

**ORDINANCE NO. 2924**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE AMENDING TITLE 5 (BUSINESS LICENSES AND REGULATIONS) AND TITLE 17 (ZONING) OF THE EL MONTE MUNICIPAL CODE TO PROHIBIT CANNABIS RETAILERS, DISPENSARIES, MICROBUSINESSES, AND DELIVERIES CITYWIDE AND TO ESTABLISH REGULATIONS AND A DISCRETIONARY REVIEW PROCESS FOR THE PROSPECTIVE ALLOWANCE OF MEDICINAL-ONLY COMMERCIAL CANNABIS ACTIVITIES (CULTIVATION, DISTRIBUTION, MANUFACTURING, AND LABORATORY TESTING) IN PORTIONS OF THE M-1 (LIGHT MANUFACTURING), M-2 (GENERAL MANUFACTURING), C-3 (GENERAL COMMERCIAL), AND O-P (PROFESSIONAL OFFICE) ZONES**

WHEREAS, in 1996, the California Legislature approved Proposition 215, also known as the Compassionate Use Act (the "CUA"), which was codified under Health and Safety Code Section 11262.5 et seq. and was intended to enable persons in need of medical marijuana for specified medical purposes, such as cancer, anorexia, AIDS, chronic pain, glaucoma and arthritis, to obtain and use marijuana under limited circumstances and where recommended by a physician. The CUA provides that "nothing in this section shall be construed or supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.";

WHEREAS, in 2004, the California Legislature enacted the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et seq.) (the "MMP"), which clarified the scope of the CUA, created a state-approved voluntary medical marijuana identification card program, and authorized cities to adopt and enforce rules and regulations consistent with the MMP. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances;

WHEREAS, California courts have found that neither the CUA nor the MMP provide medical marijuana patients with an unfettered right to obtain, cultivate, or dispense marijuana for medical purposes;

WHEREAS, in 2013, the California Supreme Court in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center* (2013) 56 Cal.4th 729, found the CUA and MMP do not preempt a city's local regulatory authority and confirmed a city's ability to prohibit medical marijuana dispensaries within its boundaries. In 2013, the California Third District Appellate Court further held that state law does "not preempt a city's police power to prohibit the cultivation of all marijuana within the city."

WHEREAS, the Federal Controlled Substances Act (21 U.S. C., § 801 et seq.) makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute, or dispense marijuana. Despite such federal prohibition, on August 29, 2013, the United States Department of Justice issued a memorandum (the "Cole Memo") stating that, notwithstanding the federal classification of marijuana as a schedule 1 controlled substance, jurisdictions that have legalized marijuana in some form are less likely to be subject to federal enforcement under the Controlled Substances Act if they have implemented strong and effective regulatory and enforcement systems to follow eight guiding principles: (1) preventing the distribution of marijuana to minors; (2) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (3) preventing the diversion of marijuana from states where it is legal under state law in some form to other states; (4) preventing state-authorized marijuana activity from being used as a cover or



pretext for the trafficking of other illegal drugs or other illegal activity; (5) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (6) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (7) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (8) preventing marijuana possession or use on federal property;

WHEREAS, in September 2015, the California State Legislature enacted, and Governor Brown signed into law three bills – Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 – which together comprise the Medical Marijuana Regulation and Safety Act (the “MMRSA”). The MMRSA created a comprehensive dual state licensing system for the cultivation, manufacture, retail, sale, transport, distribution, delivery, and testing of medical cannabis;

WHEREAS, on July 19, 2016, the City Council of the City of El Monte (the “City Council” of the “City”) adopted Interim Urgency Ordinance No. 2889 to establish a temporary moratorium on medical “commercial cannabis activities,” as defined under the MMRSA, for a period of 45 days and extended such moratorium for an additional period of 22 months and 15 days under Interim Urgency Ordinance No. 2894, on August 16, 2016;

WHEREAS, on August 2, 2016 the El Monte City Council adopted Ordinance No. 2890 to reinforce existing permanent prohibitions on medical marijuana dispensaries and cultivation;

WHEREAS, the MMRSA was renamed the Medical Cannabis Regulation and Safety Act (the “MCRSA”), under Senate Bill 837 in June 2016, which also made included substantive changes to the applicable state laws, which affect the various state agencies involved in regulating cannabis businesses as well as potential licensees;

WHEREAS, On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”) was approved California voters as Proposition 64 and became effective on November 9, 2016, pursuant to the California Constitution (Cal. Const., art. II, § 10(a)). Proposition 64 would legalized the nonmedical use of cannabis by persons 21 years of age and over, and the personal cultivation of up to six (6) cannabis plants. On November 15, 2016, the City Council adopted Urgency Ordinance No. 2902 to prohibit outdoor personal marijuana cultivation and establish regulations and a permitting process for indoor personal marijuana cultivation;

WHEREAS, AUMA also created a state regulatory and licensing system governing the commercial cultivation, testing, and distribution of nonmedical cannabis, and the manufacturing of nonmedical cannabis products. On December 6, 2016, Urgency Ordinance No. 2905 was adopted by the City Council to establish a temporary moratorium on nonmedical “commercial cannabis activities” for a period of 45 days and extended such moratorium for an additional period of 22 months and 15 days under Urgency Ordinance No. 2907, on January 10, 2017;

WHEREAS, on June 27, 2017, Governor Brown signed the Legislature-approved Senate Bill 94. SB 94 combined elements of the MCRSA and AUMA to establish a streamlined singular regulatory and licensing structure for both medical and nonmedical cannabis activities given that there were discrepancies between the MCRSA and AUMA. The new consolidated provisions under SB 94 is now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) to be governed by the California Bureau of Cannabis Control. MAUCRSA refers to medical cannabis as “medicinal cannabis” and nonmedical/recreational cannabis as “adult-use cannabis”;

WHEREAS, on September 16, 2017, Governor Brown signed Assembly Bill 133 into law, which provided cleanup and substantive to MAUCRSA, including the removal of the requirement that licensed premises remain “separate and distinct” for each

license type; and

WHEREAS, in accordance with state law, the proposed Ordinance would allow certain medicinal-only commercial cannabis activities pursuant to MAUCRSA and locally tailored provisions pursuant to the City's police power under Section 7 of Article XI of the California Constitution.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The recitals above are true and correct and incorporated herein by reference.

**SECTION 2.** Chapter 5.17 (Medical Marijuana Dispensaries) of Title 5 (Business Licenses and Regulations) of the El Monte Municipal Code is hereby repealed in its entirety.

**SECTION 3.** Section 17.06.160 (Medical Marijuana Dispensaries, Cooperatives, Collectives and Cultivation Prohibited in All Zones) of Chapter 17.06 (General Regulations) of Title 17 (Zoning) of the El Monte Municipal Code is hereby repealed in its entirety.

