applicant that involve the operation of a commercial cannabis activity, including the date the license or permit was issued and the jurisdiction or state license authority that issued the license or permit.

F. Whether the applicant has been denied a license or permit by the city, any other jurisdiction, and/or the state that involves the operation of a commercial cannabis activity.

The applicant shall provide a description of the license or permit applied for, the name of the jurisdiction or state license authority that reviewed the license or permit application, and the date of denial.

G. The proposed commercial cannabis activity's physical address, telephone number, website address, and email address.

H. Contact information for the applicant's designated primary contact person including the name, title, address, phone number, and email address of the individual.

I. A list of every fictitious business name the applicant is operating under including the address where the business is located.

J. Financial information including the following:

1. A list of funds belonging to the commercial cannabis business held in savings, checking, or other accounts maintained by a financial institution. The applicant shall provide for each account, the financial institution's name, the financial institution's address, account type, account number, and the amount of money in the account.

2. A list of loans made to the commercial cannabis business. For each loan, the applicant shall provide the amount of the loan, the date of the loan, term(s) of the loan, security provided for the loan, and the name, address, and phone number of the lender.

3. A list of investments made into the commercial cannabis business. For each investment, the applicant shall provide the amount of the investment, the date of the investment, term(s) of the investment, and the name, address, and phone number of the investor.

4. A list of all gifts of any kind given to the applicant for its use in conducting commercial cannabis activity. For each gift the applicant shall provide the value of the gift or description of the gift, and the name, address, and phone number of the provider of the gift.

K. A copy of the applicant's completed application for electronic fingerprint images submitted to the Department of Justice and Federal Bureau of Investigation.

L. A list of each applicant's misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense charged, the offense convicted, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendre.

M. A complete and detailed diagram of the proposed premises showing the boundaries of the property and the proposed premises to be permitted, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, doorways, and common or shared entryways, storage areas and exterior lighting. The diagram must show the areas in which all commercial cannabis activity will take place, including, but not limited to, limited-access areas.

N. Security Plans

1. Cultivation, Manufacturing, Distribution Facility. A detailed security plan outlining the measures that will be taken to ensure the safety of persons and property on the premises. As part of the security plan, a lighting plan is required that shows existing and proposed exterior and interior lighting that will provide adequate security lighting for the commercial

cannabis activity and premises. The security plan must be prepared by a qualified professional and include provisions in compliance with the following:

a. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least two hundred forty concurrent hours of digitally recorded documentation in a format approved by the city manager. The cameras shall be in use twenty-four hours per day, seven days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the city manager.

b. The premises shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the city manager that is operated and monitored by a recognized security company, deemed acceptable by the city manager. Any change in the security company shall be subject to the approval of the city manager. All current contact information regarding the security company shall be provided to the city manager.

c. Entrance to the cultivation, manufacturing, and storage areas shall be locked at all times, and under the control of cannabis facility staff.

d. All cannabis shall be securely stored, and a reliable, commercial alarm system shall be installed and maintained where the cannabis is secured.

e. A licensed security guard, licensed by the California Department of Consumer Affairs, shall be present at the premises during all hours of operation. If the security guard is to be armed, then the security guard shall possess at all times a valid security guard card and firearms permit issued by the California Department of Consumer Affairs.

f. A heavy-gauge chain-link (or other material as approved by the city manager) fence a minimum of eight-feet in height shall be constructed around the perimeter of the premises to prevent public access and obscure the cannabis cultivation facility from public view. Screening can include landscaping or vinyl slats, as permitted by law enforcement.

The security plan will be reviewed by the Calexico Police Department and the city manager, or his or her designee, and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

2. Retailer, Non-storefront Retailer, Microbusiness, Testing Laboratories. A security plan, as a separate document, outlining the proposed security arrangements to deter and prevent unauthorized entrance into the premises, including limited access areas, and theft of cannabis, in accordance with minimum security measures required by state law. The security plan shall be reviewed by the Calexico Police Department and the city manager, or his or her designee, and shall be exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

O. An odor control plan that describes the air treatment system or other methods that will be implemented to prevent odors generated by the commercial cannabis activity from being detected outside the building(s) on the premises.

