

ORDINANCE O20XX-XX

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANTECA, STATE OF CALIFORNIA, ADDING CHAPTER 5.64 TO TITLE 5 BUSINESS TAXES, PERMITS AND REGULATIONS, RELATING TO CANNABIS BUSINESSES, AMENDING CHAPTER 8.35, ADULT USE AND MEDICAL MARIJUANA, OF TITLE 8, HEALTH AND SAFETY, AND AMENDING TITLE 17, ZONING, TO ALLOW FOR THE ESTABLISHMENT OF CANNABIS RETAILERS IN THE CITY, AND MAKING A FINDING OF EXEMPTION UNDER CEQA GUIDELINES SECTION 15061(B)(3)

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5 et seq., and entitled the Compassionate Use Act of 1996 (“CUA”), which intended to enable seriously ill Californians to legally possess, use, and cultivate cannabis for medical use under limited, specified circumstances; and

WHEREAS, in 2004, the California legislature enacted Senate Bill 420, the Medicinal Marijuana Program (the “MMP”), which, as codified in California Health and Safety Code Section 11362.7 et seq., was intended to clarify the CUA’s scope and immunize from criminal prosecution, under specified state laws, certain activities and conduct related to the provision of medicinal cannabis to qualified patients; and

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64, entitled the “Control, Regulate and Tax Adult Use of Marijuana Act,” which legalizes and regulates adult-use cannabis in California; and,

WHEREAS, the State has established an integrated licensing and regulatory system for both medicinal and adult use cannabis businesses consistent with Propositions 215 and 64 entitled the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), codified in Business and Professions Code section 26000 et seq.; and,

WHEREAS, Business and Professions Code section 26200 expressly recognizes the ability of cities to completely prohibit all medicinal and adult-use cannabis businesses or to allow and regulate such businesses; and,

WHEREAS, despite the City’s existing prohibition against all types of cannabis facilities and commercial cannabis activity, codified in Chapter 8.35 of the Manteca Municipal Code, numerous illegal commercial cannabis facilities have opened in the City; and,

WHEREAS, the City has incurred significant costs and expenses associated with shutting down illegal commercial cannabis grow facilities/houses; and,

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WHEREAS, illegal commercial cannabis operations pose significant risks to the public health and safety because such operations are operated without regulatory oversight to ensure that dangerous conditions, such as mold, electrical overload, improper hazardous materials storage, and improper ventilation and odor control, do not exist; and

WHEREAS, upon information and belief, the City Council finds that allowing commercial cannabis businesses in the City, subject to regulation, will lessen the financial burdens and public health and safety risks caused by current illegally operated commercial cannabis facilities; and,

WHEREAS, a majority of the voters in Manteca who voted on State of California Proposition 64 at the November 8, 2016 election voted in favor of Proposition 64; and

WHEREAS, a majority of the voters in Manteca who voted on County of San Joaquin Measure X at the November 3, 2020 election voted in favor of Measure X; and

WHEREAS, in order to protect the public health, safety, and welfare, and consistent with the will of the voters of Manteca who favored legalizing cannabis, the City desires to permit, commercial cannabis activity in the City subject to regulation and taxation as set forth in this ordinance; and

WHEREAS, in accordance with California Government Code, Section 65800, et seq., the City Council has the authority to take action on the proposed ordinance; and

WHEREAS, the Planning Commission held a duly noticed public hearing on November 18, 2021 to review the proposed ordinance, at which time interested persons had an opportunity to testify in support of, or opposition to the proposed municipal code amendment to Title 17, and at which time the Planning Commission received public testimony, and subsequently the Planning Commission made no findings and/or recommendations regarding the proposed amendment to Title 17, but instead recommended that the City Council not amend Title 17.

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

THE CITY COUNCIL OF THE CITY OF MANTECA DOES ORDAIN AS FOLLOWS:

SECTION 1: Amendment. Manteca Municipal Code section 5 is hereby amended to read as follows:

CHAPTER 5.64

CANNABIS BUSINESSES

- 5.64.010 Title.
- 5.64.020 Purpose and Intent.
- 5.64.030 Legal Authority.
- 5.64.040 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.
- 5.64.050 Compliance with State and Local Laws and Regulations.
- 5.64.060 Definitions.
- 5.64.070 Cannabis Business Permit Required to Engage in Cannabis Business Activity.
- 5.64.080 Evidence of Cannabis Owners and/or Employees Background Check Required.
- 5.64.090 Personnel Prohibited from Holding a Permit or from Employment with a Cannabis Business Permittee.
- 5.64.100 Maximum Number and Type of Authorized Cannabis Businesses Permitted.
- 5.64.110 Community Benefits.
- 5.64.120 City's Reservation of Rights.
- 5.64.130 Procedure Guidelines and Review Criteria to Evaluate Cannabis Business Applications.
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- 5.64.150 Exercise of a Cannabis Business Permit.
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- 5.64.270 Change in location; Updated Application Form.
- 5.64.280 Transfer of Cannabis Business Permit.
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- 5.64.300 Building Permits and Inspection.
- 5.64.310 Authorization from the Development Services Director.
- 5.64.320 Right to Occupy and to Use Property.
- 5.64.330 Location and Design of Cannabis Businesses.
- 5.64.340 Limitations on City's Liability.

- 5.64.350 Records and Recordkeeping.
- 5.64.360 Security Measures.
- 5.64.370 Fees and Charges.
- 5.64.380 General Operating Requirements.
- 5.64.390 Amendments to General Operating Requirements.
- 5.64.400 Operating Requirements for Storefront Retailers.
- 5.64.410 Operating Requirements for Non-Storefront Retailers.
- 5.64.420 Retailer, Non-Storefront Retailer and Microbusiness Delivery Vehicle Requirements.
- 5.64.430 Operating Requirements for Out-of-City Delivery Services.
- 5.64.440 Permissible Delivery Locations and Customers.
- 5.64.450 Promulgation of Regulations, Standards and Other Legal Duties.
- 5.64.460 Community Relations.
- 5.64.470 Fees Deemed Debt to the City.
- 5.64.480 Permit Holder Responsible for Violations.
- 5.64.490 Inspection and Enforcement.
- 5.64.500 Violations Declared a Public Nuisance.
- 5.64.510 No Vested Rights.
- 5.64.520 Community Benefit Agreement.

5.64.010 Title.

This Chapter shall be known as the Cannabis Business Permit Ordinance of the City of Manteca.

5.64.020 Purpose and Intent.

It is the purpose and intent of this Chapter to implement the provisions of the 2018 Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to same. It is also the purpose and intent of this Chapter to provide access to adult-use cannabis for persons aged 21 and over as authorized by the MAUCRSA, while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. It is the purpose and intent of this Chapter to regulate the commercial sale and delivery of cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City and to enforce rules and regulations consistent with state law.

5.64.030 Legal Authority.

This Chapter is adopted pursuant to the authority granted to the City by Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the MAUCRSA.

5.64.040 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized by this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution, or transportation, of cannabis or cannabis products is expressly prohibited in the City.

5.64.050 Compliance with State and Local Laws and Regulations.

It is the responsibility of the owners, agents, employees, affiliates, and/or operators of any commercial cannabis business within the City limits to ensure that they operate in a manner compliant with this Chapter, all applicable state and local laws, and any regulations promulgated thereunder, including but not limited to the MAUCRSA.

5.64.060 Definitions.

All definitions pertaining to cannabis regulation that appear in Business and Professions Code Section 26001, as codified by the MAUCRSA, are hereby incorporated by reference. Definitions appearing in this ordinance are either those that are not covered by state law, pre-date the MAUCRSA, or are outside the scope of Business and Professions Code Section 26001. Other definitions may be set out in this Chapter as identified herein.

- (A) "Applicant" means a person or entity that submits an application for a Cannabis Business Permit under this Chapter.
- (B) "Cannabis Business Permit" or "Permit" means a regulatory permit issued by the City pursuant to this Chapter, to a commercial cannabis business and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Chapter, any applicable State laws, and any regulations adopted by the City governing the commercial cannabis activity at issue.
- (C) "Cannabis Business Permittee" or "Permittee" means a person or entity that has received a Cannabis Business Permit from the City as authorized under this Chapter.
- (D) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Health and Safety Code Section 11362.7.
- (E) "City" shall mean the City of Manteca, California.
- (F) "City Manager" shall mean the City of Manteca City Manager or his or her designee.