**SECTION 4.** Section 17.24.040 (Conditionally Permitted Uses in Specified Zones) of Chapter 17.24 (Conditional Use Permits) of Title 17 (Zoning) of the El Monte Municipal Code is hereby amended by the following Subsection 34, which shall read as follows:

- (34) Medicinal commercial cannabis activities (cultivation, distribution, manufacturing, and laboratory testing), as permitted with City Council approval pursuant to Chapter 5.18 of this Code, in the portions of the M-1 (Light manufacturing), M-2 (General Manufacturing), C-3 (General Commercial), and O-P (Professional Office) zones, which are illustrated in Exhibit "A" to City Council Ordinance No. 2924. No such activity shall occur on a premises located within an 800 foot radius of a public or private school (kindergarten through grade 12), day care center, or youth center, that is in existence at the time the permit is issued. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law. No conditional use permit for such activity shall be valid without an accompanying and complementary development agreement entered into between the City and applicant, or designee, adopted in accordance with Chapter 17.84 and setting forth the terms and conditions under which the medicinal cannabis facility will operate, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety and welfare. Notice for conditional use permits for commercial cannabis activities, as set forth in Section 17.24.020(D)(2), shall be expanded to five hundred (500) feet. Except as provided herein in Section 17.24.040 and Chapter 5.18, all commercial cannabis activities are prohibited throughout the City.

**SECTION 5.** Chapter 5.17 (Medical Marijuana Dispensaries) of Title 5 (Business Licenses and Regulations) of the El Monte Municipal Code is hereby amended by the addition of a new Chapter 5.18 (Commercial Cannabis Activities), which shall read as follows:

#### **Chapter 5.18 – COMMERCIAL CANNABIS ACTIVITIES**

##### **Section 5.18.010 – Purpose and Intent.**

It is the purpose and intent of this Chapter 5.18 to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes, as advised and recommended by their health care provider(s), and to implement state law, which



includes, but is not limited to the provisions of the Medicinal Adult-Use Cannabis Recreation and Safety Act (hereinafter, "MAUCRSA"), as may be amended and augmented under state law, while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter 5.18 to regulate the cultivation, manufacturing, processing, testing, and distribution of medicinal cannabis and medicinal cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of El Monte, and to enforce rules and regulations consistent with state law. In part to meet these objectives, an annual permit shall be required to own and/or to operate a commercial medicinal cannabis business within El Monte. Nothing in this Chapter 5.18 is intended to authorize the possession, use, or provision of cannabis for purposes which violate state or federal law. The provisions of this Chapter 5.18 are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.

#### **Section 5.18.020 – Legal Authority.**

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the MAUCRSA, as may be amended and augmented under state law and any subsequent state legislation regarding the same, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for medicinal cannabis and medicinal cannabis-related activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City to medicinal cannabis, and/or medicinal cannabis-related activity.

#### **Section 5.18.030 – Cannabis Cultivation and Commercial Medicinal Cannabis Business Activities Prohibited Unless Specifically Authorized by this Chapter.**

- A. Except as specifically authorized in this Chapter 5.18 and Section 17.24.040 of this Code, the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, dispensing, distribution, delivery, and/or sale of cannabis or cannabis product is expressly prohibited in the City.
- B. The following are expressly prohibited:
  - 1. Adult-use commercial cannabis activities; and
  - 2. Medicinal commercial cannabis delivery and/or sale, including dispensaries, and microbusinesses.

#### **Section 5.18.040 – Compliance with Laws.**

It is the responsibility of the owners and operators of the commercial medicinal cannabis business to ensure that it is, always, operating in a manner compliant with all applicable state and local laws and any regulations promulgated thereunder. Nothing in this Chapter 5.18 shall be construed as authorizing any actions which violate federal, state, or local law with respect to the operation of a commercial medicinal cannabis business. It shall be the responsibility of the owners and the operators of the commercial medicinal cannabis business to ensure that the commercial medicinal cannabis business is, at all times, operating in a manner compliant with all applicable federal, state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial medicinal cannabis business permit. Nothing in this Chapter 5.18 shall be construed as authorizing any actions which violate federal



or state law regarding the operation of a commercial medicinal cannabis business.

**Section 5.18.050 – Definitions.**

When used in this Chapter 5.18, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision. Definitions herein, which coincide with those set forth in MAUCRSA or other applicable state law, shall be deemed to include any successor or amended versions of such definitions.

- A. "Cannabis" means all parts of the *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. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter 5.18, cannabis does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- B. "Cannabis Business Park" a park or campus is one contiguous commercial area of land which has many cannabis related businesses grouped together. Each individual business would be clearly defined, which has a unique entrance and immovable physical barriers between uniquely licensed premises.
- C. "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 Chapter 5.18. A cannabis concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or drug, as defined by Section 109925 of the California Health and Safety Code.
- D. "Cannabis product" 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.
- E. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site.
- F. "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- G. "City" or "City of El Monte" means the City of El Monte, a California General Law City.
- H. "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging,

labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this Chapter 5.18

- I. "Commercial medicinal cannabis business" means any business or operation which engages in medicinal commercial cannabis activity.
- J. "Commercial medicinal cannabis business permit" means a regulatory permit issued by the City pursuant to this Chapter 5.18 to a commercial medicinal cannabis business and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial medicinal cannabis business permit is made expressly contingent upon the business's ongoing compliance with all of the requirements of this Chapter 5.18 and any regulations adopted by the City governing the commercial cannabis activity at issue.
- K. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- L. "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities may occur. Cultivation sites must be licensed by the City and state pursuant to this Chapter 5.18.
- M. "Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and schoolage child care centers.
- N. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.
- O. "Dispensary" means a commercial medicinal cannabis business facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale.
- P. "Dispensing" means any activity involving the retail sale of medicinal cannabis or medicinal cannabis products from a dispensary.
- Q. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between persons authorized to engage in permitted commercial cannabis activities pursuant to this Chapter 5.18.
- R. "Distributor" means a person engaged in the business of purchasing medicinal cannabis from a licensed cultivator or medicinal cannabis products from a license manufacturer for sale to a licensed medicinal cannabis dispensary. Distributors must be licensed by the City and state pursuant to this Chapter 5.18.
- S. "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- T. "Edible cannabis product" means cannabis product 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 (commencing with Section 32501) of the California Food and Agriculture Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or drug, as defined by Section 109925 of the California Health and Safety Code. An edible cannabis product shall not



be deemed to be adulterated pursuant to Section 19347.6 of the Business and Professions Code solely because it contains cannabis.

- U. "Greenhouse" means a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental lighting for cultivation.
- V. "Live plants" means living cannabis flowers and plants, including seeds, immature plants (including unrooted clones), and vegetative stage plants.
- W. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- X. "Manufacturer" means a person 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. A manufacturer may also be a person that infuses cannabis in its products but does not perform its own extraction.
- Y. "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction, or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.
- Z. "Manufacturing site" means a location that produces, prepares, propagates, or compounds medicinal cannabis or medicinal cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis. Manufacturing sites must be licensed by the City and state pursuant to this Chapter 5.18.
- AA. "Marijuana" means "cannabis," as that term is defined in this Chapter 5.18.
- BB. "Microbusiness" means a commercial medicinal cannabis business facility of cultivation of medicinal cannabis on areas less than 10,000 square feet and also acts as a licensed distributor, manufacturer, and retailer.
- CC. "Nursery" means a person that produces only clones, immature plants, seeds and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- DD. "Owner" means any of the following:
  - 1. A person with an aggregate ownership interest of 20% or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance;
  - 2. The chief executive officer of a nonprofit or other entity.
  - 3. A member of the board of directors of a nonprofit.
  - 4. An individual who will be participating in the direction, control, or management of the person applying for the license.
- EE. "Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.

