

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF MONTEBELLO, CALIFORNIA, AMENDING
CHAPTER 5.90 OF THE MONTEBELLO MUNICIPAL
CODE PERTAINING TO COMMERCIAL CANNABIS
ACTIVITIES**

WHEREAS, the City of Montebello (“City”) is a general law city, incorporated under the laws of the State of California, with the power to make and enforce within its jurisdictional limits all local, police, sanitary, land use, and other ordinances and regulations not in conflict with general laws of the state;

WHEREAS, in 1996, California voters approved the Compassionate Use Act (“CUA”), the purpose of which was to ensure that persons needing cannabis for medical purposes have the freedom to use it without fear of criminal prosecution;

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 to enact the “Medical Marijuana Program Act” (“MMP”) to clarify the scope of the CUA and provide qualifying patients and their primary caregivers criminal immunities for the collective or cooperative cultivation of cannabis for medical purposes;

WHEREAS, neither the CUA nor MMP impact cities’ rights to regulate or entirely prohibit the cultivation, manufacture, or distribution of cannabis within their jurisdictions, and accordingly in 2013 the City Council adopted an Ordinance enacting Chapter 9.30 which, among other things, prohibited the cultivation or distribution of medical cannabis within City limits, which was amended and updated by Ordinance No. 2365 adopted on January 28, 2015;

WHEREAS, in October 2015, a citizen-sponsored initiative petition was circulated proposing to legalize medical cannabis cultivation and distribution in the City, and the petition received approximately 3,000 signatures from City residents;

WHEREAS, in 2016, the Legislature approved the “Comprehensive Medical Cannabis Regulation and Safety Act,” enacting a licensing and regulatory scheme for medical cannabis, and thereby further refining and regulating medical cannabis activities;

WHEREAS, on November 8, 2016, California voters approved Proposition 64, the “Adult Use of Marijuana Act (the “AUMA”), which became effective immediately and enacted a statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacture, distribution, testing, and sale of non-medical cannabis and cannabis products for use by adults aged twenty-one (21) and older;

WHEREAS, the AUMA immediately legalized the personal cultivation of up to six (6) cannabis plants upon the grounds of a private residence, and allowed cities to regulate but not prohibit indoor personal cultivation activities, but authorized cities to regulate or prohibit outdoor personal cultivation activities;

WHEREAS, the AUMA's legalization of commercial cannabis activities, including but not limited to the cultivation, manufacture, testing, or sale of cannabis and cannabis products, was stayed pending the State's development of regulations and a permitting scheme which are required to be in place by January 1, 2018, at which point such commercial cannabis activities will be legal in the State of California;

WHEREAS, in anticipation of voters approving the AUMA, and to provide staff time to review regulatory options, on October 26, 2016, the City Council adopted Urgency Ordinance declaring and establishing a temporary moratorium on all commercial cannabis-related activities proposed to be legalized under the AUMA ("Moratorium"), which was extended by the City Council in November 2016;

WHEREAS, following enactment of the AUMA, on January 25, 2017, the City Council adopted Ordinance No. 2393 to regulate and establish a permitting scheme for the indoor personal cultivation of cannabis, and to prohibit the outdoor personal cultivation of cannabis, both as authorized by the AUMA;

WHEREAS, in preparation for implementation of the AUMA, the State has prepared regulations governing commercial cannabis activities and will begin issuing licenses for such activities on or before January 1, 2018, and cities throughout California have been reviewing their existing regulatory schemes and policies to prepare for the prohibition, regulation, or permitting of various commercial cannabis activities authorized by the AUMA;

WHEREAS, the City Council of the City of Montebello is dedicated to regulating the operation of businesses and uses of land in the community in a manner that satisfies the needs and desires of the community, is flexible to changes in State laws and policies, and which identifies and takes advantage of new sources of revenue so that vital public services may be adequately funded;

WHEREAS, over the past decade the State's regulation of medical and commercial cannabis activities has changed significantly, local governments' treatment of medical and commercial cannabis activities has responded in kind, and the City has continually evaluated its regulation of such activities in light of local planning and fiscal goals and objectives, and particularly the desires of the community;

