

**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.**

**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**WHEREAS**, on June 27, 2017, Governor Brown signed into law Senate Bill 94, which repealed the Medical Cannabis Regulation and Safety Act (“MCRSA”), included certain provisions of MCRSA in the licensing provisions of AUMA, and created a single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 December 19, 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 contendere.
- 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."

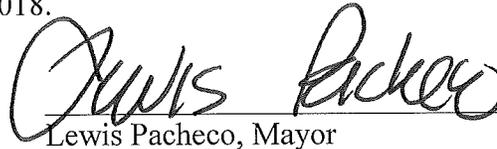
**SECTION 3. Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption.

**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.

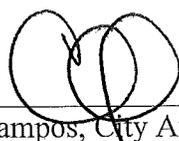
**ORDINANCE PASSED AND APPROVED** at a regular meeting of the City Council of the City of Calexico this 19<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
Lewis Pacheco, Mayor

ATTEST:

  
\_\_\_\_\_  
Gabriela T. Garcia, City Clerk

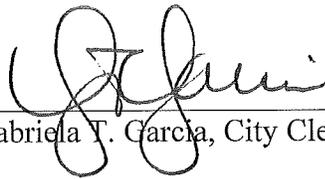
APPROVED AS TO FORM:

  
\_\_\_\_\_  
Carlos Campos, City Attorney

State of California )  
County of Imperial ) ss.  
City of Calexico )

I, Gabriela T. Garcia, City Clerk, City of Calexico, California, certify that the foregoing Ordinance No. 1992 was adopted by the City Council at a regular meeting of the City Council held on the 19<sup>th</sup> day of December, 2018 and was adopted by the following vote:

AYES: Pacheco, Escobar, Romero, Arreola-Fernandez  
NOES: None  
ABSENT: Hodge

  
\_\_\_\_\_  
Gabriela T. Garcia, City Clerk