- FF. "Permittee" means the holder of a valid, City-issued commercial medicinal cannabis business permit.
- GG. "Person" means an individual, firm, 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 includes the plural as well as the singular number.
- HH. "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.
- II. "Premises" means the designated structure or structures and land specified in the commercial medicinal cannabis business permit application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.
- JJ. "State License" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity.
- KK. "Testing laboratory" means a laboratory, facility, or entity in the City that offers or performs tests of medicinal cannabis or medicinal cannabis products and that is both of the following:
1. Accredited by an accrediting body that is independent from all other persons involved in the medicinal cannabis industry in the state.
  2. Licensed by the Bureau of Cannabis Control and is owned and operated by a person issued a valid commercial medicinal cannabis business permit for laboratory testing from the City.
- LL. "Topical cannabis" means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- MM. "Volatile solvent" means a solvent that is or produces a flammable gas vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
- NN. "Youth center" means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

**Section 5.18.060 – Cannabis Employee Permit Required.**

- A. Any person who is an employee or who otherwise works or volunteers within a commercial medicinal cannabis business must be legally authorized to do so under applicable state law. Employees, workers, or volunteers at businesses that are permitted by the City that are operating pursuant to Health & Safety Code Section 11362.775(a) as collectives or cooperatives until that subsection is repealed must be qualified patients or primary caregivers as required by state law.
- B. Any person who is an employee or who otherwise works or volunteers within a commercial medicinal cannabis business must obtain a commercial medicinal employee work permit from the City prior to performing any work at any commercial medicinal cannabis business.



C. Applications for a commercial medicinal cannabis employee work permit shall be developed and made available by the City Manager or his/her designee(s), and shall include, but not be limited to, the following information:

1. Name, address, and phone number of the applicant;
2. Age and verification of applicant. A copy of a birth certificate, driver's license, government issued identification card, passport or other proof that the applicant is at least twenty-one (21) years of age must be submitted with the application;
3. Name, address of the commercial medicinal cannabis businesses where the person will be employed, and the name of the primary manager of that business;
4. A list of any crimes enumerated in California Business and Professions Code Section 26507(b)(4) for which the applicant has been convicted;
5. Name, address, and contact person for any previous employers from which the applicant was fired, resigned, or asked to leave and the reasons for such dismissal or firing;
6. The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the City Manager or designee(s);
7. A signed statement under penalty of perjury that the information provided is true and correct;
8. If applicable, verification that the applicant is a qualified patient or primary caregiver; and
9. A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the employee work permit programs. The fee is non-refundable and shall not be returned in the event the work permit is denied or revoked.

D. The City Manager or designee(s) shall review the application for completeness and shall direct the Chief of Police to conduct a background check in accordance with Section 5.18.230(L) to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:

1. Is dishonest; or
2. Has committed a felony or misdemeanor involving fraud, deceit, embezzlement; or
3. Was convicted of a violent felony, a crime of moral turpitude; or
4. The illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for medicinal cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

Discovery of these facts showing that the applicant is dishonest or has been convicted of those types of crimes are grounds for denial of the permit. Where the applicant's sentence, (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a commercial medicinal cannabis work permit. Furthermore, an applicant shall not be denied a permit if the denial is based solely on any of the

following (i) a conviction for any crime listed in Subsection (D)(4) above for which the applicant has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the California Penal Code or (ii) a conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or any other provision of state law allowing for dismissal of a conviction.

- E. The City Manager or designee(s) shall issue the commercial medicinal cannabis work permit or a written denial to the applicant within ninety (90) days of the date the application was deemed complete by the City, unless the applicant stipulates to an extension of the City Manager's response time. Upon the request of a commercial medicinal cannabis business and while processing the application for a work permit, the City Manager or his/her designee(s) may issue a temporary work permit for an employee if the business demonstrates to the City Manager or his/her designee(s) that the employee is necessary for the operation of the business. The temporary permit may be immediately revoked by the City Manager or his/her designee(s) upon determination that the applicant has failed the background check.
- F. A work permit shall be valid for a twelve (12) month period from issuance and must be renewed on an annual basis. Renewal applications shall contain all the information required in Subsection B above including the payment of a renewal application fee in an amount to be set by resolution of the City Council.
- G. In the event a person changes employment from one commercial medicinal cannabis business in the City to another, the work permit holder shall notify the City Manager or his/her designee(s) in writing of the change within ten (10) days, or the work permit shall be suspended or revoked and such person shall not be permitted to work at any commercial medicinal cannabis business in the City.
- H. The City may immediately revoke the commercial medicinal cannabis work permit should the permit holder be convicted of a crime listed in Subsection C and D above or if facts become known to the City Manager or his/her designee(s) that the permit holder has engaged in activities showing that he or she is dishonest.
- I. The City Manager or designee(s) is hereby authorized to promulgate all regulations necessary to implement the work permit process and requirements.
- J. The applicant may appeal the denial or revocation of a commercial medicinal cannabis work permit by filing a notice of appeal with the City Clerk within ten (10) days of the date the applicant received the notice of denial, which appeal shall be conducted as set forth in this Chapter 5.18.
- K. The City Manager or his/her designee(s) shall issue a permit in the form of a personal identification card that can be worn by the employee, which shall include a photograph of such employee. The personal identification card shall be worn approximately chest-high on their outermost garment, in a prominent and visible location. The identification card shall be maintained in good and readable condition at all times.

**Section 5.18.070 – Commercial Medicinal Cannabis Business Permit Required to Engage in Commercial Medicinal Cannabis Business.**

- A. No person may engage in any commercial medicinal cannabis business or in any medicinal commercial cannabis activity within the City including cultivation, nursery, manufacture, processing, laboratory testing, transporting, or distribution, of cannabis or cannabis product unless the person (1) has a valid commercial medicinal cannabis business permit issued by the City



Manager upon City Council approval of a conditional use permit, development agreement, and any other applicable approvals, including, but not limited to, a building permit and business licenses; and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial medicinal cannabis business and the commercial cannabis activities, including the duty to obtain any required state licenses.