WHEREAS, several cities in Los Angeles County, including those neighboring Montebello, have adopted or are in the process of adopting local ordinances that permit and regulate commercial cannabis activities, and the City's Economic Development Subcommittee has recommended that the City Council revise the City's existing regulations to address regulatory changes at the State and local levels of government, and to take advantage of potential new local revenue opportunities;

WHEREAS, in light of voter's overwhelming approval of the AUMA, the initiative petitions that have been circulated in Montebello proposing to permit various cannabis-related activities, the State laws and regulations that will impose stringent operating and licensing

requirements on cannabis businesses, and the ever-increasing revenue needs of the City, the City Council of the City of Montebello has determined that it is prudent and desirable to allow certain cannabis-related activities and businesses to operate in the City, provided that the location and manner of such activities and businesses is be subject to stringent local regulation; and

WHEREAS, accordingly the City Council of the City of Montebello desires to adopt this Ordinance to accomplish the above-described purposes, and in so doing finds and declares that this Ordinance constitutes a valid exercise of police power in accordance with Article 11, Section 7 of the California Constitution, is consistent with the language and intent of the AUMA, and furthers the health, safety, and general welfare of the residents of the City of Montebello.

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

SECTION 1. Incorporation of Recitals

The City Council for the City of Montebello finds and declares that the foregoing recitals are true and correct, and incorporates said recitals fully into this Ordinance as substantive findings.

SECTION 2. Chapter 5.90, “Cannabis Cultivation, Manufacturing, and Testing,” of the Montebello Municipal Code, is hereby repealed in its entirety and replaced with the following:

Chapter 5.90 – Commercial Cannabis Activities

5.90.010	Definitions
5.90.020	Commercial Cannabis Activities Prohibited; Exceptions
5.90.030	Relationship to other laws
5.90.040	Cannabis Cultivation, Manufacturing, and Testing Facilities
5.90.050	Application Requirements; Development Agreement and Conditional Use Permit Required
5.90.060	Permitted Zones and Locations; Outdoor Activities Prohibited
5.90.070	No Transfer or Change in Ownership or Location
5.90.080	Nonconforming Uses
5.90.090	Fees and Charges
5.90.100	Limitation on Liability
5.90.110	Inspections
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5.90.150	Interpretation
5.90.160	Severability

Section 5.90.010 Definitions

For purposes of this chapter, the following definitions shall apply:

“Act” shall mean the California Medical and Adult-Use Cannabis Regulation and Safety Act, as in Business & Professions Code section 26000 *et seq.*

“Applicant” shall mean and refer to a person applying for a development agreement pursuant to this chapter.

“Bureau” shall have the same meaning as in Section 26001(e) of the Business and Professions Code, as the same may be amended from time to time.

“Cannabis” shall have the same meaning as in subsection (f) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Cannabis accessories” shall have the same meaning as in subsection (g) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Cannabis concentrate” as used in this chapter shall have the same meaning as in subsection (h) of Section 26001 of the Business and Professions Code.

“Cannabis products” as used in this chapter shall have the same meaning as in subsection (i) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Commercial cannabis activity” shall have the same meaning as in subsection (k) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time, as the same may be amended from time to time.

“Cultivation” shall have the same meaning as in of subsection (l) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Cultivation site” as used in this chapter shall have the same meaning as in subsection (m) of Business and Professions Code section 26001, as the same may be amended from time to time.

“Customer” as used in this chapter shall have the same meaning as in subsection (n) of Business and Professions Code section 26000, as the same may be amended from time to time.

“Day care center” as used in this chapter shall have the same meaning as in subsection (o) of Business & Professions Code section 26001, as the same may be amended from time to time.

“Development agreement” as used in this chapter shall mean the agreement entered into between a person and the City authorizing said person to engage in commercial cannabis activity within the City’s jurisdictional boundaries.

“Delivery” shall have the same meaning as set forth in subsection (p) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Distribution” shall have the same meaning as in subsection (j) of Section-26001 of the Business and Professions Code, as the same may be amended from time to time.

“Distributor” shall have the same meaning as in subsection (a)(2) of Section 26070 of the Business and Professions Code, as the same may be amended from time to time.

