

ORDINANCE NO. 1019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ADDING CHAPTERS 5.56 AND 17.43 TO THE LANCASTER MUNICIPAL CODE RELATING TO THE REGULATION OF CANNABIS CULTIVATION

WHEREAS, in 1996 the voters of the State of California approved Proposition 215, the “Compassionate Use Act of 1996” (the “CUA”), codified as Health and Safety Code Section 11362.5; and

WHEREAS, the intent of the CUA was to enable persons who are in need of cannabis for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances; and

WHEREAS, Senate Bill 420 (2004), codified as Health and Safety Code Sections 11362.7 *et seq.* (the “Medical Cannabis Program”), clarifies the scope of the CUA and provides qualifying patients and primary caregivers who collectively or cooperatively cultivate cannabis for medical purposes a limited defense to certain specified state criminal statutes; and

WHEREAS, Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amend the Medical Cannabis Program to expressly recognize the authority of counties and cities to (i) adopt local ordinances that regulate the location, operation, or establishment of a medical cannabis cooperative or collective, and (ii) civilly and criminally enforce such ordinances; and

WHEREAS, the CUA and Medical Cannabis Program, as amended, primarily address the criminal law, providing qualifying patients and primary caregivers a limited immunity from, and/or an affirmative defense to, state criminal prosecution under certain identified statutes; however, neither provides comprehensive civil regulation of premises used for cannabis cultivation or licensing of cultivators; and

WHEREAS, on October 9, 2015, the California Governor signed the “Medical Marijuana Regulation and Safety Act” (the “Act”) into law, which consists of the following: (i) Assembly Bill 243; (ii) Assembly Bill 266; and (iii) Senate Bill 643; and

WHEREAS, the Act became effective January 1, 2016 and contains provisions that govern cultivating, processing, transporting, and distributing medical cannabis to qualified patients throughout the state; and

WHEREAS, the Act also contains new statutory provisions that: (i) allow local governments to enact ordinances expressing their intent to prohibit the cultivation of cannabis and their intent not to administer a conditional permit program pursuant to & Safety Code Section 11362.777 for the cultivation of cannabis (Cal. Health & Safety Code Section § 11362.777(c)(4)); and (ii) expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances, or enforcement of local permit or licensing requirements regarding cannabis (Cal. Bus. & Prof. Code § 19316(c)); and

WHEREAS, on December 8, 2009, the City Council adopted Ordinance No. 939 and imposed a moratorium on the use of real property for the sale or distribution of cannabis, which moratorium was extended on January 12, 2010, by Ordinance No. 940 and on November 9, 2010, by Ordinance No. 955; and

WHEREAS, on February 9, 2016, the City Council adopted Ordinance No. 1012, which, added Section 17.04.235 to the Lancaster Municipal Code and generally prohibits the operation of a medical cannabis dispensary, the indoor or outdoor cultivation of medical cannabis and the delivery of medical cannabis within the City of Lancaster (the “City”); and

WHEREAS, subject to certain requirements and limitations, the City now desires to allow the indoor cultivation of medical cannabis and require that medical cannabis be cultivated only in appropriately secured, enclosed, and ventilated structures, so as not to be visible or accessible to the general public, to provide for the health, safety and welfare of the public, to prevent negative impacts to property values, to prevent odor created by cannabis plants from impacting adjacent properties, to prevent crime associated with cannabis, and to ensure that cannabis grown for medical purposes remains secure and does not find its way to non-patients, minors, or illicit markets.

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

Section 1. Chapter 5.56 (“Medical Cannabis Cultivators”) is hereby added to the Lancaster Municipal Code as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 2. Chapter 17.43 (“Medical Cannabis Cultivation Facilities”) is hereby added to the Lancaster Municipal Code as set forth in Exhibit “B” attached hereto and incorporated herein by reference.

Section 3. Ordinance Nos. 939, 940, 955 and 1012 are each hereby repealed to the extent inconsistent with this Ordinance; provided, however, that each shall otherwise remain in full force and effect.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held for any reason to be invalid or unconstitutional by the 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 Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect on January 1, 2017.

I, Britt Avrit, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 13th day of December, 2016, and placed upon its second reading and adopted at a regular meeting of the City Council on the ____ day of _____, 2017 by the vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of
Lancaster, California, do hereby certify that this is a true and correct copy of the original
Ordinance No. 1019 for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____
day of _____, _____.

(seal)

EXHIBIT “A”
CHAPTER 5.56
MEDICAL CANNABIS CULTIVATORS

Sections:

- 5.56.010 Purpose and intent.
- 5.56.020 Definitions.
- 5.56.030 Medical cannabis cultivation facilities permitted.
- 5.56.040 Manufacturing, distribution, delivery and retail sale of cannabis prohibited.
- 5.56.050 License in addition to other permit.
- 5.56.060 Permits required.
- 5.56.070 Local License application process.
- 5.56.080 Grounds for denial or revocation; conditions of approval.
- 5.56.090 Transfer of ownership interest, modification or other material changes.
- 5.56.100 Renewal of a Local License.
- 5.56.110 Limitations on City’s liability.
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- 5.56.130 Medical cannabis cultivation facility operational requirements.
- 5.56.140 Inspections and enforcement.
- 5.56.150 Appeals.
- 5.56.160 Permits not transferable.
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5.56.010 Purpose and intent.

Medical cannabis cultivation facilities shall be permitted, upon application and approval of a Local License in accordance with the criteria and procedures set forth in this code, which include the requirement to obtain and maintain a conditional use permit validly issued by the City pursuant to Chapter 17.43.

5.56.020 Definitions.

A. The following terms shall be defined as follows:

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

“Cannabis” has the same meaning as Section 19300.5(f) of the Business and Professions Code. For the purpose of this Chapter, “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.

“Cannabis concentrate” has the same meaning as Section 19300.5(g) of the Business and Professions Code and shall mean manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids.

“Cannabis cultivation facility” means a facility wherein cannabis is propagated, planted, grown, harvested, dried, cured, graded, labeled, tagged for tracking or trimmed, or that does all or any combination of those activities.

“Cannabis dispensary” or “dispensary” has the same meaning as Section 19300.5(n) of the Business and Professions Code and shall mean any business, office, store, or other retail “storefront” component of any medical cannabis cooperative or collective that dispenses, distributes, exchanges, sells or provides medical cannabis.

“Cannabis distribution facility” means any facility or location where the primary purpose is the procurement, sale, and transport of medical cannabis and medical cannabis products between entities.

“Cannabis facility” means collectively any cannabis cultivation facility, dispensary, distribution, testing laboratories or manufacturing facility, as those terms are defined in this Chapter.

“Cannabis manufacturing facility” has the same meaning as Section 19300.5(ae) of the Business and Professions Code and shall mean a facility where the production of cannabis concentrate, or preparation, propagation, or compounding of manufactured cannabis, either directly or indirectly or by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Canopy” means the total combined indoor area for all locations on a property where medical cannabis is being cultivated, as measured by the horizontal extent of the plant or combination of plants at the widest point and measured in a straight line. This does not include aisles or walkways.

“Cultivation” has the same meaning as Section 19300.5(k) of the Business and Professions Code and shall mean any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” has the same meaning as Section 19300.5(m) of the Business and Professions Code and shall mean the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the State of California, to a primary caregiver, qualified patient or a testing laboratory. “Delivery” also includes the use by a cannabis facility of any technology platform owned and controlled by the dispensary, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

“Dispensary” has the same meaning as that term is defined by Section 19300.5(n) of the Business and Professions Code and shall mean a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Section 19340, medical cannabis and medical cannabis products as part of a retail sale.

“Distribution” has the same meaning as that term is defined by Section 19300.5(p) of the Business and Professions Code and shall mean the procurement, sale, and transport of medical cannabis and medical cannabis products between licensed cannabis business entities.

