

ORDINANCE NO. MC-1503

ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA, AMENDING CHAPTER 5.10 OF THE SAN BERNARDINO MUNICIPAL CODE RELATED TO THE REGULATION OF COMMERCIAL CANNABIS ACTIVITIES

WHEREAS, the City of San Bernardino, California (“City”) is a municipal corporation, duly organized under the Charter of the City of San Bernardino and the Constitution and laws of the State of California; and,

WHEREAS, on March 7, 2018, the Mayor and City Council adopted Ordinance No. MC-1464 establishing regulations for commercial cannabis activities; and,

WHEREAS, the Mayor and City Council desire to promote a successful business environment in the City for commercial cannabis businesses and their neighboring non-cannabis businesses; and,

WHEREAS, the Mayor and City Council desire to protect the quality of life of the City’s residents by ensuring commercial cannabis businesses do not adversely affect the health, safety, and welfare of the City; and,

WHEREAS, the Mayor and City Council of the City of San Bernardino have continued to engage with commercial cannabis businesses and residents during the implementation of Ordinance No. MC-1464; and,

WHEREAS, based on feedback from the commercial cannabis businesses, residents, and staff, the Mayor and City Council desire to amend certain portions of San Bernardino Municipal Code Chapter 5.10 related to the regulation of commercial cannabis activities.

1 **NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF**
2 **SAN BERNARDINO DO ORDAIN AS FOLLOWS:**

3 **SECTION 1. INCORPORATION OF RECITALS**

4 The foregoing recitals set forth above are true and correct and are a substantive part of
5 this Ordinance.

6 **SECTION 2. AUTHORITY**

7 Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the Charter
8 of the City of San Bernardino, and State law, the Mayor and City Council of the City of San
9 Bernardino is authorized to adopt ordinances that protect the health, safety, and welfare of its
10 residents and businesses.

11 **SECTION 3. ADOPTION; AMENDMENT**

12 This Ordinance amends Ordinance No. MC-1464, as adopted by the Mayor and City
13 Council on March 7, 2018. It is the intent of the Mayor and City Council that the amendments
14 to Section 5.10.100 and 5.10.250 from the original language of Ordinance No. MC-1464 be
15 declaratory of existing law and a restatement of the original terms. The language of those
16 sections as originally adopted is unambiguous, but, nonetheless, those sections resulted in
17 controversy concerning the proper interpretation of the statute soon after the ordinance’s
18 adoption, and, therefore, the Mayor and City Council amend those sections with the intent and
19 purpose of construing and clarifying the prior language.

20 Chapter 10, entitled “Commercial Cannabis Activities”, of Title 5 “Business
21 Registration and Regulations” of the San Bernardino Municipal Code is amended to read as
22 follows:

23 **Chapter 5.10**
24 **COMMERCIAL CANNABIS ACTIVITIES**

25 **Sections:**

- 26 **5.10.010 Purpose and Intent**
- 27 **5.10.020 Legal Authority**
- 28 **5.10.030 Commercial Cannabis Activities Prohibited Unless Specifically
Authorized by this Chapter**
- 5.10.040 Compliance with Laws**
- 5.10.050 Definitions**
- 5.10.060 Commercial Cannabis Business Permit Required to Engage in
Commercial Cannabis Business**
- 5.10.070 Cannabis Employee Requirements**
- 5.10.080 Maximum Number and Type of Authorized Commercial Cannabis
Businesses Permitted**
- 5.10.090 Initial Application Procedure**

- 1 5.10.100 Persons Prohibited from Holding a Commercial Cannabis Business Permit or Being Employed by a Commercial Cannabis Business
- 2 5.10.110 Expiration of Commercial Cannabis Business Permits
- 3 5.10.120 Revocation of Permits
- 4 5.10.130 Renewal Applications
- 5 5.10.140 Effect of State License Suspension, Revocation, or Termination
- 6 5.10.150 Appeals
- 7 5.10.160 Written Request for Appeal
- 8 5.10.170 Appeal Hearing
- 9 5.10.180 Commercial Cannabis Business Permittee Selection Process
- 10 5.10.190 Updated Information
- 11 5.10.200 Change in Ownership or Location
- 12 5.10.210 City Business Registration Certificate
- 13 5.10.220 Building Permits and Inspection
- 14 5.10.230 Certification from the Community Development Director
- 15 5.10.240 Right to Occupy and to Use Property
- 16 5.10.250 Location and Design of Cannabis Businesses
- 17 5.10.260 Limitations on City's Liability
- 18 5.10.270 Records and Recordkeeping
- 19 5.10.280 Security Measures
- 20 5.10.290 Restriction on Alcohol & Tobacco Sales
- 21 5.10.300 Fees and Charges
- 22 5.10.310 Miscellaneous Operating Requirements
- 23 5.10.320 Other Operational Requirements
- 24 5.10.330 Operating Requirements for Retailer Facilities; Delivery
- 25 5.10.340 Operating Requirements for Commercial Cultivation Facilities
- 26 5.10.350 Operating Requirements for Testing Labs
- 27 5.10.360 Cannabis Manufacturing: Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products
- 28 5.10.370 Promulgation of Regulations, Standards and Other Legal Duties
- 5.10.380 Community Relations
- 5.10.390 Fees Deemed Debt to the City of San Bernardino
- 5.10.400 Permittee Responsible for Violations
- 5.10.410 Inspection and Enforcement
- 5.10.420 Compliance with State Regulation
- 5.10.430 Violations Declared a Public Nuisance
- 5.10.440 Each Violation a Separate Offense
- 5.10.450 Criminal Penalties
- 5.10.460 Remedies Cumulative and Not Exclusive
- 5.10.010 Purpose and Intent