P. A comprehensive business operations plan that includes the following:

1. Business Plan. A plan describing how the commercial cannabis activity business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include plans for handling cash and transporting cannabis and cannabis products to and from the premises, if applicable.

2. Community Relations Plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.

3. Neighborhood Responsibility Plan. A plan addressing any adverse impacts of the proposed commercial cannabis activity on the surrounding area.

4. Cannabis Waste Procedures. Applicant's procedures for securing and disposing of cannabis waste.

5. Delivery Procedures, if applicable. Applicant's procedures for accepting and processing orders and delivering cannabis to customers, if applicable.

6. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the commercial cannabis activity.

7. Budget. A copy of the applicant's most recent annual budget for operations.

Q. The name and address of the owner and lessor of the real property upon which the commercial cannabis activity is to be operated. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a commercial cannabis activity will be operated on his or her property.

R. Authorization for the city manager to seek verification of the information contained within the application.

S. 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.

T. A full and complete copy of the applicant's most current application that will be submitted or has been submitted to the applicable State licensing authority. Once a license is issued by the State, the applicant shall provide a copy of said license to the City.

U. Any such additional and further information as is deemed necessary by the city manager to administer this chapter.

5.96.050 – Special/Temporary Event Permit.

Temporary cannabis events are permitted provided that the cannabis event organizer first obtain the required licenses under State law, a fully executed development agreement with the City or conditional use permit for each commercial cannabis activity proposed for the event, a regulatory permit for each commercial cannabis activity proposed for the event, and a special event permit issued by the City, as required under Chapter 12.18 of this Code. Temporary cannabis events are

limited to up to four (4) days in duration. No special event permit for a temporary cannabis event will be issued for more than four (4) days.

5.96.060 - Background check.

The city will provide each applicant, including any management personnel who are responsible for the day-to-day operations of the commercial cannabis activity, with a 'request for live scan service' form, which must be taken to a live scan operator for fingerprinting. Each applicant must submit their fingerprint images to the Calexico Police Department, California Department of Justice, and the Federal Bureau of Investigation for fingerprint-based criminal history records review and reporting to the city.

5.96.070 - Additional terms and conditions.

Based on the information set forth in the application, the city manager may impose reasonable terms and conditions on the proposed operations of the commercial cannabis activity in addition to those specified in this chapter.

5.96.080 - Regulatory permit denial.

The city manager may deny an application for a regulatory permit or renewal of a regulatory permit upon making any of the following findings:

A. The applicant or the premises for which a regulatory permit is applied does not qualify for a permit under this chapter.

B. The applicant fails to comply with the provisions of this chapter.

C. The applicant has failed to provide information required by the city manager.

D. The applicant or permittee 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 city manager determines that the applicant or permittee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the city manager shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or permittee to be issued a permit 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 city manager shall include, but not be limited to, the following:

1. A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

2. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

3. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the California Penal Code.

4. A felony conviction involving fraud, deceit, or embezzlement.

E. The applicant, or any of its officers, directors, or owners, has been sanctioned by a state licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a state license revoked in the three years immediately preceding the date the application is filed with the city manager.

F. The commercial cannabis activity is not properly organized or operating in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), as amended, and any other applicable law, rules and regulations.

5.96.090 - Regulatory permit term.

A regulatory permit is valid for two (2) years from the date that the permit is issued, unless suspended or revoked sooner.

5.96.100 - Regulatory permit renewal process.

A. To renew a regulatory permit, a completed permit renewal form and renewal permit fee shall be received by the city manager from the permittee no earlier than sixty (60) calendar days before the expiration of the permit and no later than the last business day before the expiration of the permit.

B. In the event the regulatory permit is not renewed prior to the expiration date, the permittee must cease all commercial cannabis activity.

5.96.110 - Regulatory permit surrender.

Every permittee who surrenders, abandons, or quits the permitted premises after a certificate of occupancy is issued, or who closes the permitted premises for a period exceeding thirty (30) consecutive calendar days after a certificate of occupancy is issued, unless as otherwise provided by the city manager, shall, within thirty (30) calendar days after closing, surrendering, quitting, or abandoning the permitted premises, surrender the permit to the city manager. The city manager may seize the permit of a permittee who fails to comply with the surrender provisions of this section and may proceed to revoke the permit.