“Edible cannabis product” means has the same meaning as that term is defined by Section 19300.5(s) of the Business and Professions Code and shall mean manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

“Good Cause” for purposes of refusing or denying a Local License, for revoking a Local License, or for refusing or denying a Local License renewal or reinstatement, includes, but is not limited to, the following:

1. The Licensee or Applicant has violated any of the terms, conditions or provisions of this Chapter, of state law, of any regulations and/or rules promulgated pursuant to state law, any applicable local rules and/or regulations, or any special terms or conditions placed upon its conditional use permit, state license, and/or Local License;

2. The Licensed Premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located, causes adverse economic impacts, increased crime, increased incidence of communicable disease, decreased property values and/or an increase in the number of transients in the area;

3. The Licensee or Applicant has knowingly made false statements, misrepresentations or material omissions on an application form, renewal form, or any other document submitted to the City;

4. The Applicant or Licensee’s criminal history does not indicate that the Applicant or Licensee is of good moral character; or the Applicant or Licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the City may consider, among other, the factors as set forth in Section 19323(b) of the Business and Professions Code;

5. The Licensee or Applicant is employing or being financed in whole or in part by any person whose criminal history indicates that person is not of good moral character;

6. The Applicant or Licensee has failed or refused to allow City officials to inspect security recordings, activity logs, or business records, of the licensed premises;

7. The Applicant or Licensee is owned by, has an officer or director who is, or is employing or financed in whole or in part by, a licensed physician making recommendations for medical cannabis;

8. The Applicant or Licensee has had a Local License revoked or has had more than one suspension on its Local License by the City; or

9. The Applicant or Licensee operated a medical cannabis business in violation of this Chapter, Chapter 17.43, or any other applicable state or local law.

“Legal parcel” means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels may at the option of the property owner be counted as a single parcel for purposes of this Chapter.

“Licensee” means a person who has been issued a state license, Local License and a conditional use permit pursuant to this Chapter.

“Local License” means a medical cannabis regulatory permit issued by the City pursuant to this Chapter.

“Manufacturer” has the same meaning as that term is defined by Section 19300.5(y) of the Business and Professions Code and shall mean a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis or medical 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 medical cannabis or medical cannabis products or labels or relabels its container.

“State law(s)” shall mean and include California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 through 11362.83 (Medical Cannabis Program Act); Medical Marijuana Regulation and Safety Act (“MMRSA”), and all other applicable laws of the state of California.

“State license,” “license,” or “registration” means a state license issued pursuant to the Medical Marijuana Regulation and Safety Act, as codified in Business and Professions Code Sections 19300 *et seq.*

“State licensing authority” shall mean the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs, the State Department of Public Health, or any other state agency responsible for the issuance, renewal, or reinstatement of a license issued under MMRSA or the agency authorized to take disciplinary action against such license.

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

1. The Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5);
2. The Medical Cannabis Program Act (California Health and Safety Code Sections 11362.7 through 11362.83); and
3. The Medical Marijuana Regulation and Safety Act (California Business & Professions Code Sections 19300 through 19360) as may be amended from time to time.

5.56.030 Medical cannabis cultivation facilities permitted.

A. Subject to this Chapter, Chapter 17.43 and all other applicable state and local laws and regulations, medical cannabis cultivation facilities may be operated within the City.

B. All medical cannabis cultivation facilities shall be owned and operated by bona fide non-profit organizations such as a cooperative or a collective, unless otherwise permitted under California law, subject to the provisions of the Medical Marijuana Regulation and Safety Act (California Business & Professions Code Sections 19300 through 19360) (“MMRSA”), Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Cannabis Program Act (California Health and Safety Code Sections 11362.7 through 11362.83), and any other state laws pertaining to cultivating medical cannabis.

C. The maximum number of Local Licenses issued by the City may be limited by resolution of the City Council. Such limitation may be based on number of Local Licenses, the aggregate area of medical cannabis cultivation facilities, or any other measure determined by the City Council.

D. A Local License issued pursuant to this Chapter shall specify the date of issuance, the period of licensure, the name of the Licensee, and the address of the medical cannabis cultivation facility.

5.56.040 Manufacturing, distribution, delivery and retail sale of cannabis prohibited.

Within the City, it shall be unlawful to operate a cannabis manufacturing facility, cannabis distribution facility, cannabis dispensary and/or cannabis delivery business.

5.56.050 License in addition to other permit.

The Local License required under the terms of this Chapter shall be in addition and supplemental to any business license or any permit required by any ordinance of the City. Notwithstanding anything herein to the contrary, the issuance of a Local License under this Chapter shall satisfy any requirements of Chapter 5.04.

5.56.060 Permits required.

A. Prior to initiating operations and as a continuing requisite to operating a medical cannabis cultivation facility, the legal representative of the persons wishing to operate a medical cannabis cultivation facility shall first obtain a Local License from the City Manager or designee and then a conditional use permit pursuant to Chapter 17.43. The Applicant shall file an application with the City Manager or designee upon a form provided by the City and shall pay an application fee as established by resolution adopted by the City Council as amended from time to time.

B. Nothing in this section shall permit a medical cannabis cultivation facility to operate at any time in a manner that is in violation of this Chapter, Chapter 17.43, the City Building Code, Fire Code, or any other applicable state or local law or regulation.

C. Except as otherwise permitted by the MMRSA, beginning January 1, 2018, or on the date that state licensing becomes available, it shall be unlawful for a medical cannabis cultivation facility to operate in the City unless it has been granted a state license.

D. Notwithstanding subsection 5.56.050(C), any medical cannabis cultivation facility that has: (1) submitted an application for a state license once such applications become available; and (2) been in operation and good standing on or before January 1, 2018, may continue operations until its state license has been approved or denied by the state licensing authority. A medical cannabis cultivation facility shall be considered to be “in operation,” “in good standing,” and “operating in compliance with local zoning ordinances and other state and local requirements” for purposes of this section and Section 19321(c) of the Business and Professions Code if the business has been issued and is exercising the privileges of a Local License pursuant to this Chapter and a conditional use permit pursuant to Chapter 17.43, and has applied for a state license on or before January 1, 2018.

5.56.070 Local License application process.

All applications for Local Licenses pursuant to this Chapter shall be made upon current forms prescribed by the City and shall include a statement by the Applicant that he or she certifies under penalty of perjury that all of the information contained in the application is true and correct. The City shall not receive or act upon an application for the issuance of a Local License pursuant to this Chapter until a completed application and the fee established by resolution of the City Council is submitted to the City. An Applicant shall have an opportunity to cure any incomplete application within thirty (30) days of written notice of incompleteness by the City. An application for a Local License shall include at least the following:

1. Proof of organizational status, such as articles of incorporation, taxpayer or employer identification number, by-laws, organizational minutes, partnership agreements, and other documentation as may be required by the City.

2. A written report prepared by the Los Angeles County Sheriff's Department or its designee concerning the acceptability of the background of the Applicant. The written report shall include a criminal background check of any Applicant for a Local License, including background checks on any management personnel who are responsible for the day-to-day operations and activities of the medical cannabis cultivation facility and any shareholder, partner, member, officer and/or director.

3. Documentation establishing that the Applicant is, or will be, entitled to possession of the premises for which application is made. Evidence of lawful possession consists of a properly recorded deed, lease, evidence of ownership of the premises, or other written documents acceptable to the City. The licensed premises shall only be the geographical area that is specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing a change of location or modification of premises application, obtaining a conditional use permit for the new premises, and obtaining approval from the City.

4. An operating plan for the proposed medical cannabis cultivation facility including the following information:

a. A general description of the types of products and services to be provided by the facility;

b. A floor plan designating all interior dimensions and the layout of the medical cannabis cultivation facility, including all limited access areas, areas of ingress and egress, and all security camera locations. Such floor plan shall also show the principal uses of the floor area depicted therein and shall identify all areas where plants will be located;

c. An employee list; and

d. Name of third-party tracking software the medical cannabis cultivation facility will use to track the medical cannabis.