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- (G) “Commercial Cannabis Business” or “Cannabis Business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.
- (H) “Community Benefit Agreement” means an agreement between the City of Manteca and a Commercial Cannabis Business in order to memorialize the Commercial Cannabis Business’ commitment to pay the City a portion of the Commercial Cannabis Business’ Gross Receipts, which the City will use to fund services, positions, and for other purposes that benefit the community.
- (I) “Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- (J) “Limited-access area” means an area in which cannabis is stored or held and is only accessible to a permittee and authorized personnel.
- (K) “Non-storefront retailer” is a subset of “Retailer” and is a permitted retail business that is closed to the public and provides product to customers solely by means of a delivery service which the retailer owns and controls.
- (L) “Owner” means any of the following:
 - (1) A person with an aggregate ownership interest of 10 percent or more in the commercial cannabis business, unless the interest is solely a security, lien or encumbrance.
 - (2) An individual who manages, directs, or controls the operations of the commercial cannabis business, including but not limited to:
 - (a) A member of the board of directors of a nonprofit.
 - (b) A general partner of a commercial cannabis business that is organized as a partnership.
 - (c) A non-member manager or manager of a commercial cannabis business that is organized as a limited liability company.
 - (d) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.
 - (e) An individual with the authority to provide strategic direction and oversight for the overall operations of the commercial cannabis business, such as the chief executive officer, president or their equivalent, or an officer, director, vice president, general manager or their equivalent.
 - (f) An individual with the authority to execute contracts on behalf of the commercial cannabis business.
- (M) “Package” means any container or receptacle used for holding cannabis or cannabis products.
- (N) “Patient” or “qualified patient” shall have the same meaning as that contained in

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California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which includes within its definition a person who is entitled to the protections of California Health & Safety Code Section 11362.22.

- (O) “Person” shall mean any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- (P) “Person with an identification card” shall have the same meaning as that contained in California Health and Safety Code Section 11362.7.
- (Q) “Retailer” or “Storefront Retailer” shall have the same meaning as that contained in Section 26070(a)(1) of the California Business and Professions Code.
- (R) “State license” means a permit or license issued by the State of California, or one of its departments or divisions, under the MAUCRSA and any subsequent related State of California legislation, to engage in cannabis activity.
- (S) “Topical Cannabis” means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by California Health and Safety Code Section 109925.
- (T) “Transport” means the transfer of cannabis products from the permitted business location of one state licensee to the permitted business location of another state licensee, for the purposes of conducting Cannabis activity authorized by the MAUCRSA which may be amended or repealed by any subsequent related State of California legislation. Transport can only be performed by state licensed distributors and does not include deliveries of cannabis or cannabis products.
- (U) “Youth center” means any:
 - (1) Public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:
 - (a) Private youth membership organizations or clubs,
 - (b) Social service teenage club facilities,
 - (c) Video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, and
 - (d) Similar amusement park facilities.
 - (2) It shall also include a park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, county, or state parks.

- (3) This definition shall not include any private martial arts, yoga, ballet, dance, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist office, doctor's office primarily serving children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.

5.64.070 Cannabis Business Permit Required to Engage in Cannabis Business.

No person may engage in any cannabis business within the City unless the person meets all of the following requirements:

- (A) Possess a valid Cannabis Business Permit from the City;
- (B) Possess a valid State of California Seller's Permit;
- (C) Is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the cannabis activities, including the duty to obtain any required state licenses; and
- (D) Is issued a Conditional Use Permit by the City Council.

5.64.080 Evidence of Cannabis Owners and/or Employees Background Check Required.

- (A) Any person who is an Owner, employee, agent and/or who otherwise works within a Cannabis business must be legally authorized to do so under applicable state law.
- (B) Cannabis business owners, operators, investors, managers, and employees shall be required to submit to a criminal background check for themselves and all persons in their employment.
- (C) The City shall conduct criminal background checks which must at a minimum identify the following:
 - (1) Whether the owners, operators, investors, managers, and employees applying for employment have ever been convicted of a violent felony as defined by California Penal Code 667.5 or equivalent offenses in other states;
 - (2) Whether the owners, operators, investors, managers, and employees have ever been convicted of a felony for hiring, employing, or in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor; or

(3) Whether the owners, operators, investors, managers, and employees have ever been convicted of a felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.

(D) Violation of this section (which include failing to conduct such a background check and/or employing someone who has failed a background check) shall be grounds for immediate suspension of the business' operating Cannabis Business Permit, pending a hearing before the City Manager or his/her designee within 30 days for a final determination of the status of the Permit.

5.64.090 Personnel Prohibited from Holding a Permit or from Employment with a Cannabis Business Permittee.

(A) Any person, including but not limited to any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, in which any of the following actions or notices have been issued for non-compliance, shall not be eligible to obtain a Cannabis Business Permit from the City or from employment with a Cannabis Business Permittee in the City of Manteca:

- (1) The applicant has been denied a cannabis license or permit (excluding if the applicant did not get a permit in another jurisdiction due solely to a limited and/or set number of licenses and/or permits), or has had a cannabis license or permit suspended or revoked by any city, county, city and county or any other state cannabis licensing authority;
- (2) The applicant was notified by the state, county, or city that it was conducting cannabis activity in violation of City ordinances, codes, and requirements, and failed to cure the violation in a timely manner;
- (3) Evidence that the applicant is delinquent in payment of federal, state, or local taxes and/or fees, and took no steps to cure the delinquency when notified by the appropriate agencies;
- (4) The owner, managers, employees, and/or individuals were convicted of any the offenses enumerated in Section 5.64.080(c).

5.64.100 Maximum Number and Type of Authorized Cannabis Businesses Permitted.

This section is only intended to create a maximum number and types of cannabis businesses that may be issued permits to operate in the City.

(A) After the effective date of this ordinance, the City shall only issue Cannabis Business Permits (consistent with this Chapter) for up to one retailer for every 25,000

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residents, which (by rounding down) amounts to three (3) Cannabis Business Permits. To be clear, the City is not required to issue any Cannabis Business Permits. After the first two (2) years following the first day a retailer opens for cannabis business, the number of cannabis businesses that shall be permitted to operate in the City shall be established by resolution by the City Council.

- (B) After the first two (2) years following the first day a retailer opens for business, if any, or at any time in the City Council's discretion, the City Council may reassess the number of Cannabis Business Permits which are authorized for issuance and make any changes by resolution.
- (C) The City Council in its sole discretion may determine that the number and/or types of Cannabis Business Permits should remain the same or be modified.

5.64.110 Community Benefits.

- (A) The application procedure process shall include a component on community benefits, the terms of which shall be set out and memorialized in a community benefit agreement.
- (B) Any community benefits that a cannabis business agrees to provide shall be incorporated into the terms and conditions under which the cannabis business will operate with the City's approval, if and when a Cannabis Business Permit is issued. Such terms and conditions shall be in addition to the requirements of this Chapter.
- (C) Community benefits may include but will not be limited to: in-kind donations; sponsorship of select community events; financial support for special community events such as fairs, afterschool programs, youth centers, local schools (whether public or private); school athletic programs; school clubs; community centers, homeless shelters, senior centers and/or senior living facilities, and/or parks and recreation programs.

5.64.120 City's Reservation of Rights.

The City reserves the right to reject any or all applications for a Cannabis Business Permit. Prior to such permit issuance, the City may modify, postpone, or cancel any request for applications, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to a failure to comply with other requirements in this Chapter, an application may be rejected for any of the following reasons:

- (A) The application was received after the designated time and date of the deadline.

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- (B) The application did not contain the required elements, exhibits, or was not organized in the required format.
- (C) The application was considered not fully responsive to the request for a permit application, i.e. was substantially incomplete.

5.64.130 Procedure Guidelines and Review Criteria to Evaluate Cannabis Business Applications.

- (A) By resolution the City Council shall adopt Procedure Guidelines and Review Criteria for the City's evaluation of cannabis business permit applications.
- (B) The Procedure Guidelines shall provide the process for soliciting applications including time frames, limitations, requirements, forms, and rules for completing applications.
- (C) The Review Criteria shall include detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to particular sets of criteria.
- (D) The scoring on Review Criteria shall be used to determine which candidates will be eligible to participate in the interview or other selection process as determined by City Council resolution.
- (E) The City Manager shall be authorized to prepare any necessary forms and adopt any necessary rules to implement the Procedure Guidelines and Review Criteria.
- (F) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the application process.
- (G) For applicants with ten or more employees, the applicant shall attest that the applicant will enter into a labor peace agreement and will abide by the terms of the agreement, and the applicant shall provide a copy thereof to the City. For applicants that have not yet entered into a labor peace agreement, the applicant shall provide a notarized statement indicating that within 30-days of cannabis permit from the City, the applicant will enter into and abide by the labor peace agreement.