- B. Until Health & Safety Code Section 11362.775, subdivision (a), is repealed, the City intends that person's eligible to operate collectives or cooperatives under that subdivision shall be eligible to apply for a City permit to conduct commercial cannabis activities but only to the degree those activities are authorized under state law for collectives and cooperatives. When the Health & Safety Code Section 11362.775, subdivision (a), is repealed, or as soon as collectives and cooperatives are no longer permitted to engage in commercial cannabis activity under state law, any City permit holder operating a commercial medicinal cannabis business under a collective or cooperative who has not already obtained a state license for the commercial cannabis activities they are engaged in shall automatically forfeit his or her City commercial medicinal cannabis business permit. At that point, such former permit holder shall no longer be authorized to engage in any commercial cannabis activities in the City until they obtain both a City issued commercial medicinal cannabis business permit and a state license for that commercial cannabis activity.
- C. The maximum number of each type of commercial medicinal cannabis business permits that shall be permitted to operate in the City, if any such maximum is desired by the City Council, shall be established by resolution of the City Council. Nothing in this Subsection creates a mandate that the City Council must issue any or all of the commercial medicinal cannabis business permits if it is determined that the applicants do not meet the standards which are established in the application requirements or further amendments to the application process.
- D. Each year following the City Council's initial award of commercial medicinal cannabis business permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of commercial medicinal cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by resolution that the number of commercial medicinal cannabis permits should stay the same or be expanded.
- E. The City Council shall adopt, by resolution, an application process, and related forms, which shall provide for a point system based evaluation of applications by an independent third-party, who shall score applicants and recommend the best applicants to City staff for additional review by staff, which shall identify applicants who may apply for a conditional use permit and development agreement, in accordance with Section 17.24.040(34) of this Code. Additional points shall be awarded to applicants with 10 or more employees who commit to enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement, as defined in Business and Professions Code Section 26001(x).
- F. Any person intending to open and to operate a commercial medicinal cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location of such business. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of such property, acknowledging that the property owner has read this Chapter 5.18 and consents to the operation of the commercial medicinal cannabis business on the owner's property.

G. At the time of filing, each applicant shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the application process.

**H. THE CITY'S RESERVATION OF RIGHTS:**

The City reserves the right to reject any or all applications received by the City for of commercial medicinal cannabis business permits. The City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter 5.18, at any time without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter 5.18, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application for a of commercial medicinal cannabis business permit. In addition to any other justification provided a failure to comply with other requirements in this Chapter 5.18, an application RISKS BEING REJECTED for any of the following reasons:

1. Proposal received after designated time and date.
2. Proposal not containing the required elements, exhibits, nor organized in the required format.
3. Proposal considered not fully responsive to this request for permit application.
4. Proposal contains excess or extraneous material not called for in the request for permit application.

**Section 5.18.080 – Limitations on City's Liability.**

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a commercial medicinal cannabis business permit pursuant to this Chapter 5.18 or otherwise approving the operation of any commercial medicinal cannabis business. As a condition to the approval of any commercial medicinal cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial medicinal cannabis business permit:

- A. They must execute an agreement, in a form approved by the city attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the commercial medicinal cannabis business permit, the City's decision to approve the operation of the commercial medicinal cannabis business or activity, to process used by the City in making its decision, or the alleged violation of any federal, state, or local laws by the commercial medicinal cannabis business or any of its officers, employees, or agents.
- B. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney.
- C. Reimburse the City for all costs and expenses, including but not limited to attorney's fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial medicinal cannabis business permit or related to the City's approval of a medicinal commercial cannabis activity. The City, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.



**Section 5.18.090 – Expiration of Commercial Medicinal Cannabis Business Permits.**

Each commercial medicinal cannabis business permit issued pursuant to this Chapter 5.18 shall expire twelve (12) months after the date of its issuance. Commercial medicinal cannabis permits may be renewed as provided in Section 5.18.110.

**Section 5.18.100 – Revocation of Commercial Medicinal Cannabis Business Permits.**

Commercial medicinal cannabis business permits may be revoked for any violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this Chapter 5.18.

**Section 5.18.110 – Renewal Applications for Commercial Medicinal Cannabis Business Permits.**

- A. An application for renewal of a commercial medicinal cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of a valid, current commercial medicinal cannabis business permit.
- B. The renewal application shall contain all the information required for new applications.
- C. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter 5.18.
- D. An application for renewal of a commercial medicinal cannabis business permit shall be rejected if any of the following exists:
  1. The application is filed less than sixty (60) days before its expiration.
  2. The commercial medicinal cannabis business permit is suspended or revoked at the time of the application.
  3. The commercial medicinal cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
  4. The commercial medicinal cannabis business has failed to conform to the requirements of this Title, or of any regulations adopted pursuant to this Title.
  5. The permittee fails or is unable to renew its State of California license.
  6. If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter 5.18, of the City's Municipal Code, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the commercial medicinal cannabis business permit.
- E. The City Manager or designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his/her designee(s) shall be handled pursuant to Chapter 5.18.130.

- F. If a renewal application is rejected, a person may file a new application pursuant to this Chapter 5.18 no sooner than one (1) year from the date of the rejection.

**Section 5.18.120. – Effect of State License Suspension, Revocation, or Termination.**

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial medicinal cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial medicinal cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial medicinal cannabis business to operate within the City.

**Section 5.18.130. – Appeals Regarding Commercial Medicinal Business License Permits.**

- A. Within ten (10) calendar days after the date of a decision of the City Manager or his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- B. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.
- C. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
- D. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- E. At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- F. At the conclusion of the hearing the City Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be final.

**5.18.140 – Change in Location; Updated Registration Form.**

- A. Any time the business location specified in the commercial medicinal cannabis business permit is changed, the applicant shall require a new commercial medicinal cannabis business permit in accordance with Section 5.18.070(A).
- B. Within fifteen (15) calendar days of any other change in the information provided in the registration form or any change in status of compliance with the provisions of this chapter, including any change in the commercial medicinal cannabis business ownership or management members, the applicant shall file an updated registration form with the City Manager or designee(s) for review along with a registration amendment fee.

**Section 5.18.150 – Transfer of Commercial Medicinal Cannabis Business Permit.**

- A. The owner of a commercial medicinal cannabis business license permit shall not transfer ownership or control of such permit to another person or entity



unless and until the transferee obtains an amendment to the permit from the City Manager or designee(s) stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the commercial medicinal cannabis business license permit application fee), and the City Manager or designee(s) determines that the transferee passed the background check required for permittees and meets all other requirements of this Chapter 5.18.

- B. Commercial medicinal cannabis business permits issued through the grant of a transfer by the City Manager or designee(s) shall be valid for a period of one (1) year beginning on the day the City Manager or designee(s) approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter 5.18.
- C. Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the City Council through the transfer process contained in this Subsection A, above. Failure to comply with this provision is grounds for commercial medicinal cannabis business license permit.
- D. A permittee may change the form of business entity without applying to the City Manager or designee(s) for a transfer of permit, provided that either:
  - 1. The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
  - 2. If the original permittee is a cooperative or collective and then transitions to a new business entity to comply with Section 5.18.070(B), provided that the original operator(s) of the original permittee business are the same, and the only change is removing collective/cooperative members from the ownership of the new business entity.

Although a transfer is not required in these two circumstances, the permittee is required to notify the City Manager in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

- E. No commercial medicinal cannabis business permit may be transferred when the City Manager or Police Chief has notified the permittee that the permit has been or may be suspended or revoked.
- F. Any attempt to transfer a commercial medicinal cannabis business permit either directly or indirectly in violation of this Section 5.18.150 is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

#### **Section 5.18.160 – City Business License.**

Prior to commencing operations, a commercial medicinal cannabis business shall obtain a City of El Monte business license, pursuant to Chapter 5.04.