5. A security plan for the proposed medical cannabis cultivation facility including the following security requirements:

a. Video surveillance. The medical cannabis cultivation facility must be equipped with a video surveillance system that meets all of the requirements set forth in this subsection.

i. Security cameras and digital storage of recordings shall be maintained in good condition and used in an on-going manner, twenty-four hours per day, seven (7) days per week.

ii. The security system must maintain at least 120 concurrent hours of digitally recorded video for each security camera in the Licensed Premises. Security footage should be stored in an MPEG4, MJPEG, H.264, or another format approved by the City in writing.

iii. Security Cameras must provide adequate and sufficient coverage for the facility, which must include but need not to be limited to, all restricted and limited access areas, all areas of ingress and egress, the public areas, storage areas, and any other areas as required by this Chapter and the MMRSA.

iv. The video surveillance system must be equipped with a failure notification system that provides prompt notification to a security company licensed by the Department of Consumer Affairs, Bureau of Security & Investigative Services, of any surveillance interruption or complete failure of the surveillance system that lasts longer than fifteen (15) minutes. The licensed alarm company must promptly report any such notification to the Los Angeles County Sheriff's Department.

v. The video surveillance system shall have sufficient battery backup to support a minimum of one (1) hour of recording in the event of a power outage.

vi. The video surveillance system shall stream a live feed accessible to the City and Los Angeles County Sheriff's Department via a secure Internet portal, virtual private network or other form of secure remote access.

b. Alarm system. The medical cannabis cultivation facility shall have an audible interior and exterior security alarm system installed on all perimeter entry points and perimeter windows, operated, and monitored by a security company licensed by the Department of Consumer Affairs, Bureau of Security & Investigative Services, and approved by the City. "Perimeter entry points" includes, regardless of size, all doors, windows, hatches and/or points at which systems (such as HVAC systems) enter a structure.

c. Signage requirement. The medical cannabis cultivation facility must comply with the following signage requirements.

i. A sign shall be posted in a conspicuous place near each point of public access which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than one inch in height, stating "All Activities Monitored by Video Camera."

ii. Limited access areas shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Limited Access Area- Authorized Personnel Only."

d. Lighting. The medical cannabis cultivation facility's entrance(s) and all window areas shall be illuminated during evening hours. The Applicant shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, and other restrictions, and secure the necessary approvals and permits as needed.

e. Commercial-grade locks. All points of ingress and egress to a medical cannabis cultivation facility shall ensure the use of commercial-grade, nonresidential door locks and/or window locks.

f. Onsite security staff 24 hours a day, seven days a week.

6. Written Authorization for the City to seek verification of the information contained within the application and authorization for the Los Angeles County Sheriff's Department to conduct the background check(s).

7. Any additional information that the City may request to process and fully investigate the application. The additional information must be provided to the City no later than thirty (30) days after the date of the request unless otherwise specified by the City. Failure to provide such additional information by the requested deadline may result in denial of the application.

5.56.080 Grounds for denial or revocation; conditions of approval.

A. The City Manager or designee shall reject an application for a Local License upon a finding of Good Cause.

B. The City Manager or designee may place conditions upon the approval of any Local License which are, in the opinion of the City Manager or designee, reasonably related to the protection of the health, safety and welfare of (i) the neighborhood in which the proposed medical cannabis cultivation facility is to be located and/or (ii) the general public.

C. All persons who are engaged in or who are attempting to engage in a medical cannabis activity in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions of the MMRSA, this Chapter, Chapter 17.43, and all other applicable state and local laws and regulations.

D. The City Manager or designee is authorized to make policies and procedures consistent with this Chapter concerning the applications, the application process, the information required of Applicants, the application procedures, and the administration and procedures to be used and followed in the application process.

E. A Local License issued by the local licensing authority constitutes a revocable privilege. The Applicant has the burden of proving its qualifications for a Local License at all times.

5.56.090 Transfer of ownership interest, modification or other material changes.

In addition to any requirements in this Chapter, the transfer of ownership interest, modification of a medical cannabis cultivation facility, and/or change of manager, location or other material change of the medical cannabis cultivation facility shall comply with the following:

A. The Licensee shall report the transfer of ownership interest, modification of medical cannabis cultivation facility, and/or change of manager, location or other material change of the medical cannabis cultivation facility to the City Manager or designee on forms prescribed by the local licensing authority and receive written approval from the City Manager or designee prior to any such transfer or change.

B. A Licensee shall not make physical change, alteration, or modification of the medical cannabis cultivation facility that materially or substantially alters the medical cannabis cultivation facility from the plans approved by the City without the prior written approval of the City. Material changes include, but are not limited to: a decrease in the number of security cameras, the relocation of a security camera identified in the application submitted pursuant to Section 5.56.070, an increase or decrease in the total square footage of the medical cannabis cultivation facility or the addition, sealing off, or relocation of a wall, common entryway, doorway, or other means of public ingress and/or egress. Applications for modifications of a medical cannabis cultivation facility shall be made on forms prescribed by the City.

C. For a transfer of ownership interest or change of manager, the City shall require a criminal background check for any new owner or manager of a medical cannabis cultivation facility that was not previously performed pursuant to this Chapter. The medical cannabis cultivation facility shall report by written notification of any change in owner or manager within ten (10) business days of the change.

D. For a change of location, a Licensee may apply to the City to change the location previously approved for such Local License to any other place in the City. Applications for changes of location shall be made on forms prescribed by the City. A change in location of a medical cannabis cultivation facility is subject to all zoning and distance requirements set forth in this Chapter and Chapter 17.43 and any and all other applicable local and state laws and regulation. It is unlawful to relocate any medical cannabis cultivation facility at any such place or location until the City grants express permission and the City has issued a conditional use permit to the Licensee at the new location.

E. No Licensee may sublet any portion of a Licensed Premises for any purpose without prior written City approval.

5.56.100 Renewal of a Local License.

A. A medical cannabis cultivation facility may apply for the renewal of a Local License no less than thirty (30) days prior to the Local License's expiration date. If the medical cannabis cultivation facility files a renewal application within thirty (30) days prior to expiration, the medical cannabis cultivation facility must provide a written explanation detailing the circumstances surrounding the late filing. The City may accept or reject such late filing in its discretion. The City may elect to administratively continue a Local License past its expiration date, provided that the Licensee has submitted a renewal application that is complete and pending final action.

B. An application for renewal will only be accepted if it is accompanied by the requisite licensing fees.

C. Each application for renewal shall include updated information for any part of the application that has undergone a change in circumstance since the original application or last renewal filing and shall recertify all information submitted in prior application(s).

D. Unless the City has expressly authorized in writing the renewal of the Local License, a Local License is immediately invalid upon expiration and the medical cannabis cultivation facility shall cease operations.

E. All Local Licenses are valid for one year. A Local License may be valid for less than the applicable license term if revoked, suspended, voluntarily surrendered, or otherwise disciplined.

5.56.110 Limitations on City's liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any Local License pursuant to this Chapter or the operation of any medical cannabis cultivation facility approved pursuant to this Chapter. As a condition of approval a Local License as provided in this Chapter, the Applicant or its legal representative shall:

A. Execute an agreement indemnifying the City from any claims, damages, liabilities or other obligations of any kind whatsoever, associated with the operation of the medical cannabis cultivation facility;

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

C. Name the City as an additional insured on all City required insurance policies;

D. Agree to defend, at its sole expense and with counsel of the City's choice, any action against the City, its agents, officers, and/or employees related to the approval of a Local License; and

E. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a Local License.

F. Deposit with the City and maintain security of at least Twenty Thousand Dollars (\$20,000.00) that may be used by the City as, when and to the extent necessary to satisfy the Applicant's obligations under this Section 5.56.110. The security required by this paragraph shall be in the form of cash or any other form approved by the City in its sole and absolute discretion.