5.64.140 Application Review Process.

- (A) Applications will be reviewed per the Procedure Guidelines and Review Criteria adopted by Resolution by the City Council.
- (B) The Development Services Director, or his or her designee, shall verify whether proposed business locations are properly zoned for the type of permit(s) in which

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the applicant has applied.

- (C) Only approved applications meeting guidelines set by City Council resolution will be eligible to participate in the final selection process.
- (D) Upon the completion of the review process, a public meeting by the City Council shall be set in which concerns of residents, businesses, and community organizations alike may be brought before the City.
- (E) The City Council shall conduct the public meeting to solicit community feedback.
- (F) Public Notice shall be mailed at least ten (10) days prior to the public meeting to the following:
 - (1) All property owners of record within a minimum 300-foot radius of the subject property as shown on the latest available assessment role or a larger radius if deemed necessary by the City Manager, or his or her designee in order to provide adequate public notification; and
 - (2) Any person or group who has filed a written request for notice regarding the specific application.
 - (3) Failure to Notify Individual Properties. The validity of the proceedings shall not be affected by the failure of any property owner, resident or neighborhood or community organization to receive a mailed notice.
- (G) Applications shall be vetted by the City Manager (or his/her designee) and a team of his/her choice consistent with Review Criteria established by City Council Resolution. At the conclusion of the vetting process, the City Manager's Office shall prepare a report for consideration by the City Council.
- (H) The City Council may either deny or approve the final candidates pursuant to the Review Criteria established by City Council Resolution.
- (I) The City will issue a notice to the prevailing applicants that the City will issue a Cannabis Business Permit(s) upon the prevailing applicant(s) obtaining a conditional use permit. Once the conditional use permit is secured, the City will issue a Cannabis Business Permit.

5.64.150 Exercise of a Cannabis Business Permit.

- (A) Each Cannabis Business Permit issued pursuant to this Chapter shall expire twelve (12) months after the date of issuance. Cannabis Business Permits may be renewed as provided in Section 5.64.180.

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- (B) A Cannabis Business Permit shall be exercised within twelve (12) months of issuance. Exercised shall be when any of the following occur:
 - (1) A Certificate of Occupancy has been issued,
 - (2) The permitted use(s) has commenced on the site, and
 - (3) A City Building Permit or Grading Permit is secured, and construction lawfully commenced.

5.64.160 Scope of Approval.

- (A) If a location has not been in regular and continuous operation in the preceding four (4) months, it shall be considered abandoned unless mitigating circumstance occur which was beyond the control of the Permittee and an extension has be authorized by the City Manager or his/her designee.
- (B) The approval of a new use shall terminate all rights and approvals of a Cannabis Business Permit occupying the same site or location.

5.64.170 Reapplying for a Cannabis Business Permit.

If an applicant is denied a permit due to a disqualifying factor such as failing a background check or not complying with any state or local jurisdictions regulatory requirements in which legal or administrative action has been taken, a new application may not be filed for one (1) year from the date of the denial. This section shall not apply to an approved applicant not awarded a permit resulting from the City not selecting them for one of the permits in the application process.

5.64.180 Renewal of Cannabis Business Permits.

- (A) An application for renewal of a Cannabis Business Permit shall be filed at least ninety (90) calendar days prior to the expiration date of the current permit, unless a different time period is set forth by the City Manager.
- (B) The application for renewal shall contain all the information required for new applications.
- (C) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (D) An application for renewal of a Cannabis Business Permit shall be rejected if any of the following exists:

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- (1) The application for renewal is filed less than ninety (90) days before its expiration or a shorter time period which shall be at the discretion of the City Manager.
 - (2) The Cannabis Business Permit is suspended or revoked at the time of the application for renewal.
 - (3) The Cannabis Business Permittee has not been in regular and continuous operation in the four (4) months prior to the renewal application or the approved extension of the deadline from the City Manager or his/her designee.
 - (4) The Cannabis Business Permittee has failed to conform to the requirements of the Cannabis Business Permit or this Chapter or any regulations adopted pursuant to this Chapter or any applicable or relevant local or state.
 - (5) The Cannabis Business Permittee fails or is unable to renew its State of California license.
 - (6) If the State has determined, based on substantial evidence, that the Permittee or applicant is in violation of the requirements of the State rules and regulations and the State has determined that the violation is grounds for termination or revocation of the Cannabis Business Permit.
- (E) The City Manager (or his/her designee) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety, or welfare. Appeals from the decision of the City Manager shall be handled pursuant to this Chapter.
- (F) If a renewal application is denied, a person may file a new application pursuant to this Chapter not sooner than one (1) year from the date of the denial.

5.64.190 Revocation of Permits.

Cannabis Business Permits may be revoked by the City Manager for any violation of any state or local laws, and/or rules, and/or standards, policies, procedures, or regulations in this Chapter relating to cannabis, and/or violated the applicable conditional use permit, or community benefit agreement. Such revocation shall follow the procedures set forth in Section 5.80.080.

5.64.200 Effect of State License Suspension.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a Permittee or Commercial Cannabis

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Business to operate within the City until the State of California or its respective department or division reinstates or reissues the State license.

5.64.210 Effect of State Revocation.

Revocation of a license issued by the State of California, or by any of its departments or divisions, shall result in the revocation of the Cannabis Business Permit and immediately suspend the ability of a Permittee or Commercial Cannabis Business to operate within the City. Should the State revoke a license, the cannabis business owner may re-apply for a Cannabis Business Permit at such time as it can demonstrate that the grounds for revocation of the license by the State no longer exist or that the underlying deficiency has otherwise been cured.

5.64.220 Appeals.

Appeals relating to denial of an initial application; denial of advancement to the interview or other final selection process established by the City Council; to revoke or suspend a permit; to deny renewal of an application for a permit; or to add conditions to a permit shall be conducted as prescribed in this Chapter.

5.64.230 Written Request for Appeal.

- (A) Within ten (10) calendar days after the date of a decision of the City Manager (or his/her designee) to revoke, suspend or deny an initial or renewed permit application or to add conditions to a permit, an Applicant, Owner, or Permittee may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- (B) At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

5.64.240 Grounds for Appeal.

- (A) Denial of Initial Permit Decision. The City Manager, his/her designee, or an appointed hearing officer, as set forth by City Council Resolution, will hear appeals that address the following issues:
 - (1) Any deviation from the City's published Procedure Guidelines and Review Criteria that adversely affected the Applicant by altering the outcome of the City's decision on the Applicant's application. Examples of appealable deviations are:
 - i. Failure on the part of the City to provide appropriate notification regarding changes to the application process via website postings and/or email to the Applicant prior to the time the application was submitted;

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- ii. Failure on the part of the City to provide an Applicant an equal opportunity to modify an application where that opportunity was provided to other applicants;
 - (2) The scoring of one or more portions of the Applicant's application was not justified based on the information presented in the application or due to a material error or omission on the part in scoring the application;
 - (3) Any appeal based upon this Section 5.64.240 must be supported by a preponderance of the evidence that the Applicant presented the relevant information with completeness and in the appropriate section of the application. Information presented in the application that is incomplete in nature or that is relevant to a question posed by the City on the application form but appears in the incorrect section, even if complete, may be grounds for the dismissal of the appeal.
- (B) An applicant that is eligible to participate in the interview or other final decision process, but is not selected during the interview or other final decision process, shall not be eligible to appeal the outcome of the process.