#### **Section 5.18.170 – Building Permits and Inspection.**

Prior to commencing operations, a commercial medicinal cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in the zone in which the business proposes to be located. These includes but are not limited to building permits, fire department

approvals, health and safety approvals, zoning approvals, including those set forth in Section 17.24.040(34).

**Section 5.18.180 – Records and Recordkeeping.**

- A. Each owner and operator of a commercial medicinal cannabis business shall maintain accurate books and records in an electronic format, which detail all revenues and expenses of the business, including, but not limited to, all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial medicinal cannabis business permit issued pursuant to this Chapter 5.18), or at any time upon reasonable request of the City, each commercial medicinal cannabis business shall file a sworn statement detailing the number of sales by the commercial medicinal cannabis business during the previous 12-month period (or shorter period based upon the timing of the request) detailing sales for each month within such period in question. The statement shall also include gross sales for each month and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or designee(s).
- B. Each owner and operator of a commercial medicinal cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial medicinal cannabis business and, separately, the same contact information of all officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the commercial medicinal cannabis business. The register required by this paragraph shall be provided to the City Manager or designee(s) upon a reasonable request.
- C. Each commercial medicinal cannabis business shall maintain a record of all distributions of cannabis and cannabis products to other commercial medicinal cannabis businesses authorized by state law for a period of no less than four (4) years.
- D. All commercial medicinal cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing, production, manufacturing, laboratory testing, and/or distribution, or other commercial cannabis activity processes until purchase or distribution for medicinal purpose as set forth under state law, as may subsequently be amended.
- E. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA) regulations, each commercial medicinal cannabis business shall grant City officials access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial medicinal cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents shall be produced no later than twenty-four (24) hours after receipt of the City's request for such data, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

**Section 5.18.190 – Security Measures.**

- A. A permitted commercial medicinal cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis or cannabis products at the commercial medicinal cannabis business. Except as may otherwise be determined by the Chief of



Police or designee(s), these security measures shall include, but are not limited to, all of the following:

1. Preventing individuals from remaining on the premises of the commercial medicinal cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial medicinal cannabis business.
  2. Establishing limited access areas accessible only to authorized commercial medicinal cannabis business personnel.
  3. Except for live growing plants, which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner designed to prevent diversion, theft, and loss.
  4. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial medicinal cannabis business, which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis, and all interior spaces where diversion of cannabis could reasonably occur. The commercial medicinal cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Chief of Police or designee(s), and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the Chief of Police or designee(s). Video recordings shall be maintained for a minimum of forty-five (45) days and shall be made available to the Chief of Police or designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial medicinal cannabis business.
  5. Sensors shall be installed to detect entry and exit from all secure areas.
  6. Panic buttons shall be installed in all commercial medicinal cannabis businesses.
  7. Having a professionally installed, maintained, and monitored alarm system.
  8. Any bars installed on the windows or the doors of the commercial medicinal cannabis business shall be installed only on the interior of the building.
  9. Security personnel shall be on-site 24 hours a day or alternative security as authorized by the Police Chief or designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the Chief of Police or designee(s), which shall not be unreasonably withheld.
  10. Each commercial medicinal cannabis business shall install standby generators and have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
  11. Additional security measures may be added through the review of the conditional use permit and development agreement process.
- B. Each commercial medicinal cannabis business shall identify a designated security representative/liaison to the City, who shall be reasonably available

to meet with the Chief of Police or designee(s) regarding any security related measures or and operational issues.

- C. As part of the application and permitting process each commercial medicinal cannabis business shall have a storage and transportation plan and currency management plan, which describes in detail the procedures for safely and securely storing, disposing and transporting all cannabis, cannabis products, and any currency.
- D. The commercial medicinal cannabis business shall cooperate with the City whenever the Chief of Police or designee(s) makes a request, upon reasonable notice to the commercial medicinal cannabis business, to inspect or audit the effectiveness of any security plan or of any other requirement of this Title.
- E. A commercial medicinal cannabis business shall notify the Chief of Police or designee(s) within twenty-four (24) hours after discovering any of the following:
  - 1. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Chief of Police or designee(s).
  - 2. Diversion, theft, loss, or any criminal activity involving the commercial medicinal cannabis business or any agent or employee of the commercial medicinal cannabis business.
  - 3. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees and/or agents of the commercial medicinal cannabis business.
  - 4. Any other breach of security.

#### **Section 5.18.200 – Restriction on Alcohol Sales.**

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial medicinal cannabis business.

#### **Section 5.18.210 – Compliance with Laws.**

It is the responsibility of the owners and operators of the commercial medicinal cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws and any regulations promulgated and applicable thereunder. Nothing in this Chapter 5.18 shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a commercial medicinal cannabis business. It shall be the responsibility of the owners and the operators of the commercial medicinal cannabis business to ensure that the commercial medicinal cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, the 2008 Attorney General Guidelines any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial medicinal cannabis business permit. Nothing in this Chapter 5.18 shall be construed as authorizing any actions which violate state law with regard to the operation of a commercial medicinal cannabis business.

#### **Section 5.18.220 – Fees and Charges.**

- A. No person may commence or continue any medicinal commercial cannabis activity in the City without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of such activity shall be established by resolution of the City Council which may be amended from time to time.



- B. All commercial medicinal cannabis businesses authorized to operate under this Title shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial medicinal cannabis business shall cooperate with City with respect to any reasonable request to audit the commercial medicinal cannabis business' books and records for the purpose of verifying compliance with this section, including, but not limited to, a verification of the amount of taxes required to be paid during any period.

**Section 5.18.230 – Miscellaneous Operating Requirements.**

- A. Commercial medicinal cannabis businesses may operate only during the hours specified in the commercial medicinal cannabis business permit issued by the City and must comply with state law at all times.
- B. Restriction on Consumption of Cannabis. Cannabis shall not be consumed on the premises of any commercial medicinal cannabis businesses or elsewhere in the City other than within private residences.
- C. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial medicinal cannabis business permit or on any of the vehicles owned or used as part of the commercial medicinal cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- D. Reporting and Tracking of Product and of Gross Sales. Each commercial medicinal cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial medicinal cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial medicinal cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager or designee(s) prior to being used by the permittee.
- E. Each commercial medicinal cannabis business shall install standby generators and have the capability to remain operational during a power outage.
- F. All cannabis and cannabis products sold, distributed, and/or manufactured shall be cultivated, manufactured, and distributed by licensed facilities that maintain operations in full conformance with the state and local regulations.
- G. There shall not be a physician located in or around any commercial medicinal cannabis business at any time for the purpose of evaluating patients for the issuance of a medicinal cannabis prescription or card where applicable.
- H. Emergency Contact. Each commercial medicinal cannabis business shall provide the City Manager or designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- I. Signage and Notices.
1. In addition to the requirements otherwise set forth in this section, business identification signage for a commercial medicinal cannabis business shall conform to the requirements of the El Monte Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
  2. No signs placed on the premises of a commercial medicinal cannabis business shall obstruct any entrance or exit to the building or any window.