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to adult-use for persons over the age of 21 as authorized by the Control, Tax & Regulate the Adult Use Cannabis Act ("AUMA" or

1 “Proposition 64” passed by California voters in 2016), while imposing sensible regulations on
2 the use of land to protect the City’s residents, neighborhoods, and businesses from
3 disproportionate and potentially deleterious negative impacts. As such, it is the purpose and
4 intent of this Chapter to regulate the cultivation, processing, manufacturing, testing, sale,
5 delivery, distribution and transportation of medicinal and adult-use cannabis and cannabis
6 products in a responsible manner to protect the health, safety, and welfare of the residents of
7 the City of San Bernardino and to enforce rules and regulations consistent with State law. It is
8 the further purpose and intent of this Chapter to require all commercial cannabis operators to
9 obtain and renew, annually, a permit to operate within the City of San Bernardino. Nothing in
10 this Chapter is intended to authorize the possession, use, or provision of cannabis for
11 purposes, or in any manner, that violates state or federal law. The provisions of this Chapter
12 are in addition to any other permits, licenses and approvals which may be required to conduct
13 business in the City, and are in addition to any permits, licenses and approval required under
14 State, City, or other law.

15 **5.10.020 Legal Authority**

16 Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of
17 MAUCRSA, any subsequent State legislation and/or regulations regarding same, and the City
18 Charter of the City of San Bernardino, the Mayor and City Council are authorized to adopt
19 ordinances that establish standards, requirements and regulations for the licensing and
20 permitting of commercial medicinal and adult-use cannabis activity. Any standards,
21 requirements, and regulations regarding health and safety, security, reporting and worker
22 protections established by the State of California, or any of its departments or divisions, shall
23 be the minimum standards applicable in the City of San Bernardino to all commercial
24 cannabis activity.

25 **5.10.030 Commercial Cannabis Activities Prohibited Unless Specifically
26 Authorized by this Chapter**

27 Except as specifically authorized in this Chapter, the commercial cultivation, manufacture,
28 processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation
(other than as provided under Section 26090(e) of the Business and Professions Code), of
cannabis or cannabis product is expressly prohibited in the City of San Bernardino.

5.10.040 Compliance with Laws

Nothing in this Chapter shall be construed as authorizing any actions that violate federal, State
or local law with respect to the operation of a commercial cannabis business. It shall be the
responsibility of the owners, the operators, and the employees of the commercial cannabis
business to ensure that the commercial cannabis business is, at all times, operating in a
manner compliant with all applicable federal, State and local laws, including for as long as
applicable, the Compassionate Use Act (“Prop. 215”), the Medical Marijuana Program Act
(“MMPA”) and the 2008 Attorney General Guidelines for the Security and Non-Diversion of
Cannabis for Medical Purposes (“AG Guidelines”) (collectively “the Medical Cannabis
Collective Laws”), any subsequently enacted State law or regulatory, licensing, or

1 certification requirements, and any specific, additional operating procedures or requirements
2 which may be imposed as conditions of approval of the commercial cannabis business permit.

3 **5.10.050 Definitions**

4 When used in this Chapter, the following words shall have the meanings ascribed to them as
5 set forth herein. Any reference to California statutes includes any regulations promulgated
6 thereunder, and is deemed to include any successor or amended version of the referenced
7 statute or regulatory provision.

8 (a) "A-license" means a state license issued under Division 10 of the Business and Professions
9 Code for cannabis or cannabis products that are intended for adults 21 years of age and over
10 and who do not possess physician's recommendations.

11 (b) "A-licensee" means any person holding a license under Division 10 of the Business and
12 Professions Code for cannabis or cannabis products that are intended for adults 21 years of
13 age and over and who do not possess physician's recommendations.

14 (c) "Applicant" means a person applying for a permit pursuant to this Chapter.

15 (d) "Harvest batch" means a specifically identified quantity of dried flower or trim, leaves,
16 and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if
17 applicable, cultivated using the same pesticides and other agricultural chemicals, and
18 harvested at the same time.

19 (e) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer
20 Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis
21 Regulation, and the Bureau of Medical Marijuana Regulation.