5.96.120 - Regulatory permit suspension and revocation.

The city manager may suspend, modify, or revoke a cannabis cultivation permit issued pursuant to the provisions of this chapter for any of the following reasons:

A. One or more of the circumstances upon which a regulatory permit could be denied exists or has occurred;

B. One or more conditions of the regulatory permit has been violated; or

C. The permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this chapter.

D. Operations cease for more than thirty (30) calendar days, including during change of ownership proceedings, unless otherwise allowed by the city manager;

E. Ownership is changed without securing a regulatory permit;

F. The cannabis facility fails to maintain two hundred forty (240) continuous hours of security recordings; or

G. The commercial cannabis activity facility fails to allow inspection of the records, security recordings, the activity logs, or the premises by authorized city officials.

5.96.130 - Appeals.

Any decision regarding the denial, suspension, or revocation of a regulatory permit may be appealed to a hearing officer. Notice of and the procedures governing such hearing shall be provided pursuant to Title 1, Chapter 1.26. The appellant shall request an appeal within thirty calendar days from the date of the decision.

5.96.140 - Operating standards.

A. Compliance with Business Operations Plan. A permittee shall substantially comply with the complete business operations plan proposed in the permittee's application.

B. Indoor Cultivation Only. A permittee shall only cultivate cannabis in a fully enclosed and secure building. A permittee shall not allow cannabis or cannabis products on the premises to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the premises, or the premises' main entrance and lobby.

C. Odor Control. A permittee shall comply with the odor control plan that is submitted during the application process and approved by the city manager. Commercial cannabis activity premises shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the building(s) that is distinctive to its operation is not detected outside the premises, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, 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 commercial cannabis activity. As such, applicants must install and maintain the following equipment or any other equipment which the city manager or designee determines has the same or better effectiveness:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or

2. An air system that creates negative air pressure between the cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.

Should compliance with the odor control plan fail to properly control odor, the city manager may impose additional or modified plan restrictions.

D. Track and Trace. Commercial cannabis activity businesses shall have an electronic 'track and trace' system that produces historical transactional data for review by the city manager for auditing purposes.

E. Records. A commercial cannabis activity business shall maintain the following records in printed format for at least three years on the premises and shall produce them to the city within twenty-four hours after receipt of the city's request:

1. The name, address, and telephone numbers of the owner and landlord of the property.
2. The name, date of birth, address, and telephone number of each manager and staff of the commercial cannabis activity business; the date each was hired; and the nature of each manager's and staff's participation in the business.
3. A written accounting of all income and expenditures of the commercial cannabis activity business, including, but not limited to, cash and in-kind transactions.
4. A copy of the commercial cannabis activity business' commercial general liability insurance policy and all other insurance policies related to the operation of the business.
5. A copy of the commercial cannabis activity business' most recent year's financial statement and tax return.
6. An inventory record documenting the dates and amounts of cannabis received at the premises, the daily amounts of cannabis on the premises, and the daily amounts of cannabis transported from the premises.

A commercial cannabis activity business shall report any loss, damage, or destruction of these records to the city manager within twenty-four hours of the loss, damage, or destruction.

E. Security. A permittee shall comply with the security plan that is submitted during the application process as approved by the city manager. A permittee shall report to the Calexico Police Department all criminal activity occurring on the premises. Should compliance with the security plan fail to properly secure the commercial cannabis activity premises, the city manager may impose additional or modified plan restrictions.

F. Cannabis Consumption – Permitted Business Types. On-site consumption of cannabis is permitted on the premises of a retailer or microbusiness as long as (1) access to the area where cannabis consumption is allowed is restricted to persons twenty one (21) years of age and older; (2) cannabis consumption is not visible from any public place or nonage-restricted area; and (3) sale or consumption of alcohol or tobacco is not allowed on the premises.

G. Cannabis Consumption – Prohibited Business Types. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within twenty feet of, the premises of a cultivation, manufacturing, testing, or distribution facility.