3. Each entrance to a commercial medicinal cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises, or in the areas adjacent to the premises, is prohibited.
  4. The entrance to the commercial medicinal cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial medicinal cannabis business.
  5. Business identification signage shall be limited to that needed for identification only, and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial medicinal cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial medicinal cannabis business or elsewhere including, but not limited to, the public right-of-way.
  6. Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards, or other prohibited signs may be used at any time.
  7. Holders of commercial medicinal cannabis business permits agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any commercial medicinal cannabis business located in the City utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising, anywhere in the state. This paragraph is not intended to place limitations on the ability of a commercial medicinal cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.
- J. Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial medicinal cannabis business and shall not be allowed to serve as a driver for a transport service. It shall be unlawful and a violation of this Chapter 5.18 for any person to employ any person at a commercial medicinal cannabis business who is not at least twenty-one (21) years of age.
- K. Odor Control. Odor control devices and techniques shall be incorporated in all commercial medicinal cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial medicinal cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial medicinal cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial medicinal cannabis business. As such, commercial medicinal cannabis businesses must install and maintain the following equipment, or any other equipment which the Economic Development Director or designee(s) determine is a more effective method or technology:
1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
  2. An air system that creates negative air pressure between the commercial medicinal cannabis business's interior and exterior, so that the odors generated inside the commercial medicinal cannabis business are not detectable on the outside of the commercial cannabis business.



- L. Display of Permit and City Business License. The original copy of the commercial medicinal cannabis business permit issued by the City pursuant to this Chapter 5.18 and the City issued business license shall be posted inside the commercial medicinal cannabis business in a location readily-visible to the public.
- M. Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee or volunteer, of the commercial medicinal cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police or his/her designee(s) for a background check by the El Monte Police Department. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a commercial medicinal cannabis business or a related work permit unless they have first cleared the background check, as determined by the Chief of Police or designee(s), as required by this Chapter 5.18. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial medicinal cannabis business permit is submitted.
- N. Loitering. The owner and/or operator of a commercial medicinal cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- O. Additional operating requirements may be added through the review of the conditional use permit and development agreement process.
- P. If a commercial medicinal cannabis business permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), members of the applicant authorized to possess cannabis shall sign an agreement with the commercial medicinal cannabis business which states that members shall not distribute cannabis or cannabis products to non-members or in violation of the "Memorandum for all United States Attorneys," issued by the United States Department of Justice, from James M. Cole, Deputy Attorney General and any other applicable state and federal laws, regulations, or guidelines.
- Q. If the commercial medicinal cannabis business permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), the commercial medicinal cannabis business shall terminate the membership of any member violating any of the provisions of this Title.

#### **Section 5.18.240 – Additional Operational Requirements.**

The City Manager or designee may develop additional commercial medicinal cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

#### **Section 5.18.250 – Operating Requirements for Cultivation Facilities.**

- A. Cultivation facilities must operate at all times in accordance with state law.
- B. Cultivation facilities may locate within appropriate areas as described in Section 17.24.040(34), subject to the regulations set forth in this Chapter

5.18, and subject to whatever additional regulations may be promulgated hereunder by the City Council or designee.

- C. Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors. All outdoor cultivation is prohibited.
- D. In no case, shall cannabis plants be visible from the facility's parking lot, a public or private road, sidewalk, park, or any common public viewing area.
- E. Commercial medicinal cannabis cultivation in this City shall only be allowed to cultivate within canopy space limitations under state law.
- F. Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- G. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- H. In no case shall any hazardous, flammable, or explosive substances be used to process or manufacture cannabis products on site, unless a separate medicinal commercial cannabis permit is issued for the premises, which allows the use of such substances (e.g. manufacturing).
- I. The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial medicinal cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- J. All applicants for a medicinal cannabis cultivation permit shall submit the following in addition to the information generally otherwise required for a commercial medicinal cannabis business:
  - 1. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation, and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).
  - 2. A description of a legal water source, irrigation plan, and projected water use.
  - 3. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related regulations, codes, and/or rules.
  - 4. Plan for addressing odor and other public nuisances which may derive from the cultivation site.
- K. Additional operating requirements may be added through the review of the conditional use permit and development agreement process.

**Section 5.18.260 – Cannabis Manufacturing: Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products.**

The manufacturing of food or other products infused with or which otherwise contain cannabis may be manufactured within the appropriate areas as set forth



in Section 17.24.040(34), subject to state law, the regulations set forth in this Chapter 5.18, and whatever additional regulations may be promulgated hereunder by an the City Council or designee.

**Section 5.18.270 – Packaging and Labeling.**

- A. The packaging and labeling of edible cannabis or edible cannabis products shall comply at all times with state law.
- B. Before a commercial medicinal cannabis manufacturer prepares any edible cannabis or edible cannabis product for retail sale, it shall be labeled and placed in tamper-evident packaging which at least meets the requirements of California Business and Professions Code Section 19347, as the same may be amended from time-to-time or superseded or replaced by subsequent state legislation or by any department or division of the State of California.
- C. All items to be sold or distributed shall be individually wrapped at the original point of preparation by the business permitted as a commercial cannabis manufacturer.
- D. Labeling must include a warning if nuts or other known allergens are used, and must include the total weight (in ounces or grams) of cannabis in the package.
- E. A warning that the item is a medication and not a food must be clearly legible on the front of the package and/or must comply with state packing requirements.
- F. The package must have a label warning that the product is to be kept away from children.
- G. The label must also state that the product contains cannabis and must specify the date of manufacture and the manufacturer's information, including, but not limited to, address, phone number, and commercial medicinal cannabis business permit number.
- H. Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled opaque (non-see-through) package before it leaves the commercial cannabis manufacturing business.
- I. Distributions must be in a properly labeled opaque package when distributed.
- J. The City Council, or designee, may impose additional packaging and labeling requirements on cannabis or cannabis products.

**Section 5.18.280 – Operating Requirements for Cannabis Manufacturing (Levels One and Two), Extraction, and the Like**

- A. Cannabis manufacturing facilities shall comply with state law at all times.
- B. Cannabis manufacturing facilities requiring a Type-6 or Type-7 state license (using non-volatile and volatile solvents) as defined in California Business and Professions Code Section 19341, may be permitted to operate within those areas as set forth in Section 17.24.040(34).
- C. Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers that exceeds the amount which is approved by the Fire Department and authorized by the regulatory permit. Each site or parcel subject to a commercial medicinal cannabis business permit shall be limited to a total number of tanks as authorized by the Fire Department on the property at any time.
- D. Cannabis manufacturing facilities may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to

minimal potential human-related toxicity approved by the City. These solvents must be of at least ninety-nine percent purity and any extraction process must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

- E. If an extraction process uses a professional grade closed loop CO<sub>2</sub> gas extraction system where every vessel is certified by the manufacturer for its safe use as referenced in Subsection F of this Section, the CO<sub>2</sub> must be of at least ninety-nine percent purity.
- F. Closed loop systems for compressed gas extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.
- G. Certification from an engineer licensed by the State of California must be provided to the Economic Development Department for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
  - 1. The American Society of Mechanical Engineers (ASME);
  - 2. American National Standards Institute (ANSI);
  - 3. Underwriters Laboratories (UL); or
  - 4. The American Society for Testing and Materials (ASTM).
  - 5. The certification document must contain the signature and stamp of the professional engineer and serial number of the extraction unit being certified.
- H. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Fire Department and meet any required fire, safety, and building code requirements specified in the California Building Codes.
- I. Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- J. Cannabis manufacturing facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. All Ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- K. Cannabis manufacturing facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- L. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
- M. Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.
- N. Additional manufacturing requirements may be added through the review of the conditional use permit and development agreement process.