5.64.250 Appeal Hearing Process.

- (A) Within ten (10) calendar days after service of the notice of the decision of the City Manager or his/her designee to deny advancement to the interview or other final decision process, to revoke or suspend a permit, to deny a renewed application for a permit; or to add conditions to a permit, the Applicant or Permittee may appeal such action by filing a written appeal with the City Clerk setting forth the reason why the decision was not proper. For an initial permit application appeal, reasons shall be stated with specificity in writing and shall address the issues outlined in Section 5.64.240 (a). Date of service shall mean the date when a notice or written decision was personally delivered to the Applicant or Permittee or the date when the notice was caused to be delivered by certified, first class mail. In cases in which the City can verify delivery of a notice to an Applicant or Permittee in which an Applicant or Permittee is documented as refusing delivery, lack of receipt of the notice cannot form the basis for an appeal.
- (B) The Notice of Appeal shall be in writing and signed by the person making the appeal ("Appellant"), or their legal representative, and shall contain the following:
- (1) Name, address, and telephone number of the Appellant.
 - (2) Specify decisions, actions, or a particular part thereof, made that are the subject of the appeal.
 - (3) Include a true and correct copy of the notice issued by the City Manager for which the appellant is appealing.

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- (4) State with specificity the reasons and grounds for making the appeal, including, but not limited to, a statement of facts upon which the appeal is based in sufficient detail to enable the City Council, or any appointed hearing officer, to understand the nature of the controversy, the basis of the appeal, and the relief requested.
 - (5) All documents or other evidence pertinent to the appeal that the appellant requests the hearing officer or body to consider at the hearing.
 - (6) An appeal fee as established by Resolution of the City Council.
- (C) Failure of the City Clerk to receive a timely appeal constitutes a waiver of the right to appeal the notice issued by the City Manager or his/her designee. In this event, the City Manager's (or his/her designee's) notice of revocation, nonrenewal, or suspension shall be final.
- (D) In the event a written Notice of Appeal is timely filed, the nonrenewal, suspension, revocation shall not become effective until a final decision has been rendered and issued by the City Council or appointed hearing officer, unless the State has revoked the State license in which case the revocation will become effective immediately. Notices of appeal not served in a timely manner or served by non-operational business shall not serve to allow such business to operate pending appeal.
- (E) If no appeal is timely filed in the event of a decision of nonrenewal, the Cannabis Business Permit shall expire at the conclusion of the term of the permit. If no appeal is timely filed in the event of a decision supporting suspension or revocation, the suspension or revocation shall become effective upon the expiration of the period for filing a written Notice of Appeal.

5.64.260 Administrative Hearing and Proceedings.

- (A) Review by City Council or Appointed Hearing Officer or Body; Administrative Hearing and Proceedings.
- (1) Appellants who file a timely written Notice of Appeal will be entitled to an administrative hearing before the City Council, hearing officer, or body as set forth by the City Council by Resolution.
 - (2) Upon receipt by the City Clerk of a timely-filed Notice of Appeal pertaining to suspensions, revocations, or non-renewals the City Clerk shall forward such appeal to the City Council, hearing officer, or body who shall schedule a hearing within thirty days (30) days. In the event such hearing cannot be heard within that time period or a mutually agreed upon time with the appellant, then the City Clerk shall schedule the appeal to be heard within forty-five (45) days.

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- (3) The appellant(s) listed on the written Notice of Appeal shall be notified in writing of the date, time, and location of the hearing at least ten (10) days before the date of the hearing (“notice of appeal hearing”).
 - (4) A request by an appellant or by the City to continue a hearing must be submitted to the City Clerk in writing no later than three (3) business days before the date scheduled for the hearing. The City Council, appointed hearing officer or body may continue a hearing for good cause or on its own motion; however, in no event may the hearing be continued for more than thirty (30) calendar days, unless there is a written stipulation by all parties to do so.
- (B) At the date, time and location set forth in the Notice of Appeal hearing, the City Council, hearing officer or body shall hear and consider the testimony of the appellant(s), City staff, and/or their witnesses, as well as any documentary evidence properly submitted for consideration.
- (C) The following rules shall apply at the appeal hearing:
- (1) Appeal hearings are informal, and formal rules of evidence and discovery do not apply. However, rules of privilege shall be applicable to the extent they are permitted by law, and irrelevant, collateral, undue, and repetitious testimony may be excluded.
 - (2) The City bears the burden of proof to establish the grounds for nonrenewal, suspension, or revocation by a preponderance of evidence. Appellant(s) or Permittee(s) bear the burden of proof regarding denial of an Applicant’s/Permittee’s application.
 - (3) The issuance of the City Manager’s notice constitutes prima facie evidence of grounds for the denial, nonrenewal, suspension or revocation.
 - (4) The City Council, hearing officer or body may accept and consider late evidence not submitted initially with the Notice of Appeal upon a showing by the appellant of good cause, provided, however, all evidence must be submitted at a minimum twenty-four (24) hours prior to the set hearing start time. The City Council, hearing officer or body shall determine whether a particular fact or set of facts amount to good cause on a case-by-case basis.
 - (5) The appellant may bring a language interpreter to the hearing at their sole expense.
 - (6) The City may, at its discretion, record the hearing by stenographer or court reporter, audio recording, or video recording. If the appellant requests from the City that a court reporter, stenographer, or videographer be used, appellant shall bear the costs of same and shall deposit such fees prior to commencement of the administrative hearing.

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- (D) If the appellant, or their legal representative, fails to appear at the appeal hearing, the City Council, hearing officer or body, may cancel the appeal hearing and send a notice thereof to the appellant by certified, first class mail to the address(es) stated on the Notice of Appeal. A cancellation of a hearing due to non-appearance of the appellant shall constitute the appellant's waiver of the right to appeal and a failure to exhaust all administrative remedies. In such instances, the notice of decision is final and binding.
- (E) Final Decision. Following the conclusion of the administrative hearing, the City Council, hearing officer or body shall issue a written decision within twenty (20) days which (i) determines if the action appealed from is affirmed or overturned and (ii) specifies the reasons for the decision.
- (F) The written decision of the City Council, hearing officer or body shall provide that it is final and conclusive and is subject to the time limits and procedures set forth in California Code of Civil Procedure Sections 1094.5 and 1094.6 for judicial review.
- (G) A copy of the written decision shall be served by certified, first class mail on the appellant. If the appellant is not the owner of the real property in which the cannabis business is located, or proposed to be located, a copy of the final decision may also be served on the property owner by first class mail to the address shown on the last equalized assessment roll. Failure of a person to receive a properly addressed final decision shall not invalidate any action or proceeding by the City pursuant to this Chapter.

5.64.270 Change in location; updated application form.

- (A) If the location specified in the regulatory permit is proposed to be changed, the Permittee and/or Applicant shall submit an updated application form to the City Manager for approval prior to the change in location. The process and the fees for the processing of the application form shall be the same as the process and fees set forth in Sections 5.64.180 and 5.64.280.
- (B) Within fifteen (15) calendar days of any other change in the information provided in the updated application form or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis business ownership or management members, the applicant shall file an updated application form with the City Manager for review along with an application amendment fee.

5.64.280 Transfer of Cannabis Business Permit.

- (A) The Owner of a Cannabis Business Permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains a written and executed amendment to the permit from the City Manager stating that

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the transferee is now the Permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with the provisions of this Chapter (as though the transferee were applying for an original Cannabis Business Permit). The proposed transferee's application shall be accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee). The transferee's application will be treated as a new application, and will be evaluated according to procedures adopted by the City Manager, pursuant to Section 5.64.490, and/or Resolution by the City Council.

- (B) Cannabis Business Permits issued through the grant of a transfer by the City Manager shall be valid for a period of one year beginning on the day the City Manager approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit and pay the appropriate fee in the manner required by this Chapter.
- (C) A Cannabis Business Permit shall not be transferred when the City has notified the Permittee in writing that the permit has been or may be suspended or revoked.
- (D) Any attempt to transfer a Cannabis Business Permit either directly or indirectly in violation of this section is hereby declared a violation of the Permit and this ordinance. Such a purported transfer shall be deemed a ground for revocation of the Permit.
- (E) This section 5.64.280 shall not apply to the extent the current owners are attempting to add a new and/or additional owner, but all other remaining owners shall remain in place. Any new and/or additional ownership, however, shall require written approval by the City Manager and/or his/her designee. Failure to obtain such approval prior to adding a new owner will result in a violation of the Permit and this ordinance, and shall be deemed a ground for revocation.

5.64.290 City Business License.

Prior to commencing operations, a cannabis business shall obtain a City of Manteca business license.