G. Expressly acknowledge in writing that (i) the City incurs no liability whatsoever as a result of the City's issuance of a Local License pursuant to this Chapter, a conditional use permit pursuant to Chapter 17.43 and/or approval of the security plan required by this Chapter, (ii) the Applicant is aware that the cultivation of cannabis may violate federal law, including, without limitation, the Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, and the Applicant assumes all liability for such violation.

5.56.120 Additional terms and conditions.

Based on the information set forth in the application, the City Manager or designee may impose reasonable terms and conditions on the proposed operations of the medical cannabis cultivation facility in addition to those specified in this Chapter.

5.56.130 Medical cannabis cultivation facility operational requirements.

A medical cannabis cultivation facility must comply with the requirements set forth in this Chapter. Failure to comply with any of these requirements shall be considered grounds for suspension and/or revocation of a Local License.

A. General obligation to operate in compliance. A medical cannabis cultivation facility shall comply fully with all of the applicable restrictions and mandates set forth in applicable state and local laws and regulations, as well as the operating plan and security plan submitted pursuant to Section 5.56.070.

B. General obligation to pay taxes. A medical cannabis cultivation facility shall pay any applicable sales tax pursuant to federal, state, and local law, and all other legally required taxes and fees required by this Code.

C. General obligation for compliant facilities. A medical cannabis cultivation facility, as well as all operations as conducted therein, shall fully comply with all applicable rules, regulations, and laws including, but not limited to, this Chapter and Chapter 17.43 of the Code requiring application and issuance of a conditional use permit, the California Revenue and Taxation Code, the Americans with Disabilities Act, and all applicable state laws.

D. Inspection of records. A medical cannabis cultivation facility shall make its books, records and all other documents related to its operation available for inspection by any City officer, city official and/or law enforcement officer for purposes of determining compliance with the requirements of this Chapter.

E. Secure storage of product. Medical cannabis possessed by a medical cannabis cultivation facility shall be kept and stored in a secured manner within a limited access area or restricted access area at all times in compliance with the security plan approved pursuant to Section 5.56.070.

F. Prohibition on cannabis consumption on premises. On-site smoking, ingestion, or consumption of cannabis shall be prohibited on the premises of all medical cannabis cultivation facilities. The term “premises” as used in this subsection includes the actual building, as well as any accessory structures, common areas and parking areas. A sign shall be posted at each entrance of a medical cannabis cultivation facility that clearly and legibly states, “Smoking, ingestion, or consumption of cannabis on these licensed premises or in their vicinity is prohibited and a violation of the Lancaster Municipal Code.”

G. Prohibition on alcohol sales, distribution, or consumption on licensed premises. A medical cannabis cultivation facility shall not sell, provide, store, or distribute any product that would require that the seller possess a license issued by the California Department of Alcoholic Beverage Control.

H. Display of license and conditional use permit. A medical cannabis cultivation facility shall display a copy of its Local License issued pursuant to this Chapter and conditional use permit issued pursuant to Chapter 17.43 in a conspicuous place at the entrance to the licensed premises.

I. No physician evaluations on licensed premises. A medical cannabis cultivation facility shall not permit a physician to evaluate patients or to provide recommendations for medical cannabis within its licensed premises. Medical cannabis cultivation facilities shall not offer or provide any form of remuneration to a physician who recommends medical cannabis.

J. Community relations designee. A medical cannabis cultivation facility must provide the Community Development Director with the name, phone number, facsimile number, and email address of an on-site community relations representative or staff person or other representative to whom the City can provide notice if there are operating problems associated with the medical cannabis cultivation facility or refer members of the public who may have complaints or concerns regarding the medical cannabis cultivation facility.

K. Seed to sale tracking required. Until such a time that the State of California fully implements Section 19335 of the Business and Professions Code, a medical cannabis cultivation facility must utilize third-party software that tracks all sales, transfers, purchases, receipts, deliveries of medical cannabis and medical cannabis products. The software must be capable of producing electronic shipping manifests, tracking all medical cannabis inventory in possession of the medical cannabis cultivation facility, promptly identifying a discrepancy in the stock, and tracking medical cannabis from a qualified patient, or primary caregiver back to its source in the event of a serious adverse event.

L. Unique identifiers. A medical cannabis cultivation facility must comply with the unique identification program promulgated by the City Manager; provided, however, that any unique identification program promulgated by the City Manager shall, pursuant to Section 11362.777(f)(2) of the Health and Safety Code, adhere to the requirements set by the California Department of Food and Agriculture and be the equivalent to those administered by the California Department of Food and Agriculture.

M. Employee permits. No person shall be employed by or at medical cannabis cultivation facility, without a valid medical cannabis cultivation facility employee permit issued by the City to such person. A medical cannabis cultivation facility shall promptly supplement the information provided as part of its application pursuant to Section 5.56.070 with the names of all employees within 30 days of any change in the information originally submitted.

1. The City Manager shall grant, deny and renew medical cannabis cultivation facility employee permits. The application for a permit shall be made on a form provided by the City Manager, or his or her designee. An original and 2 copies of the completed and sworn permit application shall be filed with the City Manager. The completed application shall contain the following information and be accompanied by the following documents:

- a. The employee's legal name and any other names used by the employee;
- b. The employee's age, date and place of birth;
- c. The employee's present residence address and telephone number;
- d. Whether the employee has been convicted of a criminal offense in the past 5 years as of the date of the application;
- e. Date, issuing state and number of state issued driver's license or identification card and social security number;
- f. Satisfactory written proof that the employee is at least 18 years of age;
- g. The employee's fingerprints on a form provided by the Los Angeles County Sheriff's Department, and a color photograph clearly showing the employee's face;
- h. If the application is made for the purpose of renewing a license, the employee shall attach a copy of the license to be renewed.

2. The completed application shall be accompanied by a non-refundable application fee as set by resolution of the City Council.

3. Upon receipt of an application and payment of the application fees, the City Manager shall immediately stamp the application as received, issue a temporary license to the employee which shall be valid for 15 days unless earlier terminated by the denial of a medical cannabis cultivation facility employee permit, and promptly investigate the application.

4. If the City Manager determines that the employee has completed the application improperly or the application is otherwise incomplete, the City Manager shall notify the employee of such fact within 10 business days of the date of receipt of the application, including the reasons the application is not complete. The City Manager shall, in such event, grant the employee an extension of time of 10 days to complete the application properly. In addition, the employee may request an extension, not to exceed 10 days, of the time for the City Manager to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension.

5. Within 15 days after receipt of the properly completed application, the City Manager shall grant or deny the application and so notify the employee. The City Manager shall grant the application and issue the permit unless the application is denied for one or more of the following reasons:

a. The employee has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the application or has omitted information reasonably necessary for issuance of the permit;

b. The employee is under 18 years of age;

c. The medical cannabis cultivation facility employee permit is to be used for employment in a business prohibited by state or local laws, ordinances, or regulations;

d. Within the preceding 10 years, the employee has been convicted of one or more of the following crimes that, if committed on the date of application, would be subject to prosecution as a felony:

1. Possession of a controlled substance for sale pursuant to Health and Safety Code Section 11351.

2. Sale of a controlled substance pursuant to Health and Safety Code Section 11352.

3. Any violent crime, as defined by Penal Code Section 667.5.

4. Any crime considered a "strike" pursuant to Penal Code Section 1192.7(c).

5. Such other crimes or offenses as may be determined by the City Council by resolution.

e. The City Manager or his/her designee determines issuance of the license would impair the health, safety or welfare of the public, cause negative impacts to property values, cause odor created by cannabis plants to impact adjacent properties, impair the City's ability to prevent crime associated with cannabis, and/or impair the City's ability to ensure that cannabis grown for medical purposes remains secure and does not find its way to non-patients, minors, or illicit markets.

6. The medical cannabis cultivation facility employee permit, if granted, shall state on its face the name of the person to whom it is granted, and the expiration date. The City Manager shall provide each person issued a medical cannabis cultivation facility employee permit with an identification card containing the employee's name, address, photograph, and permit number. Both the permit and identification card shall be available for inspection at all times during which the employee is on the premises of the medical cannabis cultivation facility.