“License” shall have the same meaning as in subsection (y) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Licensee” shall have the same meaning as in subsection (z) of Business and Professions Code section 26000, as the same may be amended from time to time.

“Manufacture” shall have the same meaning as in subsection (ag) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Manufacturer” shall have the same meaning as in subsection (ah) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Manufacture site” shall mean a location where a person conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Microbusiness” shall have the same meaning as in subsection (a)(3)(A) of Section 26070 of the Business and Professions Code, as the same may be amended from time to time.

“Operation” or “operate” shall have the same meaning as in subsection (ak) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Owner” as used in this chapter shall have the same meaning as in subsection (al) of Business and Professions Code section 26001, as the same may be amended from time to time.

“Permittee” shall mean a person that has entered into a development agreement with the City authorizing said person to engage in commercial cannabis within the City’s jurisdictional boundaries.

“Person” shall have the same meaning as in subsection (an) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Premises” shall have the same meaning as in subsection (ap) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Purchaser” shall have the same meaning as in subsection (ar) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Regulations” shall mean the regulations in the California Code of Regulations (Title 16, Div. 24) to implement, interpret, and make specific the Act, and providing licensing and enforcement criteria for commercial cannabis businesses in California.

“Retailer” or “retail” shall have the same meaning as in subsection (a)(1) of Section 26070 of the Business and Professions Code, as the same may be amended from time to time.

“Sell,” “sale,” and “to sell” shall have the same meaning as in subsection (as) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Testing laboratory” shall have the same meaning as in subsection (at) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

“Youth Center” as used in this chapter shall have the same meaning as in subsection (av) of Section 26001 of the Business and Professions Code, as the same may be amended from time to time.

Section 5.90.020 Commercial Cannabis Activities Prohibited; Exceptions

A. It shall be unlawful for any person to operate, cause, allow, assist, participate in, engage in, or in any way conduct any commercial cannabis activity within the City, including but not limited to the cultivation, delivery, distribution, manufacture, testing, transport, retail, microbusiness, purchase, sale, testing, distribution, giving away, or otherwise transferring of cannabis or cannabis products, or any other activities for which a license is available under the Act or the Regulations.

B. The prohibitions of subsection (A) shall not apply to the following persons, provided said person operates the specified activity in strict accordance with state law and this Code: (1) a clinic, licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; (2) health care facility, licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; (3) a residential care facility for persons with

chronic life-threatening illness, licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; (3) a residential care facility for the elderly, licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; (4) a residential hospice or home health agency, licensed pursuant to Chapter 8 of the Health and Safety Code; (5) personal indoor cultivation in compliance with Chapter 9.60 of this Code; (6) a licensee's transportation of cannabis or cannabis products on public roads pursuant to subsection (b) of Section 26080 of the Business and Professions Code, as the same may be amended from time to time; or (7) a permittee under this chapter, provided that said person has entered into a development agreement with the City, has been granted a conditional use permit pursuant to Chapter 17.70, has been issued the requisite license from the Bureau, and otherwise complies, at all times, with the provisions of this Code.

Section 5.90.030 Relationship to other laws

Except as otherwise provided herein, this chapter incorporates the requirements of the Act and Regulations. In the event of any conflict between the provisions of this chapter and the provisions of the foregoing, the more restrictive provision shall control.

Section 5.90.040 Cannabis Cultivation, Manufacturing, and Testing Facilities

A. No person shall operate a cultivation site, manufacturing site, or testing laboratory in the City, or otherwise engage in the cultivation, manufacture, or testing of cannabis or cannabis products, for profit or otherwise, except in strict accordance with this chapter, the terms and conditions of the development agreement, any conditions of approval specified in the conditional use permit, and other applicable provisions of this Code.

B. The effectiveness of any provision in this Chapter that provides for the operation of specified commercial cannabis activities in the City is conditioned upon the City Council's adoption of an amendment to Title 17 of this Code adding cannabis cultivation sites, manufacturing sites, and/or testing laboratories, as applicable, as an authorized land use in the City.