5.64.300 Building Permits and Inspection.

Prior to commencing operations, a Cannabis Business Permit shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), Fire Department approvals, Police Department approval, Code Enforcement, Planning, and County Health Department approvals, and any other applicable zoning and land use permit(s) and approvals.

5.64.310 Authorization from the Development Services Director.

Prior to commencing operations, a cannabis business must obtain authorization from the Development Services Director certifying that the business is located on a site that meets all of the requirements of Sections 5.64.300, 5.64.320 and 5.64.330 of this Chapter and Section 17.10.130(l).

5.64.320 Right to Occupy and to Use Property.

Prior to the City's issuance of a Cannabis Business Permit pursuant to this Chapter, any person intending to open and to operate a cannabis business shall first provide sufficient evidence of the legal right to occupy and to use the proposed location. Such evidence may include a notarized lease, notarized real estate records, and/or other notarized official records that demonstrate a legal right to occupy. If the proposed location will be leased from the property owner, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the cannabis business on the owner's property.

5.64.330 Location and Design of Cannabis Businesses through a Conditional Use Permit.

- (A) A Cannabis business must meet land use and building standards pursuant to Title 15, and Title 17 of this Code:
 - (1) Conform with the City's general plan, the City's climate and/or environmental plan, any applicable specific plan, master plan, and design requirements.
 - (2) Comply with all applicable building, zoning, and related development standards pursuant to Title 15 and Title 17 of this Code.

5.64.340 Limitations on City's Liability.

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

- (A) Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), release, and hold the City of Manteca, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the Cannabis Business Permit, the City's decision to approve the operation of the cannabis business or activity, the process used by the City in making its decision, or

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the alleged violation of any federal, state or local laws by the cannabis business or any of its officers, employees or agents.

- (B) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City's Risk Manager.
- (C) Reimburse the City for all costs and expenses, including but not limited to legal fees and costs, and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the Applicant's Cannabis Business Permit or related to the City's approval of a cannabis activity. The City, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall not relieve the Applicant or Permittee of any of the obligations imposed hereunder.

5.64.350 Records and Recordkeeping.

- (A) Each owner and operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a Cannabis Business Permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each cannabis business shall file a sworn statement detailing the number and amount of sales by the cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and a gross receipts financial audit, where applicable, as determined by the City.
- (B) Each owner and operator of a cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the City Manager upon a reasonable request.
- (C) All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing processes until purchase as set forth in the MAUCRSA.

5.64.360 Security Measures.

- (A) A Cannabis Business Permittee shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis or cannabis products at the cannabis business. Except as may otherwise be determined by the City's Police Chief, these security measures shall be contained in a Security Plan that must be approved by the Police Chief and shall include, but shall not be limited to, all of the following:
- (1) Perimeter fencing and exterior lighting systems (including motion sensors) for after-hours security as approved by the Police Chief and/or the Development Services Director where applicable.
 - (2) Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business. In cases in which the individual will not voluntarily leave the premises, the cannabis employee shall contact the Police Department.
 - (3) Establishing limited access areas accessible only to authorized cannabis business personnel.
 - (4) All safes and vaults used to store cash and/or cannabis goods shall be compliant with applicable burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live clone plants that are being sold, shall be kept in a manner as to prevent diversion, theft, and loss.
 - (5) Installing 24-hour security surveillance cameras of at least high-definition (HD) quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The cannabis business shall be responsible for ensuring that the security surveillance camera's footage of all public areas (not Limited-Access Areas) is remotely accessible by the City Manager, and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras recording the public areas (not Limited-Access Areas) shall be provided to the Manteca Police Chief at the expense of the Permittee. All video recordings including of Limited-Access Areas shall be maintained for a minimum of ninety (90) days and shall be made available to the Manteca Police Chief upon a written request. Video shall be of sufficient quality for

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effective prosecution of any crime found to have occurred on the site of the cannabis business and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Police Department by the cannabis business, to facilitate remote monitoring of security cameras by the Department or its designee, but only in areas where customers/clientele have access. Each business shall have network security protocols that are certified by the Manteca Police Department.

- (6) Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (7) Panic buttons shall be installed in all cannabis businesses with direct notification to the Manteca Police Department dispatch and shall be configured to immediately alert dispatch for the Manteca Police Department.
- (8) Having a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services. The permittee shall be required to obtain an alarm permit from the Police Department.
- (9) Armed security personnel shall be on-site 24 hours a day (unless an alternative security as authorized by the City Manager and approved by the Police Chief in writing is set out) and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City's Police Chief, with such approval not to be unreasonably withheld.
- (10) Each cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (11) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either: (a) an employee of the cannabis business; or (b) a licensed security professional.
- (12) Each cannabis business shall have an accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.
- (13) Each cannabis business shall demonstrate to the Police Chief, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.

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- (14) Each cannabis business shall have a professionally installed video surveillance system, access control and intrusion alarm systems designed to protect the inventory, facility, and employees. Each business shall have network security protocols that are approved by the Manteca Police Department.
 - (15) Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
 - (16) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.
 - (17) Installation of “mosquitos” (high-pitch frequency devices) as a deterrent to vandalism/loitering.
 - (18) Each cannabis business shall develop and submit to the Manteca Police Department for review and approval Emergency Operations Plans that address natural disasters, declared states of emergency, and protests.
- (B) Each cannabis business shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the City Police Chief regarding any security related measures and/or operational issues. The designated security representative/liaison shall, on behalf of the cannabis business, annually maintain a copy of the current security plan on the premises of the business, to present to the City Police Chief upon request that meets the following requirements:
- (1) Confirms that a designated manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
 - (2) Identifies all managers of the cannabis business and their contact phone numbers.
 - (3) Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the manager’s office.
 - (4) Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven (7) days a week, and provides contact information for each licensed security company.
 - (5) Identifies a sufficient number of licensed, interior, and exterior security personnel who will monitor individuals inside and outside the cannabis business, the parking lot, any adjacent property under the business’ control, and ensure that the parking lot is cleared of employees and their vehicles one-half hour after closing.
- (C) As part of the application and permitting process each cannabis business shall

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have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, any hazardous materials that may be used by the business, and any currency.

- (D) The cannabis business shall cooperate with the City whenever the Manteca Police Chief or City Manager makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- (E) A cannabis business shall notify the City Manager and Manteca Police Chief within twenty-four (24) hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Manteca Police Chief and/or the City Manager or his/her designee.
 - (2) Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business.
 - (a) The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the cannabis business.
 - (b) Any other breach of security.
- (F) Compliance with the foregoing requirements shall be verified by the City Manager and Manteca Police Chief prior to commencing business operations. The City Manager or the Manteca Police Chief may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

5.64.370 Fees and Charges.

- (A) No person may commence or continue any cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a cannabis activity. Fees and charges associated with the operation of a cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- (B) All cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes and fees, and all license, permit, registration, and other fees required under federal, state, and local law. Each cannabis business shall cooperate with the City with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes or fees required to be paid during any period.

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- (C) Prior to operating in the City and as a condition of issuance of a regulatory permit, the operator of each cannabis business shall enter into a community benefit agreement with the City setting forth the terms and conditions under which the cannabis business will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety and welfare.

5.64.380 General Operating Requirements.

- (A) Cannabis businesses may operate only during the hours specified in the Cannabis Business Permit issued by the City.
- (B) Restriction on Sales and Consumption. Cannabis shall not be consumed by any person on the premises of any cannabis business. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or tobacco on or about the premises of the cannabis business.
- (C) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a Cannabis Business Permit, or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (D) Reporting and Tracking of Product and of Gross Sales. Each cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager prior to being used by the permittee.
- (E) All cannabis and cannabis products sold at a cannabis business shall be cultivated, manufactured, and transported by state licensed facilities that maintain operations in full conformance with the State and local regulations.
- (F) Emergency Contact. Each cannabis business shall provide the City Manager or his/her designee with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- (G) Signage and Notices.

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- (1) In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of Chapter 17.54, Signs on Private Property, including, but not limited to, seeking the issuance of a City sign permit. Moreover, by resolution of the City Council, the City may place additional restrictions regarding signage for cannabis businesses.
 - (2) No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.
 - (3) Each entrance to a cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited.
 - (4) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the cannabis business or elsewhere including, but not limited to, the public right-of-way.
 - (5) Signage shall not depict any image of cannabis or cannabis products. No banners, flags, snipe signs, billboards, or other prohibited signs may be used at any time.
 - (6) In accordance with state law and regulations or as stipulated in the City's Cannabis Business Permit, holders of a Cannabis Business Permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any cannabis business located in the city limits utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising. This paragraph is not intended to place limitations on the ability of a cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.
- (H) Minors.
- (1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a cannabis business who is not at least twenty-one (21) years of age.
 - (2) The entrance to the cannabis business shall be clearly and legibly posted with

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a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the cannabis business.