7. The City Manager or his/her designee may revoke an employee permit for Good Cause and/or for any of the following reasons:

a. The employee knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a permit or in any report or document required to be filed with the application or has omitted information reasonably necessary for issuance of the permit;

b. The employee is under 18 years of age;

c. The medical cannabis cultivation facility employee permit has been used for employment in a business prohibited by state or local laws, ordinances, or regulations;

d. Within the preceding 10 years, the employee has been convicted of one or more of the following crimes that, if committed on the date of application, would be subject to prosecution as a felony:

1. Possession of a controlled substance for sale pursuant to Health and Safety Code Section 11351.
2. Sale of a controlled substance pursuant to Health and Safety Code Section 11352.
3. Any violent crime, as defined by Penal Code Section 667.5.
4. Any crime considered a “strike” pursuant to Penal Code Section 1192.7(c).
5. Such other crimes or offenses as may be determined by the City Council by resolution.

e. The City Manager or his/her designee determines the license has been used to impair the health, safety or welfare of the public, cause negative impacts to property values, cause odor created by cannabis plants to impact adjacent properties, impair the City’s ability to prevent crime associated with cannabis, and/or impair the City’s ability to ensure that cannabis grown for medical purposes remains secure and does not find its way to non-patients, minors, or illicit markets.

5.56.140 Inspections and enforcement.

Recordings made by security cameras, books, records and all other documents related to a medical cannabis cultivation facility’s operation shall be made immediately available to the City Manager or designee upon written request; no search warrant or subpoena shall be needed to view the recorded materials.

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

B. The City Manager or designee may summarily suspend or revoke a Local License if any of the following, singularly or in combination, occur:

1. The City Manager or designee determines that the medical cannabis cultivation facility has failed to comply with this Chapter or any condition of approval or a circumstance or situation has been created that would have permitted the City Manager or designee to deny the Local License;
2. Operations cease for more than ninety (90) calendar days, including during change of ownership proceedings;
3. Ownership is changed without securing a Local License;
4. The medical cannabis cultivation facility fails to maintain 120 concurrent hours of security recordings;
5. The medical cannabis cultivation facility fails to allow inspection of the premises, security recordings, books, records or other documents by authorized City officials; and/or
6. Beginning January 1, 2018, or on the date that state licensing becomes available, the medical cannabis cultivation facility fails to possess and/or maintain a valid state license.

5.56.150 Appeals.

Any decision regarding the denial, suspension or revocation of a Local License may be appealed pursuant to the provisions set forth in Chapter 2.44.

5.56.160 Permits not transferable.

Notwithstanding any provision to the contrary set forth in this Chapter, Local Licenses issued pursuant to this Chapter are not transferable.

5.56.170 Violations.

A. Any violation of any of this Chapter is unlawful and a public nuisance.

B. Any violation of any of the provisions of this Chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed \$1,000, or by imprisonment 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.

C. In lieu of issuing a misdemeanor citation, the City may issue an administrative citation for each violation of this Chapter pursuant to the procedures set forth in Chapter 9.48; provided, however, that notwithstanding the provisions of Section 9.48.060(E), the penalty amounts of administrative citations issued for violations of this Chapter shall be as follows, which city council may periodically adjust by resolution:

1. For the first administrative citation, the penalty shall be ten thousand dollars (\$10,000.00);

2. For the second and any subsequent administrative citation, the penalty shall be twenty thousand dollars (\$20,000.00).

D. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the City may pursue any proceedings or remedies otherwise provided by law.

5.56.180 Regulations.

The City Manager is authorized to promulgate such regulations as may be necessary or convenient to implement this Chapter.

EXHIBIT “B”
CHAPTER 17.43
MEDICAL CANNABIS CULTIVATION FACILITIES

Sections:

- 17.43.010 Purpose.
- 17.43.020 Relationship to other laws.
- 17.43.030 Definitions.
- 17.43.040 Manufacturing, distribution, delivery and retail sale of cannabis prohibited.
- 17.43.050 Medical cannabis cultivation facilities conditionally permitted; maximum number limited by City Council.
- 17.43.060 Local License and conditional use permit required to operate.
- 17.43.070 Conditional use permit application process; Development Agreement requirement.
- 17.43.080 Grounds for denial of conditional use permit.
- 17.43.090 Transfer of ownership interest to a new owner, modification of licensed premises and other material changes.
- 17.43.100 Appeals.
- 17.43.110 Permitted zones, distance requirements and other conditions for approval.
- 17.43.120 Confidentiality of information.
- 17.43.130 Limitations on City’s liability.
- 17.43.140 Inspections.
- 17.43.150 Violations and enforcement.
- 17.43.160 Revocation of conditional use permit.
- 17.43.170 Public nuisance.
- 17.43.180 Regulations

17.43.010 Purpose.

A. The purpose of this Chapter is to regulate all “commercial cannabis activity” in the City, as that term is defined in Section 19300.5(k) of the Business and Professions Code, to the extent authorized by state law and in a manner designed to minimize negative impacts on the City and neighboring uses, and promote the health, safety, morals, and general welfare of residents and businesses within the City.

B. This Chapter is further adopted and established pursuant to the specific authority granted to the City in Section 7 of Article XI of the California Constitution and Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This Chapter, together with Chapter 5.56 and all other applicable law, shall govern all commercial cannabis activity that occurs within the City.

17.43.020 Relationship to other laws.

Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. In the event of a conflict between the provisions of this Chapter and the provisions of that Chapter or any other applicable state or local law, the more restrictive provision shall control.

17.43.030 Definitions.

A. The following terms shall be defined as follows:

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

“Cannabis” has the same meaning as Section 19300.5(f) of the Business and Professions Code. For the purpose of this Chapter, “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.

“Cannabis concentrate” has the same meaning as Section 19300.5(g) of the Business and Professions Code and shall mean manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids.

“Cannabis cultivation facility” means a facility wherein cannabis is propagated, planted, grown, harvested, dried, cured, graded, labeled, tagged for tracking or trimmed, or that does all or any combination of those activities.

“Cannabis dispensary” or “dispensary” has the same meaning as Section 19300.5(n) of the Business and Professions Code and shall mean any business, office, store, or other retail “storefront” component of any medical cannabis cooperative or collective that dispenses, distributes, exchanges, sells or provides medical cannabis.

“Cannabis distribution facility” means any facility or location where the primary purpose is the procurement, sale, and transport of medical cannabis and medical cannabis products between entities.

“Cannabis facility” means collectively any cannabis cultivation facility, dispensary, distribution, testing laboratories or manufacturing facility, as those terms are defined in this Chapter.

“Cannabis manufacturing facility” has the same meaning as Section 19300.5(ae) of the Business and Professions Code and shall mean a facility where the production of cannabis concentrate, or preparation, propagation, or compounding of manufactured cannabis, either directly or indirectly or by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Cultivation” has the same meaning as Section 19300.5(k) of the Business and Professions Code and shall mean any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” has the same meaning as Section 19300.5(m) of the Business and Professions Code and shall mean the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the State of California, to a primary caregiver, qualified patient or a testing laboratory. “Delivery” also includes the use by a cannabis facility of any technology platform owned and controlled by the dispensary, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

“Development Agreement” means a development agreement entered into by and between the City and Applicant pursuant to Section 65864 *et seq.* of the Government Code. The City Manager or his or her designee shall prepare a form of Development Agreement to be used for the purpose of this Chapter; provided, however, that the form of Development Agreement must at a minimum provide that the Applicant: (i) agrees to and shall pay to the City an annual surcharge determined by resolution of the City Council; (ii) covenants to not challenge the validity, enforceability or seek a refund of such surcharge; (iii) agrees that failure to timely pay such surcharge shall result in the immediate termination of the Development Agreement and revocation of the conditional use permit issued pursuant to this Chapter; and (iv) pay the first annual surcharge at the time the Development Agreement is submitted to the City for approval.