22 (f) "Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis
23 ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified,
24 extracted from any part of the plant; and every compound, manufacture, salt, derivative,
25 mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated
26 resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the
27 mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of
28 the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the
mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of
the plant which is incapable of germination. For the purpose of this division, "cannabis" does
not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

(g) "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or
more active cannabinoids, thereby increasing the product's potency. Resin from granular
trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis
concentrate is not considered food, as defined by Section 109935 of the Health and Safety
Code, or drug, as defined by Section 109925 of the Health and Safety Code.

1 (h) "Cannabis product" means a product containing cannabis, including, but not limited to,
2 manufactured cannabis, - intended to be sold for use by cannabis patients in California
3 pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5
4 of the California Health and Safety Code (as the same may be amended from time-to-time) or
pursuant to the Adult Use of Cannabis Act. For purposes of this Chapter, "cannabis" does not
include industrial hemp as defined by Section 81000 of the California Food and Agricultural
Code or Section 11018.5 of the California Health and Safety Code.

5 (i) "Canopy" means the designated area(s) at a premises, except nurseries, that will contain
6 mature plants at any point in time. (1) Canopy shall be calculated in square feet and measured
7 using clearly identifiable boundaries of all areas(s) that will contain mature plants at any point
8 in time, including all of the space(s) within the boundaries; (2) Canopy may be noncontiguous
9 but each unique area included in the total canopy calculation shall be separated by an
10 identifiable boundary which includes, but is not limited to: interior walls, shelves, greenhouse
walls, hoop house walls, garden benches, hedgerows, fencing, garden beds or garden plots;
and if mature plants are being cultivated using a shelving system, the surface area of each
level shall be included in the total canopy calculation.

11 (j) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section
12 11362.7 of the California Health and Safety Code.

13 (k) "City" means the City of San Bernardino, a California Charter City.

14 (l) "Commercial cannabis activity" includes the cultivation, possession, manufacture,
15 distribution, processing, storing, laboratory testing, packaging, labeling, transportation,
16 delivery or sale of cannabis and cannabis products as provided for in this Chapter.

17 (m) "Commercial cannabis business" means any person which engages in commercial
18 cannabis activity.

19 (n) "Commercial cannabis business permit" means a regulatory permit issued by the City of
20 San Bernardino pursuant to this Chapter to a commercial cannabis business, and is required
21 before any commercial cannabis activity may be conducted in the City. The initial permit and
22 annual renewal of a commercial cannabis business permit is made expressly contingent upon
the business' ongoing compliance with all of the requirements of this Chapter and any
regulations adopted by the City governing the commercial cannabis activity at issue.

23 (o) "Cultivation" means any activity involving the planting, growing, harvesting, drying,
24 curing, grading, or trimming of cannabis.

25 (p) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried,
26 cured, graded, or trimmed, or a location where any combination of those activities occurs.

27 (q) "Customer" means a natural person 21 year of age or over or a natural person 18 year of
28 age or older who possesses a physician's recommendation.

- 1 (r) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety
Code.
- 2
- 3 (s) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer.
"Delivery" also includes the use by a retailer of any technology platform owned and
4 controlled by the retailer.
- 5 (t) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products
6 from a retailer.
- 7 (u) "Distribution" means the procurement, sale, and transport of cannabis and cannabis
8 products between licensees.
- 9 (v) "Distributor" means a person holding a valid commercial cannabis business permit issued
10 by the City of San Bernardino, and, a valid state license for distribution, required by state law
to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis
11 products from a licensed manufacturer, for sale to a licensed retailer.
- 12 (w) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or
otherwise processed, excluding leaves and stems.
- 13 (x) "Employee" means any natural person who is employed or retained as an independent
14 contractor by any permittee in consideration for direct or indirect monetary wages or profit, or
any natural person who volunteers his or her services for an employer.
- 15 (y) "Fire Department" has the same meaning as in Section 2.12.020 of this Code.
- 16
- 17 (z) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis
product, upon its container.
- 18 (aa) "License" means a permit or license issued by the State of California, or one of its
19 departments or divisions, under Division 10 of the Business and Professions Code to engage
in commercial cannabis activity, including both an A-license and an M-license, as well as a
20 testing laboratory license.
- 21 (ab) "Licensee" means any person holding a state license under Division 10 of the Business
22 and Professions Code, regardless of whether the license held is an A-license or an M-license,
and includes the holder of a testing laboratory license.
- 23
- 24 (ac) "Licensing authority" means the state agency responsible for the issuance, renewal, or
25 reinstatement of the license, or the state agency authorized to take disciplinary action against
the licensee.
- 26 (ad) "Live plants" means living cannabis flowers and plants, including seeds, immature plants,
27 and vegetative stage plants.
- 28