#### **Section 5.18.290 – Promulgation of Regulations, Standards and Other Legal Duties**

- A. In addition to any regulations adopted under state law or by the City Council, the City Manager or designee is authorized to establish any additional rules, regulations, and standards governing the issuance, denial or renewal of commercial medicinal cannabis business permits, the ongoing operation of commercial medicinal cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter 5.18.
- B. Regulations shall be published on the City's website.
- C. Regulations promulgated by the City Manager shall become effective upon date of publication. Commercial medicinal cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or designee(s).
- D. Testing Labs and distribution facilities shall be subject to state law and shall be subject to additional regulations as determined from time to time as more regulations are developed pursuant to this Chapter 5.18.

#### **Section 5.18.300 – Community Relations.**

- A. Each commercial medicinal cannabis business shall provide the name, telephone number, and e-mail address of a community relations contact to whom notice of problems associated with the commercial medicinal cannabis business can be provided. Each commercial medicinal cannabis business shall also provide the above information to all businesses and residences located within one hundred and fifty (150) feet of the commercial medicinal cannabis business.
- B. During the first year of operation pursuant to this Chapter 5.18, the owner, manager, and community relations representative from each commercial medicinal cannabis business holding a permit issued pursuant to this Chapter 5.18 shall attend a quarterly meeting with the City Manager or designee(s) and other interested parties as deemed appropriate by the City Manager or designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter 5.18. After the first year of operation, the owner, manager, and community relations representative from each such commercial medicinal cannabis business shall meet with the City Manager or designee(s) when and as requested by the City Manager or designee(s).
- C. Commercial medicinal cannabis businesses to which a permit is issued pursuant to this Chapter 5.18 shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

#### **Section 5.18.310 – Fees Deemed Debt to City of El Monte.**

The amount of any fee, cost or charge imposed pursuant to this Chapter 5.18 shall be deemed a debt to the City that is recoverable via authorized processes as set forth in the El Monte Municipal Code or available through any court of competent jurisdiction.

#### **Section 5.18.320 – Permit Holder Responsible for Violations.**

The person to whom a permit is issued pursuant to this Chapter 5.18 shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or

about the premises of the commercial medicinal cannabis business whether or not said violations occur within the permit holder's presence.

#### **Section 5.18.330 – Inspection and Enforcement.**

- A. The City Manager, Chief of Police, or designee(s) charged with enforcing the provisions of the El Monte Municipal Code, or any provision thereof, may enter the location of a commercial medicinal cannabis business at any time, without notice, and inspect the location of any commercial medicinal cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter 5.18 or under applicable provisions of state law.
- B. It is unlawful for any person having responsibility over the operation of a commercial medicinal cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings, or other documents required to be maintained by a commercial medicinal cannabis business under this Chapter 5.18 or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial medicinal cannabis business under this Chapter 5.18 or under state or local law.
- C. The City Manager, Chief of Police, or designee(s) charged with enforcing the provisions of this Chapter 5.18 may enter the location of a commercial medicinal cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City shall be logged, recorded, and maintained in accordance with the El Monte Police Department standards for evidence.

#### **Section 5.18.340 – Concurrent Regulation with State.**

It is the stated intent of this Chapter 5.18 to regulate commercial medicinal cannabis activity in the City of El Monte concurrently with the State of California.

#### **Section 5.18.350 – Violations Declared a Public Nuisance.**

Each and every violation of the provisions of this Chapter 5.18 is hereby deemed unlawful and a public nuisance.

#### **Section 5.18.360 – Each Violation a Separate Offense.**

Each and every violation of this Chapter 5.18 shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the El Monte Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter 5.18 shall be subject to injunctive relief, any permit issued pursuant to this Chapter 5.18 being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial medicinal cannabis business or persons related to, or associated with, the commercial medicinal cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, Chief of Police, or designee(s), may take immediate action to temporarily suspend a commercial medicinal cannabis business permit issued by the City, pending a hearing before the City Council.

#### **Section 5.18.370 – Criminal Penalties.**

Each and every violation of the provisions of this Chapter 5.18 may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment.



Each day a violation is committed or permitted to continue shall constitute a separate offense.

**Section 5.18.380 – Remedies cumulative and not exclusive.**

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

**SECTION 6. Inconsistent Provisions.** Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to implement the provisions of this Ordinance.

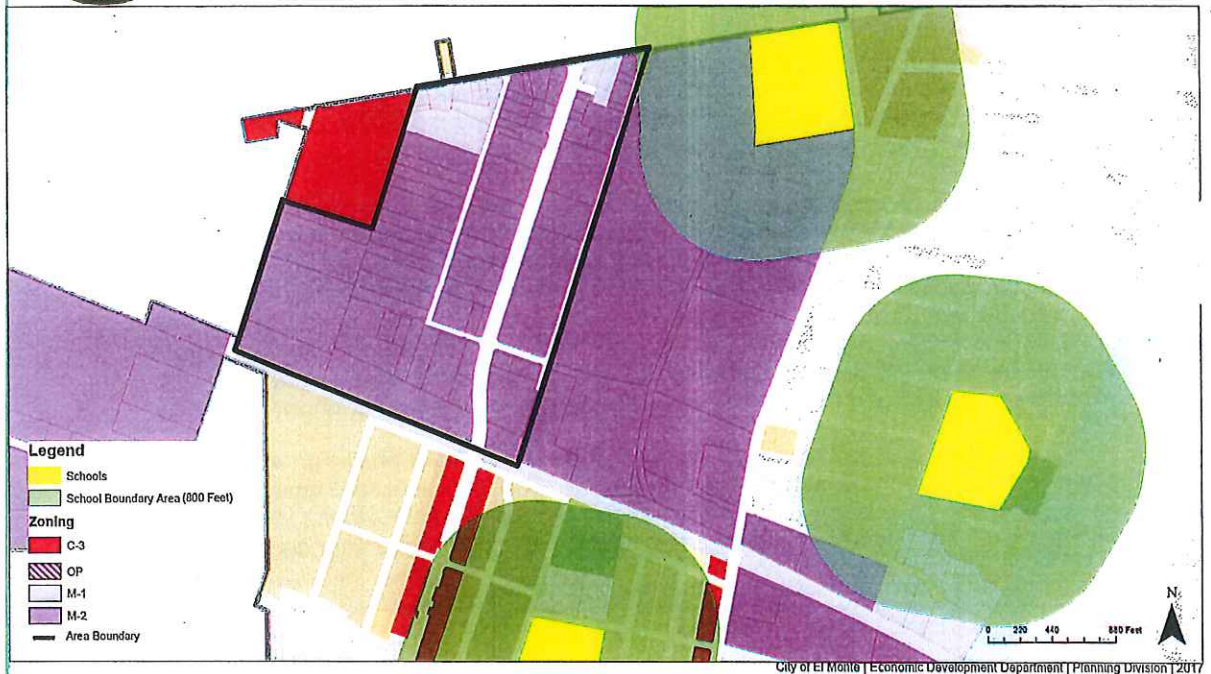
**SECTION 7. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each 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 would be subsequently declared invalid or unconstitutional.