H. Shared-Use Facilities. Each shared-use facility must meet all requirements outlined in the State cannabis manufacturing regulations, and include secured storage for the primary permittee's cannabis and cannabis products. The primary permittee will assign a designated area to be used as shared space. An occupancy schedule, outlining the days and/or times that the space will be used by individual cannabis manufacturers, must be posted. Only one permittee can utilize the space at a time.

I. Alcohol Prohibited. No person shall possess, consume, or store any alcoholic beverage on the premises.

5.96.150 - Interested parties.

A. A permittee shall provide the city with names and addresses of all of the following interested parties:

1. Persons with at least a ten percent interest in the commercial cannabis activity;
2. Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least ten percent of the stock, capital, profits, voting rights, or membership interest of the commercial cannabis activity or that is one of the partners in the commercial cannabis activity;
3. The managers of the commercial cannabis activity; and
4. The staff of the commercial cannabis activity.

B. The permittee shall notify the city of any change in the information above within thirty calendar days of the change. A permittee shall not engage in a new commercial cannabis activity until they have obtained a fully executed development agreement or conditional use permit and a regulatory permit, as required under this Chapter.

C. All interested parties, as described in subsection A, must submit to fingerprinting and a criminal background check by the city.

D. No person shall be an interested party, as described in subsection A, if he or she is charged with or convicted of a felony; has been charged with or convicted of a violation of California Penal Code section 186.22 (participation in a criminal street gang); or is currently on parole or probation for an offense relating to the sale or distribution of a controlled substance. "Convicted" within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere was entered, but does not include any plea, verdict, or conviction that is expunged pursuant to California law or a similar federal or state law where the expungement was granted. "Charged" within the meaning of this section means:

1. An indictment was issued by a grand jury, or an information, complaint, or similar pleading was issued by the United States Attorney, district attorney, city attorney, or other governmental official or agency authorized to prosecute crimes; and
2. The criminal proceedings are currently pending.

5.96.160 - Emergency contact manager.

A commercial cannabis activity permittee shall provide the city manager with the current name and primary and secondary telephone numbers of at least one twenty-four-hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the commercial cannabis activity.

5.96.170 - Community relations manager.

Each commercial cannabis activity permittee shall provide the city manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis facility. Each commercial cannabis activity permittee shall also provide the above information to its business neighbors located within one hundred feet of the commercial cannabis activity facility as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

5.96.180 - Display of regulatory permit.

The permittee shall display its current valid permit issued in accordance with this chapter inside the lobby or waiting area of the main entrance to the premises. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the premises.

5.96.190 - Inspections and enforcement.

A. Recordings made by security cameras at any commercial cannabis activity business shall be made immediately available to the city manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

B. The city manager shall have the right to enter all cannabis facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.

C. Operation of the cannabis facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code.

5.96.200 - Permits not transferable.

Regulatory permits issued pursuant to this chapter are not transferable.

5.96.210 - 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 regulatory permit pursuant to this chapter or the operation of any commercial cannabis activity approved pursuant to this chapter. As a condition of approval a regulatory permit as provided in this chapter, the applicant or its legal representative shall:

A. Execute an agreement indemnifying the city from any claims, damages, etc., associated with the operation of the cannabis facility;

B. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee;

C. Name the city as an additionally insured on all city required insurance policies;

D. Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a regulatory permit; 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 related to the city's approval of a regulatory 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.

5.96.220 - Compliance with state law.

All commercial cannabis activity shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

5.96.230 - Violations.

A. Any violation of any of the provisions of this chapter is unlawful and a public nuisance.

B. Any violation of any of the provisions of this chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

C. In lieu of issuing a misdemeanor citation, the city may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars for each violation of this chapter.

D. A separate offense occurs for each day any violation of this chapter is continued and/or maintained.

E. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the city may pursue any administrative citations, administrative proceedings, criminal or civil proceedings or actions or remedies otherwise provided by law.

Summary report: Litéra® Change-Pro 7.5.0.135 Document comparison done on 11/28/2018 10:21:43 AM	
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Intelligent Table Comparison: Active	
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Modified DMS: iw://iManage/iManage/31211686/1	
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~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	265