Section 5.90.050 Application Requirements; Development Agreement and Conditional Use Permit Required

A. The City Council may, in its sole discretion, approve and direct the issuance of a notice inviting applications, a request for applications, or similar solicitation inviting persons interested in operating commercial cannabis activities in the City to submit an application for a development agreement.

B. Whether to issue a solicitation for applications, the manner of accepting applications, the manner of application review, and whether to approve or deny any such application shall be subject to the sole and absolute discretion of the City Council. The criteria utilized in evaluating or scoring any application for a development agreement shall be that specified in this chapter, elsewhere in this code, or in the solicitation for

applications issued by the City Council. Subject to the discretion of the City Council, the solicitation may include provisions pertaining to: the information required to be submitted by applicants, including but not limited to the application information specified in the Regulations for a license from the Bureau; the City's application review, vetting, and approval processes; the review and scoring criteria that will be utilized by the City in distinguishing among applicants; applicant background checks and verification requirements; conditions of approval; security features and requirements; operating guidelines, standards, limitations, and requirements; site improvement obligations; maintenance requirements; book, accounting, and record keeping requirements; and/or a draft development agreement.

C. A development agreement approved by the City Council is required before any person operates a cultivation site, manufacturing site, or testing laboratory in the City. Said development agreement shall set forth the terms and conditions under which the commercial cannabis activities may be operated, in addition to the terms and conditions otherwise set forth in this Chapter or elsewhere in this Code. Subject to the agreement of any permittee and approval of the City Council, such additional terms and conditions of the development agreement may include, but are not limited to, public outreach and education requirements, community service requirements, the payment of mutually agreeable fees and charges, development and operating plans (including site plan, floor plan, and elevations), security measures, operating standards and procedures, site location and design standards, and such other terms and conditions as may be agreed upon by a permittee and the City Council, as well as those that the City Council deems necessary to protect and promote the public health, safety, and welfare of the community.

D. In addition to a development agreement, no person shall operate a cultivation site, manufacturing site, or testing laboratory unless and until a conditional use permit therefor has been approved by the Planning Commission or City Council, as applicable, in accordance with Chapter 17.70 of this Code. The application process for the conditional use permit shall be the same as is generally applicable to conditional use permits in the City, provided that a development agreement between the permittee and the City shall be a condition precedent to approving a conditional use permit.

E. Nothing in this chapter is intended or shall be construed as requiring the City Council to approve or any development agreements or to otherwise allow commercial cannabis activities in the City. No application for a development agreement will be accepted except during the times specified by the City Council in a solicitation for applications. The City Council's solicitation for, review of, and approval of any application for a development agreement is discretionary, and nothing in this chapter is intended or shall be interpreted as rendering commercial cannabis activities a "by-right" land use in the City.

Section 5.90.060 Permitted Zones; and Locations—~~Restrictions~~; Outdoor Activities Prohibited

A. No commercial cannabis activities shall be permitted in the City except in the zones and locations authorized by Title 17, and except upon the specific premises identified in a permittee's development agreement and conditional use permit.

B. No commercial cannabis activities shall be operated except within a fully enclosed and permanent building. For purposes of this section, the phrase "fully enclosed and permanent building" shall mean a structure having a roof that is enclosed on all sides and is intended and has a useful life appropriate for long-term use, as contrasted with a "temporary building" that is not designed or intended to be permanently located, placed, or affixed to the premises.

Section 5.90.070 No Transfer or Change in Ownership or Location

A. No permittee may sell, transfer, pledge, assign, grant an option, or otherwise dispose of, in whole or in part, their rights or interest under a development agreement entered into pursuant to this chapter, and no owner may sell, transfer, pledge, assign, grant an option, or otherwise dispose of, in whole or in part, their ownership interest in a cultivation site, manufacturing site, or testing laboratory permitted under this chapter, without the advanced discretionary approval of the City Council. Before approving any such request, the City may require the purchaser, assignee, or transferee to provide the same information and materials that are required of an initial applicant, including the payment of associated fees.