- 1 (ae) "M-license" means a state license issued for commercial cannabis activity involving
2 medicinal cannabis.
- 3 (af) "M-licensee" means any person holding a license for commercial cannabis activity
4 involving medicinal cannabis.
- 5 (ag) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare
6 a cannabis product.
- 7 (ah) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the
8 raw agricultural product has been transformed into a concentrate, extraction or other
9 manufactured product intended for internal consumption through inhalation or oral ingestion
10 or for topical application.
- 11 (ai) "Manufacturer" means a person issued a valid commercial cannabis business permit by
12 the City of San Bernardino and, a valid state license as required, that conducts the production,
13 preparation, propagation, or compounding of cannabis or cannabis products either directly or
14 indirectly or by extraction methods, or independently by means of chemical synthesis, or by
15 a combination of extraction and chemical synthesis at a fixed location that packages or
16 repackages cannabis or cannabis products or labels or container.
- 17 (aj) "Medicinal cannabis" or "medicinal cannabis product" means cannabis or a cannabis
18 product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of
19 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a
20 medicinal cannabis patient in California who possesses a physician's recommendation.
- 21 (ak) "Nonvolatile solvent" means any solvent used in the extraction process that is not a
22 volatile solvent. For purposes of this Chapter, a nonvolatile solvent includes carbon dioxide
23 (CO2) used for extraction and ethanol used for extraction or post-extraction processing.
- 24 (al) "Nursery" means a person issued a valid commercial cannabis business permit from the
25 City of San Bernardino and, a valid state license as required that produces only clones,
26 immature plants, seeds, and other agricultural products used specifically, for the propagation
27 and cultivation of cannabis.
- 28 (am) "Operation" means any act for which a commercial cannabis business permit is required
under the provisions of this Chapter, or any commercial transfer of cannabis or cannabis
products.
- (an) "Owner" means any of the following:
- (1) A person with an aggregate ownership interest of 20 percent or more in the person
applying for a license or a licensee, unless the interest is solely a security, lien, or
encumbrance.
 - (2) The Executive Director of a nonprofit or other entity.
 - (3) A member of the board of directors of a nonprofit.

1 (4) An individual who will be participating in the direction, control, or management
2 of the person applying for a commercial cannabis business permit or who has a financial
3 interest in the commercial cannabis business other than a fixed lease of real property

4 (ao) "Package" means any container or receptacle used for holding cannabis or cannabis
5 products.

6 (ap) "Patient" or "qualified patient" shall have the same definition as California Health and
7 Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is
8 entitled to the protections of California Health & Safety Code Section 11362.5.

9 (aq) "Permit" means a commercial cannabis business permit issued by the City of San
10 Bernardino under this Chapter.

11 (ar) "Permittee" means any person holding a permit under this Chapter.

12 (as) "Person" includes any individual, firm, partnership, joint venture, association,
13 corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any
14 other group or combination acting as a unit, and the plural as well as the singular.

15 (at) "Physician's recommendation" means a recommendation by a physician and surgeon that
16 a patient use cannabis provided in accordance with the Compassionate Use Act of 1996
17 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

18 (au) "Premises" means the designated structure or structures and land specified in the
19 application that is owned, leased, or otherwise held under the control of the applicant or
20 permittee where the commercial cannabis activity will be or is conducted. The premises shall
21 be a contiguous area and shall only be occupied by one permittee.

22 (av) "Purchaser" means the customer who is engaged in a transaction with a permittee for
23 purposes of obtaining cannabis or cannabis products.

24 (aw) "Retailer" means a commercial cannabis business that offers cannabis, cannabis
25 products, or devices for the use of cannabis or cannabis products, either individually or in any
26 combination, for retail sale, including an establishment (whether fixed or mobile) that
27 delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail
28 sale, and where the operator holds a valid commercial cannabis business permit from the City
of San Bernardino authorizing the operation of a retailer, and a valid state license as required
by state law to operate a retailer.

(ax) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title
to cannabis or cannabis products are transferred from one person to another, and includes the
delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the
same and soliciting or receiving an order for the same, but does not include the return by the
original purchaser to the location where the product was purchased.

1 (ay) “Testing laboratory” means a laboratory, facility, or entity in the state that offers or
2 performs tests of cannabis or cannabis products and that is both of the following:

3 (1) Accredited by an accrediting body that is independent from all other persons
4 involved in commercial cannabis activity in the State; and

5 (2) Holds a valid commercial cannabis business permit from the City and a state
6 license as required.

7 (az) “Transport” means the transfer of cannabis products from the permitted business location
8 of one licensee to the permitted business location of another licensee, for the purposes of
9 conducting commercial cannabis activity.

10 (ba) “Youth center” has the same meaning as in Section 11353.1 of the Health and Safety
11 Code.

12 (bb) “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that,
13 when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
14 Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

15 **5.10.060 Commercial Cannabis Business Permit Required to Engage in**
16 **Commercial Cannabis Business**

17 (a) No person may engage in any commercial cannabis business or in any commercial
18 cannabis activity within the City of San Bernardino including cultivation, manufacture,
19 processing, laboratory testing, transporting, dispensing, special events, distribution, or sale of
20 cannabis or a cannabis product unless the person (1) has a valid commercial cannabis business
21 permit from the City of San Bernardino; (2) has a valid State Seller’s Permit; and (3) is
22 currently in compliance with all applicable state and local laws and regulations pertaining to
23 the commercial cannabis business and the commercial cannabis activities, including the duty
24 to obtain a City business registration certificate and any required state licenses. Engaging in a
25 commercial cannabis business or in any commercial cannabis activity includes establishing,
26 owning, managing, conducting, leasing to, operating, causing, permitting, aiding, abetting,
27 suffering or concealing the fact of such an act.