“Dispensary” has the same meaning as that term is defined by Section 19300.5(n) of the Business and Professions Code and shall mean a premises where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to Section 19340, medical cannabis and medical cannabis products as part of a retail sale.

“Distribution” has the same meaning as that term is defined by Section 19300.5(p) of the Business and Professions Code and shall mean the procurement, sale, and transport of medical cannabis and medical cannabis products between licensed cannabis business entities.

“Edible cannabis product” means has the same meaning as that term is defined by Section 19300.5(s) of the Business and Professions Code and shall mean manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

“Good Cause” for purposes of refusing or denying an initial conditional use permit, for revoking a conditional use permit, or for refusing or denying conditional use permit renewal or reinstatement, includes, but is not limited to, the following:

1. The Licensee or Applicant has violated any of the terms, conditions or provisions of this Chapter, of state law, of any regulations and/or rules promulgated pursuant to state law, any applicable local rules and/or regulations, the terms of an approved Development Agreement, or any special terms or conditions placed upon its conditional use permit, state license, and/or Local License;

2. The Licensed Premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located, causes adverse economic impacts, increased crime, increased incidence of communicable disease, decreased property values and/or an increase in the number of transients in the area;

3. The Licensee or Applicant has knowingly made false statements, misrepresentations or material omissions on an application form, renewal form, or any other document submitted to the City;

4. The Applicant or Licensee’s criminal history does not indicate that the Applicant or Licensee is of good moral character; or the Applicant or Licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the City may consider, among other, the factors as set forth in Section 19323(b) of the Business and Professions Code;

5. The Licensee or Applicant is employing or being financed in whole or in part by any person whose criminal history indicates that person is not of good moral character;

6. The Applicant or Licensee has failed or refused to allow City officials to inspect security recordings, activity logs, or business records, of the licensed premises;

7. The Applicant or Licensee is owned by, has an officer or director who is, or is employing or financed in whole or in part by, a licensed physician making recommendations for medical cannabis;

8. The Applicant or Licensee has had a Local License revoked or has had more than one suspension on its Local License by the City;

9. The Applicant or Licensee operated a medical cannabis business in violation of this Chapter, Chapter 5.56, or any other applicable state or local law; or

10. Beginning January 1, 2018, or on the date that state licensing becomes available, the Applicant or Licensee fails to possess and/or maintain a valid state license.

“Legal parcel” means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels may at the option of the property owner be counted as a single parcel for purposes of this Chapter.

“Licensee” means a person who has been issued a state license, Local License and a conditional use permit pursuant to this Chapter.

“Local License” means a medical cannabis regulatory permit issued by the City pursuant to Chapter 5.56.

“Manufacturer” has the same meaning as that term is defined by Section 19300.5(y) of the Business and Professions Code and shall mean a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis or medical 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 medical cannabis or medical cannabis products or labels or relabels its container.

“State law(s)” shall mean and include California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 through 11362.83 (Medical Cannabis Program Act); Medical Marijuana Regulation and Safety Act (“MMRSA”), and all other applicable laws of the state of California.

“State license,” “license,” or “registration” means a state license issued pursuant to the Medical Marijuana Regulation and Safety Act, as codified in Business and Professions Code Sections 19300 *et seq.*

“State licensing authority” shall mean the Bureau of Medical Cannabis Regulation within the Department of Consumer Affairs, the State Department of Public Health, or any other state agency responsible for the issuance, renewal, or reinstatement of a license issued under MMRSA or the agency authorized to take disciplinary action against such license.

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

1. The Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5);
2. The Medical Cannabis Program Act (California Health and Safety Code Sections 11362.7 through 11362.83); and
3. The Medical Marijuana Regulation and Safety Act (California Business & Professions Code Sections 19300 through 19360) as may be amended from time to time.

17.43.040 Manufacturing, distribution, delivery and retail sale of cannabis prohibited.

Within the City, it shall be unlawful to operate a cannabis manufacturing facility, cannabis distribution facility, cannabis dispensary and/or cannabis delivery business.

17.43.050 Medical cannabis cultivation facilities conditionally permitted; maximum number limited by City Council.

Medical cannabis cultivation facilities shall be conditionally permitted within the City, subject to the requirements of this Chapter, Chapter 5.56 and all other applicable state and local laws; provided, however, that the maximum number of medical cannabis cultivation facilities conditionally permitted within the City may be limited by resolution of the City Council. Such limitation may be based on number of medical cannabis cultivation facilities, the aggregate area of medical cannabis cultivation facilities, or any other measure determined by the City Council.

17.43.060 Local License and conditional use permit required to operate.

A. Medical cannabis cultivation facilities shall only be permitted to operate in the City following application, investigation, verification, notice and public hearing, approval and issuance of both a Local License issued by the City in accordance with the criteria and procedures set forth in Chapter 5.56 and a conditional use permit issued in accordance with the criteria and procedures set forth in this Chapter. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a medical cannabis cultivation facility shall be granted, permitted or valid unless a conditional use permit is first obtained and issued under this Chapter.

B. All persons who are engaged in or who are attempting to engage in medical cannabis cultivation shall do so only in strict compliance with the terms, conditions, limitations and restrictions of the MMRSA, Chapter 5.56, this Chapter and all other applicable state and local laws and regulations.

C. The City Manager is authorized to make policies and procedures consistent with this Chapter concerning the applications, the application process, the information required of Applicants, the application procedures and the administration and procedures to be used and followed in the application and hearing process.

17.43.070 Conditional use permit application process.

A. Prior to initiating operations and as a continuing requisite to operating a medical cannabis cultivation facility, the Applicant shall obtain a conditional use permit under the terms and conditions set forth in this Chapter. The Applicant shall file an application for a conditional use permit with the City's Development Services Department on the official form supplied by the City and shall pay the applicable application fee as established by resolution of the City Council, as may be amended from time to time. The provisions of Chapter 17.32 that govern conditional use permits generally shall apply to conditional use permits applied for and/or issued under this Chapter; provided, however, that to the extent of any conflict or inconsistency between Chapter 17.32 and this Chapter, the provisions of this Chapter shall control.

B. An application for a conditional use permit shall include at least the following information:

1. Environmental plan. An environmental plan indicating how cultivation will be conducted in accordance with state and local laws related to hazardous material disposal, land conversion, grading, electricity usage, water usage, and agricultural discharges.

2. Emergency response plan. An emergency response plan which complies with this Code and California Fire Code Section 401, and sets out standard operating procedures to be followed by all individuals in case of a fire, chemical release, chemical spill, or other emergency.

3. Local License. Proof that the Applicant has received a Local License for the proposed licensed premises, or a statement that the Applicant is applying for a Local License for the proposed licensed premises concurrently with the conditional use permit application.

4. Context aerial map. An aerial map stating the distances between the proposed medical cannabis cultivation facility and the nearest school, park and church.

5. Address of medical cannabis cultivation facility. The address of the location of the proposed medical cannabis cultivation facility.

6. Site plan and floor plan. A site plan and floor plan of the proposed medical cannabis cultivation facility denoting all uses of areas of the medical cannabis cultivation facility, including any and all storage, employee areas, exterior lighting, restrooms, security cameras, areas of ingress and egress, signage, limited access areas, and restricted access areas.

7. Interior improvements. Plans and specifications for the interior of the proposed licensed premises if the building to be occupied is in existence at the time of the application. If the building is not in existence or alteration to the building is required at the time of the application, the Applicant shall file a plot plan and a detailed sketch for the interior and shall further submit an architect's drawing of the building to be constructed or renovated.

8. Owner and manager information. The name and address of any person who is an owner, a manager and person responsible for the day-to-day operations of the proposed medical cannabis cultivation facility. If a Local License has been issued to the Applicant prior to the submission of the application for a conditional use permit, the application shall also contain a statement as to whether, subsequent to the issuance of the Local License, any individual included in this list has been convicted of a crime or crimes, the nature of such offense(s), and the sentence(s) received for such conviction(s).