- (3) Notwithstanding Section 5.64.380(h)(1), persons aged 18 to 20 years shall be allowed on the premises of a cannabis business if they can produce a physician's recommendation or a medical marijuana card issued pursuant to Health and Safety Code Section 11362.71. In that event, such persons can lawfully purchase cannabis for the sole purpose of addressing the medical need that is the subject of the physician's recommendation.
- (I) Odor Control. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment, or any other equipment which the Development Services Director or his/her designee(s) determine is a more effective method or technology:
 - (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - (2) An air system that creates negative air pressure between the cannabis business's interior and exterior, so that the odors generated inside the cannabis business are not detectable on the outside of the cannabis business.
- (J) Display of Permit and City Business License. The original copy of the Cannabis Business Permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis business in a location readily visible to the public.
- (K) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for cannabis employment, licensing, or certification purposes and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, investor, manager, supervisor, employee, contract employee or who otherwise works in a cannabis business must submit fingerprints and other information deemed necessary by the Police Chief or his/her designee(s) for a background check by the City of Manteca Police Department. Pursuant to California

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Penal Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from cannabis employment, licensing or certification based on specific criminal conduct on the part of the subject of the record, no person (including owners and/or persons with a financial interest in the cannabis business) shall be issued a permit to operate a cannabis business or be allowed to work in a cannabis business unless they have first cleared the background check, as determined by the Police Chief or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Manteca to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a Cannabis Business Permit is submitted. Evidence of a conviction of any of the offenses enumerated in Business and Professions Code Section 26057(b)(4), absent a Certificate of Rehabilitation, shall be grounds for immediate disqualification of the applicant.

- (L) Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises. The cannabis business shall notify the Manteca Police Department if anyone continues to loiter around the building or premises after all reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.
- (M) Permits and other Approvals. Prior to the establishment of any cannabis business or the operation of any such business, the person intending to establish a cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such cannabis business intends to establish and to operate pursuant to Section 5.64.330 and all applicable requirements in this Chapter.
- (N) Each cannabis operator shall establish minimum training standards for all employees. The City Manager or his/her designee shall have the discretion to require other training for the business operations should the City identify deficiencies or non-compliance issues with City or state requirements.

5.64.390 Amendments to General Operating Requirements.

The City Manager or his/her designee may develop other cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety, and welfare.

5.64.400 Operating Requirements for Storefront Retailers.

- (A) Retailers shall verify the age and all necessary documentation of each individual to ensure the customer is not under the age of eighteen (18) years. If the potential customer is 18 to 20 years old, retailer shall confirm the customer's possession of a valid doctor's recommendation and/or Health and Safety Code Section 11362.71

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identification card (Medical Marijuana Card). For adult-use purchases, retailers shall verify that all customers are 21 years of age or older for the purchase of cannabis or cannabis products.

- (B) Individuals must show their government-issued identification, and, in the case of medical cannabis facilities, their physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71 in order to gain access into the retailer. The government-issued identification and, if applicable, doctor's recommendation or cannabis card must also be shown at the point-of-sale station at the time of purchase. Doctor recommendations shall not to be obtained or provided at the retail location.
- (C) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities. The security personnel shall be at least 21 years of age and shall be licensed by the Bureau of Security and Investigative Services and shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code. Security personnel may be allowed to carry firearms if authorized by the Manteca Police Chief.
- (D) Retailers may have only that quantity of cannabis and cannabis products to meet the daily demand readily available for sale on-site in the retail sales area of the retailer. Additional product may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.
- (E) All restroom facilities shall remain locked and under the control of management.
- (F) Retailers authorized to conduct retail activities shall only serve customers who are within the permitted premises, or at a delivery address that meets the requirements of this division.
 - (1) The sale and delivery of cannabis goods shall not occur through a pass-through window or a slide-out tray to the exterior of the premises.
 - (2) Retailers shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.
 - (3) No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.
 - (4) All cannabis goods sold by a retail business shall be contained in child-resistant packaging.
 - (5) Retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the

retail area, with sufficient clarity to determine identity.

(G) Access to Retailer Premises.

- (1) Access to the premises of a retail permittee shall be limited to individuals who are at least 21 years of age.
- (2) Notwithstanding Section 5.64.380 (h)(1), individuals who are at least 18 years of age and in possession of a valid physician's recommendation shall be granted access to the premises of a retail permittee for the sole purpose of purchasing medicinal cannabis consistent with the physician's recommendation.

(I) Authorized Sales. A retailer shall only sell adult-use cannabis and adult-use cannabis products to individuals who are at least 21 years of age. A retailer shall only sell medicinal cannabis or medicinal cannabis products to individuals who are at least 18 years of age if those individuals are in possession of a valid physician's recommendation. Medicinal cannabis sales to individuals 21 years of age and older are unrestricted.

(J) Limited Access Areas. A retailer shall establish limited-access areas and permit only authorized individuals to enter the limited-access areas. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area. All individuals granted access to the limited access area shall be at least 21 years of age, and if not employed by the retailer, shall be escorted at all times by an employee of the permittee. A retailer shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the City Manager, Police Chief, or their designees upon request.

(K) Operating hours of the Storefront Retailer shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.

5.64.410 Retailer and Non-Storefront Retailer Delivery Requirements.

- (A) Non-Storefront Retailer Permit Owners and Operators are required to verify the age and the necessary documentation of each customer. They must ensure that medical customers are at least eighteen (18) years of age and verify that the customer has a valid doctor's recommendation. Doctor recommendations shall not be obtained or provided at the retail location. In the case of adult-use customers, they must verify that the customer is at least twenty-one (21) years of age. Sales shall only be made to persons matching this criteria.

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- (B) All Storefront Retailers and Non-Storefront Retailers (delivery) which conduct deliveries into or within the City of Manteca shall be required to obtain a business permit (separate from the Permits discussed herein) from the City of Manteca in order to conduct retail sales regardless of whether they are located in the City or another local jurisdiction.
- (C) Operating hours of the Non-Storefront Retailer Permit or out of town retail delivery services shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.

5.64.420 Retailer and Non-Storefront Retailer Delivery Vehicle Requirements.

Prior to commencing delivery operations, a Retailer or Non-Storefront Retailer shall provide the following information to the City:

- (A) Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
- (B) The year, make, model, color, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
- (C) Proof of insurance as required in Section 5.64.340(b) for any and all vehicles being used to deliver cannabis goods.
- (D) The Permittee shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
- (E) The Permittee shall provide the City with any changes to the information required by this section in writing within thirty (30) calendar days.

5.64.430 Operating Requirements for Out-of-City Delivery Services.

Prior to commencing operations, a cannabis out-of-City delivery service shall comply with the following requirements:

- (A) Obtain from the City a business permit (as noted above) authorizing the delivery of cannabis and cannabis products within the City limits. A copy of this business permit shall be retained by all drivers.
- (B) The retail business operating the delivery service shall provide the City Manager with evidence of a valid state license for a cannabis business on whose authorization the delivery service is performing the delivery function.
- (C) The retail business operating the delivery service shall furnish to the City Manager

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the year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.

5.64.440 Permissible Delivery Locations and Customers.

Cannabis delivery businesses permitted to engage in delivery of cannabis and cannabis products inside the City of Manteca are subject to the following requirements:

- (A) A permitted cannabis business shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency.
- (B) A permitted cannabis business shall comply with all requirements of state and local law pertaining to the Cannabis Business Permit and all subsequent policies, procedures and regulations which may be amended by the City Manager or his/her designee from time to time in order to enforce this Chapter.
- (C) Any kiosk, i-Pad, tablet, smartphone, fixed location or technology platform, whether manned or unmanned, other than a retail location permitted by the city, that facilitates, directs, or assists the retail sale or delivery of cannabis or cannabis products is prohibited and shall be a violation of this Chapter.