28 (b) Until Health & Safety Code Section 11362.775, subdivision (a), is repealed, the City
intends that person’s eligible to operate collectives or cooperatives under that subdivision
shall be eligible to apply for a City conditional permit to conduct commercial cannabis
activities, but only to the degree those activities are authorized under state law for collectives
and cooperatives. When the Health & Safety Code Section 11362.775, subdivision (a), is
repealed, or as soon as collectives and cooperatives are no longer permitted to engage in
commercial cannabis activity without a state license under state law, any conditional permit
issued to a commercial cannabis business that has not obtained a state license for the
commercial cannabis activities shall expire and shall be null and void. Such businesses shall
no longer be authorized to engage in any commercial cannabis activities in the City until they

1 obtain both a City issued commercial cannabis business permit and a state license for that
2 commercial cannabis activity.

3 (c) No temporary events shall be permitted at a state designated fair, as that term is
4 defined in Business and Professions Code Section 19418, subdivision (a), unless the state
5 designated fair has complied with the requirements of subsection (a) above and the temporary
6 event is authorized pursuant to a Development Agreement with the City of San Bernardino
7 approved in accordance with Chapter 19.40 of this Code. Temporary events are prohibited
8 Citywide except at a state designated fair.

9 **5.10.070 Cannabis Employee Requirements**

10 (a) Any person who is an employee within a commercial cannabis business must be
11 legally authorized to do so under applicable state law.

12 (b) A commercial cannabis business shall keep the following records of each of its
13 employees on file at the premises of the business:

- 14 (1) Name, address, and phone number of the employee;
- 15 (2) Age and verification of employee. A copy of a birth certificate, driver's
16 license, government issued identification card, passport or other proof that the
17 applicant is at least twenty-one (21) years of age must be on file with the
18 business;
- 19 (3) A list of any crimes enumerated in California Business and Professions Code
20 Section 26057(b)(4) for which the employee has been convicted;
- 21 (4) Name, address, and contact person for all previous employers of the employee
22 for the last ten (10) years, including, but not limited to, all employers from
23 which the applicant was fired, resigned, or asked to leave and the reasons for
24 such dismissal or firing;
- 25 (5) The fingerprints and a recent photograph of the employee;
- 26 (6) If applicable, verification that the employee is a qualified patient or primary
27 caregiver;

28 (d) The permittee shall provide to the Chief of Police or his/her designee, upon request,
the records described above in subsection (b). The Chief of Police or his/her designee may
review the records and may conduct a background check to determine whether the employee
has been convicted of a crime that shows the employee:

- (1) Is dishonest; or
- (2) Has committed a felony or misdemeanor involving fraud, deceit,
embezzlement; or

1 (3) Was convicted of a violent felony, a crime of moral turpitude; or

2 (4) The illegal use, possession, transportation, distribution or similar activities
3 related to controlled substances, as defined in the Federal Controlled
4 Substances Act, except for cannabis related offenses for which the conviction
5 occurred after the passage of the Compassionate Use Act of 1996.

6 **5.10.080 Maximum Number and Type of Authorized Commercial Cannabis
7 Businesses Permitted**

8 The number of each type of commercial cannabis business that shall be permitted to operate in
9 the City shall be established by Resolution of the Mayor and City Council but at no time shall
10 the total number of permits for all license types exceed one (1) permit per twelve thousand
11 five hundred (12,500) residents of the City as determined by the most recent Population
12 Estimates for Cities, Counties and the State Report generated by the State Department of
13 Finance for the most recent year, unless the Mayor and City Council adopt an ordinance
14 allowing for a greater number of total permits.

15 (a) This Chapter is only intended to create a maximum number of commercial cannabis
16 businesses that may be issued permits to operate in the City. Nothing in this Chapter creates a
17 mandate that the Mayor and City Council must issue any or all of the commercial cannabis
18 business permits if it is determined that the applicants do not meet the standards which are
19 established in the application requirements or further amendments to the application process
20 or that the Mayor and City Council, upon further deliberation, determines that the issuance of
21 any or all commercial cannabis business permits will impact the public safety, welfare or
22 other policy concerns which may be detrimental in the issuance of these permits.

23 (b) Each year following the Mayor and City Council's initial award of permits, if any, or
24 at any time in the Mayor and City Council's discretion, the Mayor and City Council may
25 reassess the number of commercial cannabis business permits which are authorized for
26 issuance to each business type. The Mayor and City Council, in its discretion, may determine
27 by Resolution that the number of each type of commercial cannabis permits should be
28 reduced, stay the same, or be expanded.