9. Property owner information and acknowledgement. The name and address of the person that owns the real property upon which the proposed medical cannabis cultivation facility is to be operated. In the event the Applicant does not legally own the property, the application must be accompanied by a notarized acknowledgement from the person that owns the property that a medical cannabis cultivation facility will be operated on his or her property.

10. Operating plan. An operating plan for the proposed medical cannabis cultivation facility that includes at least the following information:

a. A description of the design of the proposed licensed premises evidencing that the design conforms to applicable City laws.

b. A description of the source of power (electric utility company, solar, diesel generators), the size of the electrical service or system, and the total demand to be placed on the system by all proposed uses on-site.

c. Verification of all water sources used by the proposed medical cannabis cultivation facility and verification that the proposed medical cannabis cultivation facility does not and will not utilize water that has been or is illegally diverted from any stream, creek, or river.

d. Evidence of compliance with all applicable environmental laws and regulations, including, without limitation, those pertaining to air and water quality.

e. Any additional document(s) or information reasonably requested by the City.

11. Security plan. A security plan that, to the satisfaction of the City, addresses how the Applicant intends to comply with and implement all requirements of this Chapter, Chapter 5.56 (including, but not limited to, Section 5.56.070(5)) and the MMRSA, including, but not limited to, a description of how the security measures are sufficient to ensure the safety of medical cannabis patients, primary caregivers, employees and volunteers, protect the proposed licensed premises from diversion and theft, and ensure that all buildings where medical cannabis is cultivated or stored are secured sufficiently to prevent unauthorized entry, and the following requirements:

a. A diagram indicating all areas to be covered by the twenty-four-hour security cameras which shall include, but are not limited to, all limited and restricted access areas, all areas of ingress and egress, the public areas, storage areas, all doors and windows, and any other areas as required by this Chapter and the MMRSA.

b. An explanation of the methods the medical cannabis cultivation facility will undertake to ensure medical cannabis is under secure control of the medical cannabis cultivation facility's staff at all times.

12. Odor filtration system. Verification that the proposed medical cannabis cultivation facility will be equipped with an odor filtration system that meets the following requirements:

a. A medical cannabis cultivation facility shall install or provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical cannabis cultivation facility that is distinctive to its operation is not detected or detectable outside the medical cannabis cultivation facility, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breeze-ways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the medical cannabis cultivation facility.

b. For enforcement purposes, the standard for determining what constitutes an unlawful odor under this subsection shall be whether such an odor would be deemed offensive to a reasonable individual on an ongoing or periodic basis and personally detectable by City staff or law enforcement personnel.

13. Declaration. A statement in writing by the Applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

14. Acknowledgement. Authorization for the City to seek verification of the information contained within the application.

15. Any such additional and further information as is deemed necessary by the City to administer this Section or this Chapter.

C. The City staff shall review, verify and investigate all information on the application and prepare a report for the Planning Commission incorporating the findings of such investigation and verification, including, but not limited to, the suitability of the proposed location, and the Applicant's compliance with the requirements of this Chapter, Chapter 5.56 and all other applicable state and local laws and regulations. The Applicant shall be solely responsible for the cost of any environmental report, study or other document determined by the City to be necessary in order to process the application. Upon the City's demand, the Applicant shall deposit with the City the estimated cost of the environmental report, study or other document determined by the City to be required by applicable law.

17.43.080 Grounds for denial of conditional use permit.

A. The Planning Commission shall not hold a public hearing on or approve any application for a conditional use permit to operate a medical cannabis cultivation facility unless the Applicant holds a current and valid Local License issued pursuant to Chapter 5.56.

B. In addition to the findings set forth in Section 17.32.090 of this Code, a conditional use permit shall only be granted subject to certain conditions to protect the health, safety and general welfare of the neighborhood or community, subject to the following findings:

1. The medical cannabis cultivation facility as well as all operations as conducted therein, fully comply with all applicable environmental, building, electrical, zoning and fire Codes, accessibility requirements of the Americans with Disability Act, and all other applicable City and state laws and regulations; and

2. The medical cannabis cultivation facility complies with and meets all operating criteria required pursuant to state laws, Chapter 5.56 of this Code, any other applicable provisions of this Code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval in the conditional use permit.

C. Following the public hearing, the Planning Commission shall deny an application for a conditional use permit upon making any of the following findings, which shall be made part of the record of the meeting/public hearing:

1. The findings required by Section 17.32.090 or subsection A for the granting of a conditional use permit cannot be made; or

2. Good Cause, as defined in this Chapter.

D. Based on the information set forth in the application, the staff report presented by City staff and testimony presented at the public hearing, the Planning Commission may impose reasonable terms and conditions on a proposed medical cannabis cultivation facility in addition to those specified in and required to be included in every conditional use permit granted under this Chapter.

17.43.090 Transfer of ownership interest to a new owner, modification of licensed premises and other material changes.

In addition to any requirements in Chapter 5.56 of this Code, the following requirements for transfer of ownership to a new owner, or modification of a medical cannabis cultivation facility apply:

A. Change of ownership interest to a new owner. A conditional use permit approved in compliance with the provisions of this Chapter shall continue to be valid upon a change of ownership interest in the medical cannabis cultivation facility in the same area, configuration, and manner as it was originally approved in compliance with this Chapter. Notwithstanding anything in this Code to the contrary, a new owner of a medical cannabis cultivation facility may not commence operations at the premises until the transfer of ownership interest to a new owner has been approved by the City and been issued a Local License.

B. Modification of licensed premises. A medical cannabis cultivation facility shall not make physical change, alteration, or modification that materially changes the medical cannabis cultivation facility from the plans approved by the City and/or Planning Commission without the prior written approval of the City and Planning Commission. Material changes shall comply with all current building and safety Codes as determined by the fire chief and building official. Material changes include, but are not limited to: a decrease in the number of security cameras, the relocation of any security camera included in the security plan approved pursuant to Section 17.43.070, an increase or decrease in the total square footage of the licensed premises or the addition, sealing off, or relocation of a wall, common entryway, doorway, or other means of public ingress and/or egress.

17.43.100 Appeals.

Any decision regarding the Planning Commission's approval, conditional approval, denial, or revocation of a conditional use permit for a medical cannabis cultivation facility may be appealed to the City Council in accordance with the provisions of Chapter 2.44 of this Code.

17.43.110 Permitted zones, distance requirements and other conditions for approval.

A. Distance requirements.

1. No medical cannabis cultivation facility shall be located:

- a. Within six hundred (600) feet of a religious assembly;
- b. Within one thousand (1,000) feet of a public or private school, college or university;
- c. Within one thousand (1,000) feet of a day care center;
- d. Within six hundred (600) feet of a residential use or residentially designated property;
- e. Within six hundred (600) feet of a public park.

2. An Applicant for a conditional use permit pursuant to this Chapter may request, in conjunction with the conditional use permit, a waiver of the foregoing distance requirements. In considering such request, the Planning Commission may approve a waiver if it makes the following findings:

a. The medical cannabis cultivation facility will serve a specific community need; and

b. The distance waiver approved for the medical cannabis cultivation facility is not expected to result in an adverse effect on adjacent property, uses or residents.

3. Subject to the distance and other requirements of this Chapter, a medical cannabis cultivation facility may only be located on a property within the Light Industrial (LI) zone, Heavy Industrial (HI) zone, or any adopted specific plan that permits industrial uses, and following the application for and granting of a conditional use permit in accordance with this Chapter. In addition to the other required findings, the Planning Commission shall also consider whether approval of the proposed medical cannabis cultivation facility will violate the minimum requirements set forth in this Section.

4. All cultivation of medical cannabis shall occur in an enclosed locked structure that shall not exceed 22,000 square feet of Canopy area. All cultivation of medical cannabis outdoors within the City is prohibited.

5. A medical cannabis cultivation facility shall not exceed the square footage authorized pursuant to the conditional use permit.