5.64.450 Promulgation of Regulations, Standards and Other Legal Duties.

- (A) In addition to any regulations adopted by the City Council, the City Manager is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of Cannabis Business Permits, the ongoing operation of cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- (B) Regulations shall be published on the City's website.
- (C) Regulations promulgated by the City Manager or his/her designee shall become effective upon date of publication. Cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

5.64.460 Community Relations.

- (A) Each cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis business can be provided. Each cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the cannabis business.

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- (B) During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from each cannabis business holding a permit issued pursuant to this Chapter shall attend meetings with the City Manager or his/her designee, and other interested parties as deemed appropriate by the City Manager or his/her designee, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such cannabis business shall meet with the City Manager or his/her designee when and as requested by the City Manager or his/her designee.
- (C) Cannabis businesses to which a permit is issued pursuant to this Chapter shall develop a City approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

5.64.470 Fees Deemed Debt to the City.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City that is recoverable via an authorized administrative process as set forth in the City ordinance or in any court of competent jurisdiction.

5.64.480 Permit Holder Responsible for Violations.

The person to whom a Permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City, whether committed by the Permittee or any employee or agent of the Permittee, which violations occur in or about the premises of the cannabis business whether or not said violations occur within the permit holder's presence.

5.64.490 Inspection and Enforcement.

- (A) The City Manager or his/her designee shall be charged with enforcing the provisions of the City of Manteca Municipal Code, or any provision thereof, and may enter the location of a cannabis business at any time, and inspect the location of any cannabis business as well as, upon reasonable notice, any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
- (B) It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law.

- (C) The City Manager charged with enforcing the provisions of this Chapter may enter the location of a cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Manteca shall be logged, recorded, and maintained in accordance with established procedures by the City of Manteca’s City Manager or these regulations.

5.64.500 Violations declared a public nuisance.

Each and every violation of the provisions of this Chapter constitutes a misdemeanor and is hereby deemed unlawful and a public nuisance. The City reserves the right to pursue any available legal remedy to address violations of this Chapter.

5.64.510 No Vested Rights.

No person(s) (including any Applicant, Owner, and/or Permittee) shall have any vested rights to any permit, right, and/or interest under this chapter, regardless of whether such person(s) cultivated, sold, distributed, and/or otherwise engaged in acts related to the use of Cannabis prior to the adoption of the ordinance codified in this Chapter.

5.64.520 Community Benefit Agreement.

Prior to operating in the City of Manteca and as a condition of issuance of a Permit, each Cannabis Business shall enter into a Community Benefit Agreement with the City of Manteca setting forth the terms and conditions under which the Cannabis Business will operate.

SECTION 2: Chapter 8.35, Adult Marijuana Use and Medical Cannabis, of Title 8, Health and Safety of the Manteca Municipal Code is hereby renamed as “Personal Cultivation of Medical and Adult-Use Cannabis” amended in its entirety to read as follows:

- 8.35.010 Purpose.
- 8.35.020 Definitions as used in this section.
- 8.35.030 Outdoor cultivation.
- 8.35.040 Cultivation of cannabis for personal or medical use—Regulations for residential zones.
- 8.35.050 Indoor cultivation of cannabis restricted to authorized growers.
- 8.35.060 Public nuisance.
- 8.35.070 Criminal penalties.
- 8.35.080 Safety violation enforcement and fines.
- 8.35.090 Civil penalties.
- 8.35.100 Right to hearing.

8.35.010 Purpose.

- (A) It is the purpose and intent of this chapter to regulate the cultivation of cannabis for personal use in a manner that protects the health, safety and welfare of the community consistent with Proposition 64, also known as the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”).

- (B) This chapter is not intended to interfere with a patient’s right to medical cannabis as provided for in California Health and Safety Code Section 11362.5, nor does it criminalize medical cannabis possession or cultivation by specifically defined classifications of persons, pursuant to state law. This chapter is not intended to give any person unfettered legal authority to grow cannabis; it is intended to impose zoning restrictions on the personal indoor cultivation of cannabis permitted under AUMA when it is authorized by California state law for medical or other lawful purposes.

8.35.020 Definitions as used in this section.

“Adult” means a person twenty-one years or older.

“Authorized grower” means a person twenty-one years or older who is authorized by, and in compliance with, federal or state law to cultivate cannabis indoors for personal or medical use.

“Caregiver” or “primary caregiver” shall have the same meaning as set forth in Health and Safety Code Section 11362.7(d) as the same may be amended from time to time.

“City” means the city of Manteca.

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

“Fully enclosed and secure structure” means a fully enclosed space within a building at the residence of an authorized grower and complies with the California Building Code (“CBSC”), as adopted in the city of Manteca, or if exempt from the permit requirements of the CBSC, that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the city of Manteca.

“Immature cannabis plant” means a cannabis plant, whether male or female, that has not

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yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

“Indoors” means within a fully enclosed and secure structure as that structure is defined above in the definition of “fully enclosed and secure structure.”

“Cannabis” has the same meaning as in Section 11018 of the Health and Safety Code.

“Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of cannabis plants or any part thereof.

“Mature cannabis plant” means a cannabis plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

“Outdoor” means any location within the city of Manteca that is not within a fully enclosed and secure structure.

“Parcel” means property assigned a separate parcel number by the San Joaquin County Assessor.

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

“Private residence” means a house, apartment unit, mobile home, or other similar dwelling unit.

“Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code Section 11362.7 as the same may be amended from time to time.

8.35.030 Outdoor cultivation.

It is hereby declared to be unlawful, a public nuisance, and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city to cause or allow such premises to be used for the outdoor cultivation of cannabis.

8.35.040 Cultivation of cannabis for personal or medical use—Regulations for residential zones.

(A) When authorized by state law, an authorized grower shall be allowed to cultivate cannabis only at a private residence in a residential zone, only indoors, and only for personal use, subject to the following regulations:

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- (1) The cannabis cultivation area shall be located indoors within a fully enclosed and secure structure and shall not exceed fifty square feet and not exceed ten feet in height, nor shall it come within twelve inches of the ceiling or any cultivation lighting. Cultivation in a greenhouse on the property of the residence but not physically part of the home is permitted, as long as it is fully enclosed, secure, and not visible from a public right-of-way and meeting all requirements in this chapter.
- (2) The use of gas products such as, but not limited to, CO₂, butane, methane, or any other flammable or non-flammable gas for cannabis cultivation or processing is prohibited.
- (3) There shall be no exterior visibility or evidence of cannabis cultivation outside the private residence from the public right-of-way, including, but not limited to, any cannabis plants, equipment used in the growing and cultivation operation, or any light emanating from cultivation lighting.
- (4) The authorized grower shall reside full-time in the residence where the cannabis cultivation occurs.
- (5) The authorized grower shall not participate in cannabis cultivation in any other location within the city.
- (6) The residence shall include fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for cannabis cultivation.
- (7) The cannabis cultivation area shall be in compliance with the current adopted edition of the California Building Code including Section 1203.4 Natural Ventilation or Section 402.3 Mechanical Ventilation (or equivalent), as amended from time to time.
- (8) The building official may require additional specific standards to meet the California Building Code and Fire Code, including, but not limited to, installation of fire suppression sprinklers.
- (9) The cannabis cultivation area shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
- (10) No more than six cannabis plants, mature or immature, are permitted for indoor personal cultivation under this chapter.

- (11) Cannabis in excess of twenty-eight and one-half (28.5) grams produced by plants kept for indoor personal cultivation under this chapter must be kept in a locked space on the grounds of the private residence not visible from the public right-of-way.
- (12) Outdoor cultivation of cannabis and cultivation of cannabis for non-personal uses are expressly prohibited in all zones and districts of the city of Manteca.

8.35.050 Indoor cultivation of cannabis restricted to authorized growers.

- (A) It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the city to cause or allow such parcel to be used for the cultivation of cannabis, unless the person is authorized by state law to grow cannabis for a specifically authorized purpose within a private residence or fully enclosed and secure structure in a residential zone, and such authorized grower is complying with all requirements of this chapter.
- (B) No person shall grow cannabis upon any parcel until and unless they first secure a permit from community development and pay such fee as may be required and set forth by resolution of the city council.