29 **5.10.090 Initial Application Procedure**

30 (a) The Mayor and City Council shall adopt by Resolution the procedures to govern the
31 application process, and the manner in which the decision will ultimately be made regarding
32 the issuance of any commercial cannabis business permit(s), which Resolution shall include or
33 require the City Manager to provide detailed objective review criteria to be evaluated on a
34 point system or equivalent quantitative evaluation scale tied to each set of review criteria
35 ("Review Criteria"), which shall require any applicable environmental review pursuant to
36 Division 13 (commencing with Section 21000) of the Public Resources Code as contemplated
37 by Business and Professions Code Section 26055, subdivision (h). The Resolution shall
38 authorize the City Manager or his/her designee(s) to prepare the necessary forms, adopt any
39 necessary rules to the application, regulations and processes, solicit applications, conduct

1 initial evaluations of the applicants, and to ultimately provide a final recommendation to the
2 Mayor and City Council.

3 (b) At the time of filing, each applicant shall pay an application fee established by
4 Resolution of the Mayor and City Council, to cover all costs incurred by the City in the
5 application process.

6 (c) After the initial review, ranking, and scoring under the Review Criteria, the City
7 Manager or his/her designee(s) will make a recommendation to the Mayor and City Council,
8 and the Mayor and City Council shall make a final determination in accordance with Section
9 5.10.180.

10 (d) THE CITY 'S RESERVATION OF RIGHTS:

11 The City reserves the right to reject any or all initial applications. Prior to permit issuance, the
12 City may also modify, postpone, or cancel any request for applications, or the entire program
13 under this Chapter, at any time without liability, obligation, or commitment to any party, firm,
14 or organization, to the extent permitted by law. Persons submitting applications assume the
15 risk that all or any part of the program, or any particular category of permit potentially
16 authorized under this Chapter, may be cancelled at any time prior to permit issuance. The
17 City further reserves the right to request and obtain additional information from any candidate
18 submitting an application. In addition to any other justification provided, including a failure to
19 comply with other requirements in this Chapter, an application RISKS BEING REJECTED
20 for any of the following reasons:

- 21 (1) The application was received after the designated time and date;
- 22 (2) The application did not contain the required elements, exhibits, nor organized
23 in the required format; or
- 24 (3) The application was not considered fully responsive to the request for permit
25 application.

26 **5.10.100 Persons Prohibited from Holding a Commercial Cannabis Business
27 Permit or Being Employed by a Commercial Cannabis Business**

28 (a) No person may hold a commercial cannabis business permit, or be employed by a
commercial cannabis business, in the City of San Bernardino, if any of the following
conditions exist:

- 29 (1) The applicant, permittee, or employee has been denied a commercial cannabis
30 business permit, or similar license, or has had such a permit or license
31 suspended or revoked by any city, county, city and county or any state
32 cannabis licensing authority;
- 33 (2) The applicant, permittee, employee, or the owner of the property upon which
34 the proposed commercial cannabis activity is to occur, was either convicted of,

1 pled guilty or nolo contendere to, or has been found by the City's Hearing
2 Officer pursuant to Chapters 9.92 or 9.93 to be responsible for, conducting
3 commercial cannabis activity in non-compliance with Title 19, other City of
4 San Bernardino ordinances, codes and requirements, or state law, and they
5 failed to discontinue operating in a timely manner; or

- 6 (3) The applicant, permittee, or employee, or the owner of the property upon
7 which the proposed commercial cannabis activity is to occur, was found by the
8 appropriate taxing agency to have been in non-compliance with federal, state
9 or local tax laws or failed to report income from commercial cannabis activities
10 to federal, state, or local government in violation of law.

11 **5.10.110 Expiration of Commercial Cannabis Business Permits**

12 Each commercial cannabis business permit issued pursuant to this Chapter shall expire three
13 (3) years after the date of its issuance. Commercial cannabis business permits may be renewed
14 as provided in this Chapter.

15 **5.10.120 Revocation of Permits**

16 Commercial cannabis business permits may be suspended or revoked by the City Manager or
17 his/her designee for any violation of any law and/or any rule, regulation and/or standard
18 adopted pursuant to this Chapter.

19 **5.10.130 Renewal Applications**

20 (a) An application for renewal of a commercial cannabis business permit shall be filed at
21 least sixty (60) calendar days prior to the expiration date of the current permit.

22 (b) The renewal application shall contain all the information required for new
23 applications.

24 (c) The applicant shall pay a fee in an amount to be set by Resolution of the Mayor and
25 City Council to cover the costs of processing the renewal permit application, together with
26 any costs incurred by the City to administer the program created under this Chapter.

27 (d) An application for renewal of a commercial cannabis business permit shall be rejected
28 if any of the following exists:

- 29 (1) The application for renewal is filed less than sixty (60) days before the
30 expiration of the commercial cannabis business permit.
- 31 (2) The commercial cannabis business permit is suspended or revoked at the time
32 of the application.
- 33 (3) The commercial cannabis business has not been in regular and continuous
34 operation in the four (4) months prior to the renewal application.