B. Before exercising any rights under a development agreement, permittees shall demonstrate proof of lawful possession of the premises where commercial cannabis activities will be operated with such evidence consisting of properly executed deeds of trust, leases, licenses, or similar documents evidencing the permittee's right to possession and use of the premises. Subject to the criteria specified by the City Council in a solicitation for applications, a development agreement may be awarded contingent upon an applicant's subsequent identification of a premises that is acceptable to the City, or subject to an applicant's provision of an option, letter of intent, or similar instrument executed by the current owner of the proposed premises in favor of a permittee or applicant authorizing commercial cannabis activities to be operated thereon.

C. A permittee shall only operate commercial cannabis activities within the area, building, structure, and portion of the premises that is specifically described in development agreement and/or conditional use permit. A permittee shall not relocate, move, or otherwise alter the location of its operations from the specific area so identified without first obtaining approval from the City, regardless of any possessory interest or right to possession to such additional areas. No permittee shall add additional or contiguous units or areas, thereby altering the initially approved premises, without first obtaining the approval of the City Council.

D. No permittee shall sublet, transfer, or otherwise assign any portion of any approved premises for any purpose, unless approved in advance by the City Council.

E. No permittee shall make any physical change, alternation, or modification to the approved premises that materially or substantively alters, in the discretion of the Building Official, the location, production estimates, or the usage of the premises from the plans approved in the development agreement and/or conditional use permit, without the advanced approval of the City Council. For purposes of this subsection, the phrase “materially or substantively alters” shall mean any physical change, alternation, or modification to the area of the premises identified a development agreement or conditional use permit for the operation of commercial cannabis activities that either: (1) increases the capacity or scope of commercial cannabis activities by 5% or more, or (2) requires a building permit under this Code.

Section 5.90.080 Nonconforming Uses

Any premises, location, or person establishing or operating commercial cannabis activities in the City in violation of this chapter shall not be considered a lawful or permitted nonconforming use. Any such unlawfully established business, location, or operation shall constitute a public nuisance subject to abatement by the City.

Section 5.90.090 Fees and Charges

A. Each applicant or permittee shall timely and fully pay all fees set forth in this section. The failure of an applicant to pay the requisite fees is grounds for denial, and the failure of a permittee to pay the requisite fees shall constitute a breach of the development agreement, and is grounds for revocation of the conditional use permit. Except as otherwise provided herein, the amount of each fee may be established by resolution of the City Council.

1. Application fee to cover the City’s costs incurred in the initial acceptance and review of an application for a development agreement, due and payable in full at the time an application is submitted.

2. Processing fee to cover the City’s costs incurred in the review, investigation, scoring, and/or selection of applicant for the award of a development agreement, in accordance with evaluation criteria specified by the City Council in a notice inviting applications, a request for applications, or similar solicitation, due and payable in full at the time an application is submitted. The City may charge a separate processing fee for each round of the application review and selection process.

B. In addition to the fees specified in subsection (A), applicants and permittees shall timely pay all other applicable fees provided for in this Code, including, but not limited to, fees associated with processing applications for conditional use permits, development agreements, building permits, and plan checks, as well as the City’s cost of preparing a development agreement.

C. In addition to the fees set forth in this section, a development agreement entered into pursuant to this chapter may provide for a permittee to pay the City a fair share contribution towards the City's costs incurred in, without limitation, enforcing the provisions of this chapter, inspecting for and remediating any direct or secondary negative impacts of the commercial cannabis activities, and mitigating impacts to the City's existing public facilities caused by the commercial cannabis facility. If applicable, the remediation payments described in this section shall be memorialized in a development agreement, and paid by a permittee to the City in strict accordance with the terms thereof.

Section 5.90.100 Limitation on Liability

A. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to receiving, ~~or~~ reviewing, processing, denying, or approving any application to operate commercial cannabis activities under this chapter.

B. As a condition of submitting an application for a development agreement, and as a further condition of approval, each applicant or permittee, as applicable, shall: (1) agree to indemnify the City and its elected and appointed officers, employees, and representatives, from and against any claims, damages, injuries, or liabilities of any kind relating to or arising from an application, the City's denial or approval of an application, or the operation of commercial cannabis activities; (2) waive any and all claims, damages, injuries, or liabilities of any kind against the City and its elected and appointed officers, employees, and representatives; (3) agree to defend, at its sole cost and expense, any action against the City and/or its elected and appointed officers, employees, and representatives, relating to or arising from an application, denial or approval of an application, or the operation of a commercial cannabis activity; and (4) agree to reimburse the City for any court costs and attorneys' fees (with legal counsel of the City's choice) incurred in any legal challenge relating to an application, the denial or approval of any application, or the operation of a commercial cannabis activity.