**SECTION 8. Publication and Effective Date.** The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in a newspaper of general circulation within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days after adoption.

## EXHIBIT "A"



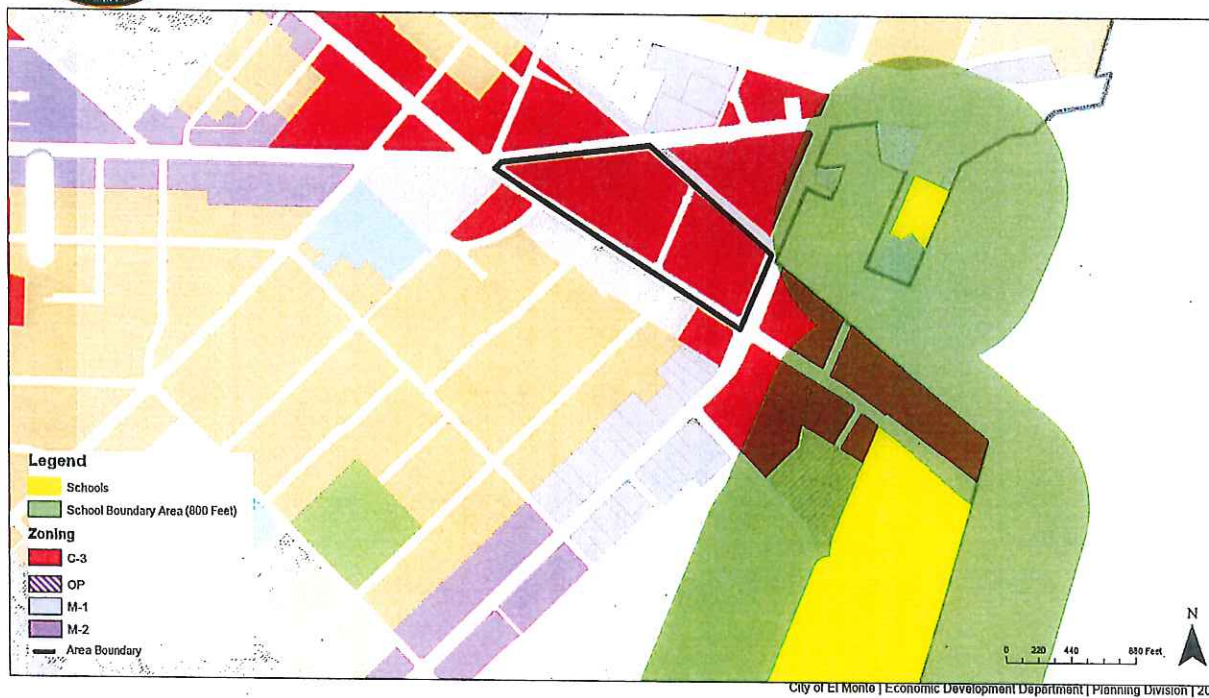
### Medicinal-Only Commercial Cannabis Northwest Area





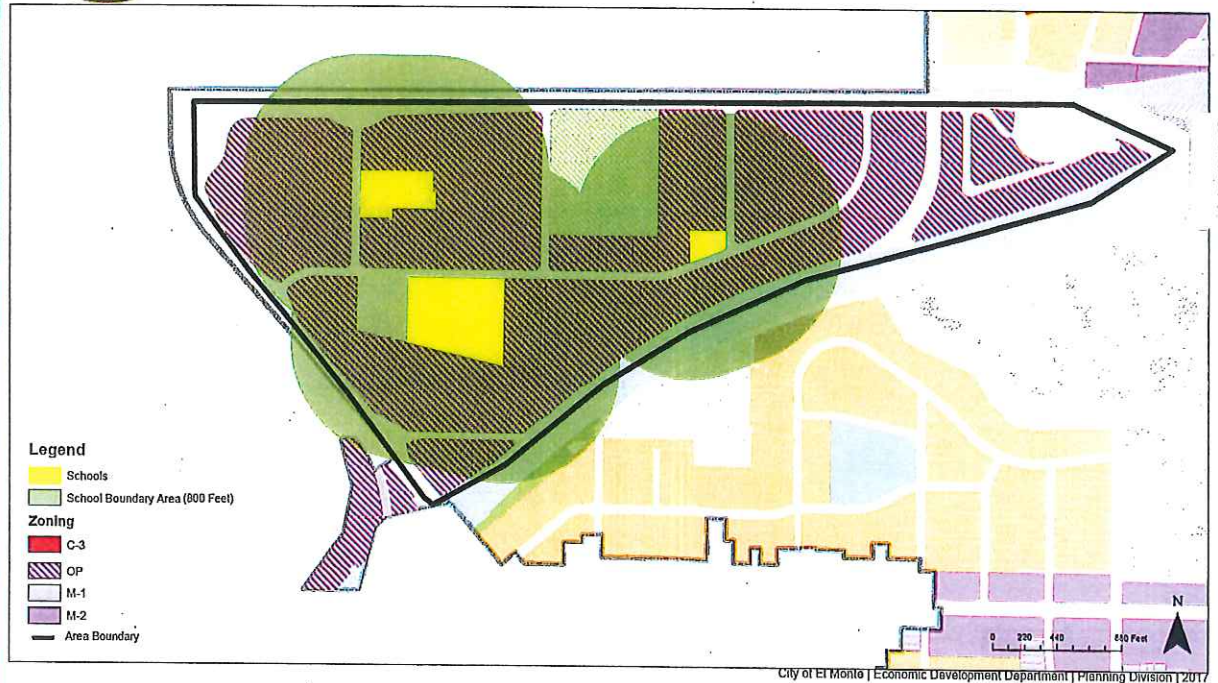


Medicinal-Only Commercial Cannabis  
East Valley Entryway Area






Medicinal-Only Commercial Cannabis  
Flair Park Area



PASSED, APPROVED AND ADOPTED by the City Council of the City of El Monte at the regular meeting of this 8th day of November, 2017.

  
Andre Quintero, Mayor  
City of El Monte

ATTEST:

  
Jonathan Hawes, City Clerk  
City of El Monte



STATE OF CALIFORNIA                     )  
COUNTY OF LOS ANGELES            )  
CITY OF EL MONTE                    )     SS:


I, Jonathan Hawes, City Clerk of the City of El Monte, hereby certify that the foregoing Ordinance No. 2924 was introduced for a first reading on the 3rd day of October, 2017 and approved for a second reading and adopted by said Council at its regular meeting held on the 8th day of November, 2017 by the following vote, to-wit:

AYES:       Mayor Quintero, Mayor Pro Tem Velasco, Councilmember Martinez

NOES:       None

ABSTAIN:   None

ABSENT:     Councilmembers Gomez and Macias

  
Jonathan Hawes, City Clerk  
City of El Monte