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(4) The commercial cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.

(5) The permittee fails or is unable to renew its State of California license.

(6) If the City has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, of the San Bernardino Municipal Code, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the commercial cannabis business permit.

(e) The Community Development Director or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the Community Development Director or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the Community Development Director or his/her designee(s) shall be handled pursuant to Sections 5.10.150, 5.10.160, and 5.10.170.

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

5.10.140 Effect of State License Suspension, Revocation, or Termination

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

5.10.150 Appeals

Unless specifically provided elsewhere to the contrary, any determination of the Chief of Police or Community Development Director, or the designees of either of them, may only be appealed to the City Manager, which decision shall be final. The City Manager may delegate the appeal to the City’s Administrative Law Officer (“Hearing Officer”) appointed in conformity with Chapter 9.92 of this Code, in which case, the decision of the Hearing Officer shall be final. All decisions of the Mayor and City Council, City Manager or Hearing Officer under this Chapter shall be final. All appeals shall be conducted as prescribed in this Section, Section 5.10.160 and Section 5.10.170.

1 **5.10.160 Written Request for Appeal**

2 (a) Within ten (10) calendar days after the date of the determination, an aggrieved party
3 may appeal such determination by filing a written appeal with the City Clerk setting forth the
4 reasons why the determination was not proper. If no appeal of a determination is made within
5 ten (10) days of the date of the determination, the determination shall be final.

6 (b) At the time of filing the appellant shall pay the designated appeal fee, established by
7 Resolution of the Mayor and City Council from time to time.

8 **5.10.170 Appeal Hearing**

9 (a) Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing
10 before the City Manager, or if the appeal has been delegated to the Hearing Officer, before the
11 Hearing Officer. The City Manager or Hearing Officer shall hear the matter de novo, and shall
12 conduct the hearing pursuant to the procedures set forth by the City.

13 (b) The appeal shall be held within a reasonable time after the filing the appeal, but in no
14 event later than ninety (90) calendar days from the date of such filing. The City shall notify
15 the appellant of the time and location at least ten (10) calendar days prior to the date of the
16 hearing.

17 (c) At the hearing, the appellant may present any information they deem relevant to the
18 determination appealed. The formal rules of evidence and procedure applicable in a court of
19 law shall not apply to the hearing.

20 (d) At the conclusion of the hearing the City Manager or Hearing Officer may affirm,
21 reverse or modify the decision appealed.

22 **5.10.180 Commercial Cannabis Business Permittee Selection Process**

23 (a) The Mayor and City Council shall adopt by Resolution, a procedure guideline and
24 Review Criteria by which the top applicants in each category of each commercial cannabis
25 business will be presented to the Mayor and City Council for a final determination at a public
26 hearing.

27 (b) The top final applicants for each category may be invited to attend the Mayor and City
28 Council meeting, only if requested by the City Manager or his/her designee where they may
be expected to make a public presentation introducing their team and providing an overview
of their proposal. In order to provide adequate time, presentations may be divided over more
than one meeting over multiple days as determined to be necessary.

(c) At least ten (10) calendar days prior to the hearing, notice of the hearing shall be sent
to all property owners located within six hundred (600) feet of the proposed business locations
of each of the finalists to be considered by the Mayor and City Council.

1 (d) The Mayor and City Council shall either deny or approve the final candidates and shall
2 select the top candidates in each category of the commercial cannabis businesses. The Mayor
and City Council's decision as to the selection of the prevailing candidates shall be final.

3 (e) Official issuance of the commercial cannabis business permit(s), however, is
4 conditioned upon the prevailing applicant(s) obtaining all required land use approvals.
5 Following the Mayor and City Council's selection, the prevailing applicant(s) shall apply to
6 the City's Community Development Department to obtain any required land use approvals or
7 entitlements for the permittee's location, if any. Land use approvals shall include compliance
8 with all applicable provisions of CEQA. The City Manager or his/her designee(s) shall
formally issue the commercial cannabis business permit(s) once the Community Development
Director or his/her designee(s) affirms that all of the required land use approvals have been
obtained.

9 (f) Issuance of a commercial cannabis business permit does not create a land use
10 entitlement or serve as a building permit. The commercial cannabis business permit shall only
11 be for a term of three (3) years, and shall expire at the end of the three (3) year period unless it
12 is renewed as provided herein. Furthermore, no permittee may begin operations,
13 notwithstanding the issuance of a permit, unless all of the state and local laws and regulations,
14 including but not limited to the requirements of this Chapter, applicable building permits, and
conditions of the commercial cannabis business permit, have been complied with. Until a state
license is available and obtained by the permittee, this means compliance with all provisions
of the Medical Cannabis Collective Laws as set forth at Section 5.10.060.