Section 5.90.110 Inspections

The City Manager, local law enforcement or code enforcement, or other public safety personnel, shall have the right to enter any and all portions of a premises from time to time, without notice, a search warrant, inspection warrant, subpoena, or court order, between the hours of 10:00 a.m. and 8:00 p.m., or any other reasonable time, to ensure compliance with this chapter, the Act, the Regulations, and any provision or condition of the development agreement or conditional use permit. Such inspection shall include the authority to review or copy any recordings, documents, or other records required to be maintained on the premises. It is unlawful for any permittee, owner, landlord, lessee, employee, or any other person having any responsibility over the operation of the premises to refuse to allow, impede, obstruct or interfere with an inspection or the review or copying of records required under this chapter, including but not limited to, the concealment, destruction, and falsification of any recordings, records, or monitoring.

Section 5.90.120 Records

A. Permittees shall maintain records at the premises accurately and truthfully documenting the following:

1. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the premises;
2. The full name, address, and telephone number(s) of all persons or owners who are engaged in the management of the premises, and the exact nature of each member's participation in the management or ownership of the premises.
3. All receipts of the premises, including but not limited to all payments, purchases, contributions, reimbursements, and reasonable compensation, whether in cash or in kind, concerning commercial cannabis activities, whether among licensees or otherwise.
4. Proof of compliance with the Act and Regulations, including but not limited to the license issued by the Bureau authorizing a permittee to operate commercial cannabis activities on the premises.
5. Any other documentation described in the development agreement required to be maintained on the premises.

B. The foregoing records shall be maintained by permittees for a period of seven (7) years and shall be made available by the permittee to the Montebello Police Department, other local law enforcement, or the City Manager upon request. If such records are not produced as requested, the City may seek a search warrant, subpoena, or court order to compel access thereto. The records shall be stored at the premises in a manner capable of being reproduced promptly and accurately. Any loss, damage or destruction of the records shall be reported to the Montebello Police Department within twenty-four (24) hours of the loss, destruction or damage.

Section 5.90.130 Audits

No later than February 15 of every calendar year, each permittee shall file with the city one (1) copy of an audit of its operations for the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include, but not be limited to, a discussion, analysis, and verification of each of the records required to be maintained pursuant to this chapter.

Section 5.90.140 Violations

A. The City may initiate abatement proceedings as authorized by this Code or state law to correct or cure any violation of this chapter or Code. The City shall be entitled to recover its courts costs and reasonable attorneys' fees in the event of a ~~successful~~ court order or judgment of abatement is entered in favor of the City.

B. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable pursuant to Section 1.12.010 of this Code.

C. The penalties and remedies provided herein are in addition to other remedies available at law, and the City shall have the discretion to pursue and prosecute any such available remedy.

Section 5.90.150 Interpretation

The provisions of this chapter shall be read consistent with all the provisions of state and local law, and their implementing regulations, as well as the other provisions of this Code.

Section 5.90.160 Severability

Should any provision of this chapter, or its application to any persons or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this chapter or the application of this chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 3. CEQA. The City Council, on the basis of the whole record and exercising independent judgment, finds that this Ordinance is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. Each of the actions or activities authorized by this Ordinance are subject to future and speculative discretionary actions of the City Council, and according environmental review of any resulting impacts is premature.

SECTION 4. SEVERABILITY. If any section, subsection, line, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied, by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Montebello hereby declares that it would have passed this Ordinance, and each and every individual section, subsection, line, sentence, clause, phrase, or word without regard to any such decision.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after approval by the City Council.

SECTION 6. PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance causing it to be posted as required by law.

PASSED, APPROVED AND ADOPTED this __th day of February, 2018.

Vanessa Delgado, Mayor

APPROVED AS TO FORM:

ATTEST:

Arnold M. Alvarez-Glasman
City Attorney

Irma Bernal-Barajas
City Clerk