6. From a public right-of-way, there should be no exterior evidence of the medical cannabis cultivation facility except for any signage authorized by this Chapter.

7. All medical cannabis cultivation facilities shall comply with the City's exterior lighting standards.

8. All doors and windows on medical cannabis cultivation facilities shall be appropriately secured and all medical cannabis securely stored in compliance with the security plan approved pursuant to Section 17.43.070

B. Any medical cannabis cultivation facility established or operating in the City in violation of the ban established by Ordinance No. 1012, shall not be considered a lawful or permitted nonconforming use. Further, any such unlawfully established medical cannabis cultivation facility shall constitute a public nuisance subject to abatement by the City.

C. All distances specified in this Section shall be measured in a straight line, without regard to intervening structures or topography, from the nearest point of the building or structure in which the medical cannabis cultivation facility is, or will be located, to the following locations.

1. Setbacks from schools, parks, churches and, shall be measured to the nearest property line of the parcel where such use is located.

2. If the medical cannabis cultivation facility is, or will be located, in a multi-unit building, the distances shall be measured from the nearest point of the unit in which the medical cannabis cultivation facility is or will be located.

17.43.120 Confidentiality of information.

A. The City's review of information submitted or maintained pursuant to this Chapter shall preserve the confidentiality of all information about Applicants, Licensees, owners, employees, volunteers, medical cannabis patients or primary caregivers to the maximum extent consistent with state and local law. The City shall incur no liability for the inadvertent or negligent disclosure of such information. Disclosure of any Applicant or Licensee information to the City for purposes of this Chapter shall not be deemed a waiver of confidentiality.

B. The City shall treat all financial information provided pursuant to this Chapter as financial data in accordance with the California Public Records Act (California Government Code Section 6254(n)).

C. Notwithstanding Section 56.10 of the California Civil Code, neither a medical cannabis cultivation facility, nor a City official, shall disclose, the names, addresses, or social security numbers of medical cannabis patients, their medical conditions, or the names of their primary caregivers, sooner than the tenth (10th) day after which the medical cannabis patient whose records are sought to be disclosed has been contacted.

D. To the extent permitted by law, recordings from security cameras, as well as operating plans and security plans required by this Chapter shall be confidential and shall not be subject to public inspection or disclosure except to City employees.

17.43.130 Limitations on City's liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any Local License pursuant to this Chapter or the operation of any medical cannabis cultivation facility approved pursuant to this Chapter. As a condition of approval a Local License as provided in this Chapter, the Applicant or its legal representative shall:

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

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

C. Name the City as an additional insured on all City required insurance policies;

D. Agree to defend, at its sole expense and with counsel of the City's choice, any action against the City, its agents, officers, and/or employees related to the approval of a Local License; and

E. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a Local License.

F. Expressly acknowledge in writing that (i) the City incurs no liability whatsoever as a result of the City's issuance of a Local License pursuant to this Chapter 5.56, a conditional use permit pursuant to this Chapter and/or approval of the security plan required by this Chapter, (ii) the Applicant is aware that the cultivation of cannabis may violate federal law, including, without limitation, the Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, and the Applicant assumes all liability for such violation.

17.43.140 Inspections.

A. Recordings made by security cameras at any medical cannabis cultivation facility shall be made immediately available to the City's Development Services Department, the City Manager, the Los Angeles County Sheriff's Department or their designee upon verbal request for enforcement and/or criminal investigation purposes.

B. The City Manager, or his or her designee, law enforcement officers, City Development Services Department personnel and City code enforcement officers shall have the right to enter all medical cannabis cultivation facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter. Such inspections shall be limited to observing the licensed premises for purposes of determining whether the medical cannabis cultivation facility is being operated or maintained in compliance with this Code, state law, and other applicable laws and regulations.

17.43.150 Violations and enforcement.

A. Operation of a medical cannabis cultivation facility in non-compliance with any conditions of approval or the provisions of this Chapter, Chapter 5.56 or any other applicable state or local law or regulation shall constitute a misdemeanor and upon conviction thereof any violation shall be punishable by a fine not to exceed \$1,000, or by imprisonment 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.

B. In lieu of issuing a misdemeanor citation, the City may issue an administrative citation for each violation of this Chapter pursuant to the procedures set forth in Chapter 9.48; provided, however, that notwithstanding the provisions of Section 9.48.060(E), the penalty amounts of administrative citations issued for violations of this Chapter shall be as follows, which city council may periodically adjust by resolution:

1. For the first administrative citation, the penalty shall be ten thousand dollars (\$10,000.00);

2. For the second and any subsequent administrative citation, the penalty shall be twenty thousand dollars (\$20,000.00).

C. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation or non-compliance, the City may pursue any proceedings or remedies otherwise provided by law.

D. Applicants and Licensees shall cooperate with employees and investigators of the City who are conducting inspections or investigations of or pertaining to the enforcement of laws and regulations related to this Chapter. No Applicant or Licensee shall by any means interfere with, obstruct or impede the City's Development Services Department, City Manager, law enforcement, or other City official from exercising their duties under the provisions of this Chapter and all rules promulgated pursuant to it.

17.43.160 Revocation of conditional use permit.

Revocations of a conditional use permit issued under this Chapter shall be governed by Section 17.32.890, *et seq.* of this Code. In addition to the grounds for revocation set forth in Section 17.32.890, the Planning Commission and/or the City Council may suspend or revoke a conditional use permit if the Planning Commission and/or the City Council find:

- A. Good Cause;
- B. The building, structure, equipment, location or manner of operation of such business does not comply with the requirements of or fails to meet the standards of the health, zoning, fire and safety laws of the state and ordinances of the City applicable to such business operations; or
- C. The medical cannabis cultivation facility has failed to comply with this Chapter or any condition of approval or a circumstance or situation has been created that would have permitted the Planning Commission to initially deny the conditional use permit, including, but not limited to, failure to comply with the operating plan or safety plan approved pursuant to Section 5.56.070.

17.43.170 Public nuisance.

It is unlawful and shall constitute a public nuisance to establish, maintain, or operate a medical cannabis cultivation facility within the City without having first received a Local License pursuant to Chapter 5.56 and a conditional use permit pursuant to this Chapter.

17.43.180 Regulations.

The City Manager is authorized to promulgate such regulations as may be necessary or convenient to implement this Chapter.

RESOLUTION NO. 16-55

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ESTABLISHING THE MAXIMUM NUMBER OF LICENSES AND PERMITS THAT MAY BE ISSUED FOR CULTIVATION OF MEDICAL CANNABIS

WHEREAS, the City Council (“City Council”) of the City of Lancaster (“City”) has introduced Ordinance No. 1019 which, if adopted, will add Chapters 5.56 and 17.43 to the City’s Municipal Code relating to the regulation of medical cannabis cultivation; and

WHEREAS, the Ordinance authorizes the City Council to establish a maximum number of local licenses and conditional use permits that may be issued; and

WHEREAS, subject to the Ordinance’s adoption, the City Council now desires to establish the maximum number of local licenses and conditional use permits that may be issued.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The foregoing recitals are a substantive part of this Resolution.

Section 2. The City Manager shall have the authority to determine the maximum number of licenses and permits that may be issued pursuant to Chapters 5.56 and 17.43 of the City’s Municipal Code; provided, however, that under no circumstances shall more than ten (10) local licenses issued pursuant to Chapter 5.56 of the City’s Municipal Code and ten (10) conditional use permits issued pursuant to Chapter 17.43 of the City’s Municipal Code be issued and valid at any give time within the City. The provisions of this Section may be amended from time to time by resolution of the City Council.

Section 3. This Resolution shall take effect immediately upon the City Council adopting Ordinance No. 1019. In the event the City Council does not adopt Ordinance No. 1019, this Resolution shall be of no force or effect.

PASSED, APPROVED, and ADOPTED this 13th day of December, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Resolution No. 16-55, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)