8.35.060 Public nuisance.

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any parcel within the city to create a public nuisance in the course of cultivating cannabis plants or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist, if such activity produces:

- (A) Odors which are disturbing to people of reasonable sensitivity residing or present on adjacent or nearby property or areas open to the public.
- (B) Responses to the parcel by law enforcement personnel.
- (C) A disruption to the free passage of persons or vehicles in the neighborhood, excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.
- (D) Any other impacts on the neighborhood which is disruptive of normal activity in the area including, but not limited to, grow lighting visible outside the dwelling, excessive vehicular traffic or parking occurring at or near the dwelling, and excessive noise emanating from the dwelling.

(E) Outdoor growing or cultivation of cannabis.

(F) Smoking or ingesting cannabis or cannabis products in any public place.

8.35.070 Criminal penalties.

Any person who violates, causes or permits another person to violate any provision of this chapter is guilty of a misdemeanor. Notwithstanding the penalties set forth in this chapter, this chapter does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.1 et seq. or 11362.71 et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under this chapter and any penalties set forth in state law, the maximum penalties allowable under state law shall govern.

8.35.080 Safety violation enforcement and fines.

(A) Any violation of this chapter may result in any or all of the following actions and/or fines:

- (1) A misdemeanor punishable by either six months in jail and/or a fine not to exceed one thousand dollars;
- (2) Institution of a civil action by the city attorney, or designee, as set forth in Chapter 1.10;
- (3) Issuance of administrative citation(s) and/or an order to abate the safety violation(s) with a fine up to five hundred dollars, plus any administrative expenses incurred in the enforcement of this chapter.

(B) Each day a safety violation(s) occurs shall be deemed a new violation subject to additional citations, penalties, and fines.

(C) Violations of any section of this chapter may be filed as an infraction or a misdemeanor at the discretion of the city attorney.

8.35.090 Civil penalties.

(A) In addition to the enforcement and fines described herein, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.10 of the Manteca Municipal Code against any owner who violates this chapter. In any civil action brought pursuant to this chapter, the court may award reasonable attorneys' fees and costs to the prevailing party.

(B) The city may pursue any other legal remedy to enforce or collect any fines or amounts owed as set forth herein.

8.35.100 Right to a hearing.

- (A) The cited person may appeal administrative citations issued pursuant to this chapter, pursuant to the procedures set forth in Chapter 1.10 of this code.
- (B) The hearing shall be scheduled and conducted pursuant to Chapter 1.10 of the Manteca Municipal Code.”

SECTION 3: Table 17.08.060-1 (Approving Authority for Land Use Entitlements) of Chapter 17.08.060 (Approving Authority) of Chapter 17.08 (General Application Processing Procedures) of Title 17 (Zoning) of the Manteca Municipal Code is hereby amended to add a new row to read as follows, with all other provisions of Table 17.08-060-1 remaining unchanged:

| Type of Land Use Entitlement | Community Development Director | Planning Commission | City Council |
|--|--------------------------------|---------------------|--------------|
| Conditional Use Permits for Cannabis Retailers | | R | F |

SECTION 4: Section 17.10.130 (Conditional Use Permit) of Chapter 17.10 (Entitlements) of Title 17 (Zoning) of the Manteca Municipal Code is hereby amended to add a new Subsection “I” to read as follows, with all other provisions of Section 17.10.130 remaining unchanged:

“I. Cannabis Retailer.

- (1) A Cannabis Retailer that has been deemed eligible to apply for a conditional use permit pursuant to the process set forth in Chapter 5.64, shall have their application processed in accordance with this Section except that any procedure that requires approval by the Planning Commission, shall be replaced with the requirements that the Planning Commission make a recommendation on the conditional use permit and that the approval of conditional use permit shall be made by the City Council.
- (2) A Cannabis Retailer shall comply with the following:
 - i. Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.
 - ii. Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
 - iii. Be served by streets and/or alleys adequate in width and improved

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as necessary to carry the kind and quantity of traffic such use will generate.

iv. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.

(3) A Cannabis Retailer must meet the following rules relating to proximity to sensitive uses:

i. For any separation requirements from sensitive uses, the distance shall be determined by the horizontal distance measured in a straight line from the closest property line of the sensitive use to the closest property line of the lot on which the cannabis business is to be located, without regard to intervening structures.

ii. Shall be no closer than six hundred (600) feet from any parcel containing any a school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).

iii. For a commercial daycare center licensed by the State, County or City or that is in existence at the time the cannabis business permit is issued, or a Youth Center that is in existence at the time the cannabis business permit is issued or at the time the license permit is issued, the distance shall be set at six hundred (600) feet.

iv. Shall be no closer than six hundred (600) feet from any substance abuse rehabilitation center or emergency shelter, religious assembly use, park, or library.

(4) A Cannabis Retailer shall be conditioned to require that it maintain a Cannabis Retailer Permit pursuant to Chapter 5.64, and that it at all times conform with the requirements Sections 5.64.360 through 5.46.460, as applicable, and that exercise its conditional use permit within twelve months, consistent with the requirements set forth in Section 5.64.150(B).

SECTION 5: Table 17.22.010-1 (Allowed Uses and Required Entitlements for Manteca’s Base Zoning Districts) of Chapter 17.22 (Allowed Uses and Required Entitlements) of Title 17 (Zoning) of the Manteca Municipal Code is hereby amended as follows, with all other provisions of Table 17.22.010-1 remaining unchanged:

Retail, Service, and Office Uses

| | | | | | | | | | | | | | | | |
|----------------------------------|---|-----|-----|-----|-----|-----|-----|----|----|----|----|----|----|---|-----|
| District | A | R-E | R-1 | R-2 | R-3 | CMU | BIP | CN | CG | CM | M1 | M2 | OS | P | PQP |
| Cannabis Retailers ²⁰ | N | N | N | N | N | C | C | C | C | C | C | N | N | N | N |

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20. Cannabis retailers must also obtain a cannabis business permit pursuant to Chapter 5.64.

SECTION 6: Subsection E of Section 17.24.020 (Allowed Use Definitions) of Chapter 17.24 (Allowed Use Definitions) of Article II (Zoning Districts, Allowed Uses, and Development Standards) of Title 17 (Zoning) is hereby amended to add a new number 30 to read as follows, with all other provisions of Section 17.24.020 remaining unchanged:

“30. Cannabis retailer: a licensed premises that engages in the sale and distribution of cannabis and cannabis products to a consumer. A cannabis retailer’s premises may be closed to the public and the retailer may conduct sales exclusively through delivery.”

SECTION 7: CEQA. The City Council finds and determines that this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Adoption of this Ordinance is covered by the common sense exemption in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance will allow up to three cannabis retailers to operate in the City. Specifically, cannabis retailers will be permitted to operate in the CMU, BIP, CN, CG, CM, and M1 zones. The CMU, CN, CG and CM zones allow for uses akin to storefront cannabis retailers such as retail commercial, uses serving neighborhood needs such as retail and service uses, and highway-oriented commercial retail. The BIP and M1 zones allow for uses akin to non-storefront retailers such as establishments engaged in servicing equipment, materials, and products, but which do not necessarily require the manufacturing or processing of articles or merchandise for distribution and retail sales, and industrial parks, warehouses, distribution centers, light manufacturing, public and quasi-public uses, and similar and compatible uses.

Moreover, further projects subject to this Ordinance will require a discretionary conditional use permit and each individual project will be analyzed at the appropriate time in accordance with CEQA. The City Council hereby adopts a categorical exemption for this Ordinance and directs staff to file a Notice of Exemption.

SECTION 8: General Plan Consistency Finding. Government Code section 65860 provides that zoning ordinances must be consistent with the City’s general plan. The City Council hereby makes a finding that the zoning ordinance is consistent with the General Plan as it furthers the following objectives, policies and/or goals of the General Plan: Sections 5.2, 5.5, 6.11, 7.4, and 10.3.

SECTION 9: Severance. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and/or word not declared invalid or unconstitutional without regard

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to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 10: Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

SECTION 11: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

City of Manteca, a municipal corporation

MAYOR: _____
BENJAMIN J. CANTU

ATTEST: _____
CASSANDRA CANDINI-TILTON
CITY CLERK

STATE OF CALIFORNIA }
COUNTY OF SAN JOAQUIN } SS:
CITY OF MANTECA }

I, Cassandra Candini-Tilton, City Clerk of the City of Manteca, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the ___ day of ____, 20__, and had its second reading and was adopted and passed during the public meeting of the City Council on the ___ day of ____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
CASSANDRA CANDINI-TILTON
CITY CLERK

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