15 (g) Notwithstanding anything in this Chapter to the contrary, the Mayor and City Council
16 reserves the right to reject any or all applications if it determines it would be in the best
17 interest of the City, taking into account any health, safety and welfare impacts on the
18 community. Applicants shall have no right to a commercial cannabis business permit until a
19 permit is actually issued, and then only for the duration of the permit term. Each applicant
assumes the risk that, at any time prior to the issuance of a permit, the Mayor and City
Council may terminate or delay the program created under this Chapter or otherwise revise,
amend, or repeal this Chapter.

20 (h) If an application is denied, a new application may not be filed for one (1) year from
21 the date of the denial.

22 (i) Each person granted a commercial cannabis business permit shall be required to pay
23 the permit fee established by resolution of the Mayor and City Council, to cover the costs of
administering the commercial cannabis business permit program created in this Chapter.

24 **5.10.190 Updated Information**

25
26 Within fifteen (15) calendar days of any other change in the information provided in the
27 application form or any change in status of compliance with the provisions of this Chapter,
28 including any change in the commercial cannabis business location or ownership or
management members, the applicant shall file an updated application form with the City

1 Manager or his/her designee(s) for review along with an application amendment fee, as set
2 forth in section 5.10.090 and 5.10.130.

3 **5.10.200 Change in Ownership or Location**

4 (a) The person granted a commercial cannabis business permit shall not transfer
5 ownership or control of the permit to another person unless and until the transferee obtains an
6 amendment to the permit from the City Manager or his/her designee stating that the transferee
7 is now the permittee. Such an amendment may be obtained only if the transferee files an
8 application with the City Manager or his/her designee in accordance with all provisions of this
9 Chapter (as though the transferee were applying for an original commercial cannabis business
10 permit) accompanied by a transfer fee in an amount set by Resolution of the Mayor and City
11 Council (or if not set, shall be the same amount as the application fee), and the City Manager
12 or his/her designee determines, after hearing, in accordance with this Chapter that the
13 transferee passed the background check required for permittees and meets all other
14 requirements of this Chapter. No transfer of ownership may occur within five (5) years of the
15 date the commercial cannabis business permit is originally issued, except as provided below.

16 (b) Commercial cannabis business permits issued through the grant of a transfer by the
17 City Manager or his/her designee shall be valid for a period of one year beginning on the day
18 the City Manager or his/her designee approves the transfer of the permit. Before the
19 transferee's permit expires, the transferee shall apply for a renewal permit in the manner
20 required by this Chapter.

21 (c) Changes in ownership of a permittee's business structure or a substantial change in the
22 ownership of a permittee business entity (changes that result in a change of more than 51% of
23 the original ownership), must be approved by the City Manager or his/her designee through
24 the transfer process contained in subsection (a). Failure to comply with this provision is
25 grounds for permit revocation.

26 (d) A permittee may change the form of business entity without applying to the City
27 Manager or his/her designee for a transfer of permit, provided that either:

28 (1) The membership of the new business entity is substantially similar to the
original permit holder business entity (at least 51% of the membership is
identical), or

(2) If the original permittee is an unincorporated association, mutual or public
benefit corporation, agricultural or consumer cooperative corporation and
subsequently transitions to or forms a new business entity as allowed under the
MAUCRSA and to comply with Section 5.10.060, subdivision (b), provided
that the Board of Directors (or in the case of an unincorporated association, the
individual(s) listed on the City permit application) of the original permittee
entity are the same as the new business entity.

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

4 (e) No commercial cannabis business permit may be transferred when the City Manager
5 or his/her designee has notified the permittee that the permit has been or may be suspended or
6 revoked.

7 (f) Any attempt to transfer a commercial cannabis business permit either directly or
8 indirectly in violation of this section is hereby declared void, and such a purported transfer
9 shall be deemed a ground for revocation of the permit.

10 (g) The location specified in the commercial cannabis business permit may not change
11 without an amendment to the permit, processed in the same manner as an initial permit
12 pursuant to the process and fees set forth in Section 5.10.090.

13 **5.10.210 City Business Registration Certificate**

14 Prior to commencing operations, and at all times thereafter, a commercial cannabis business
15 shall maintain a valid City of San Bernardino business registration certificate.

16 **5.10.220 Building Permits and Inspection**

17 Prior to commencing operations, and at all times thereafter, a commercial cannabis business
18 shall be subject to a mandatory building inspection, and must obtain all required permits and
19 approvals which would otherwise be required for any business of the same size and intensity
20 operating in that zone. This includes but is not limited to obtaining any required building
21 permit(s), Fire Department approvals, Health Department approvals and other zoning and land
22 use permit(s) and approvals. No modifications to the structure of the premises shall be made
23 without required approvals listed above.

24 **5.10.230 Certification from the Community Development Director**

25 Prior to commencing operations, a commercial cannabis business must obtain a certification
26 from the Community Development Director or his/her designee(s) certifying that the business
27 is located on a site that meets all of the requirements of Title 19 of this Code.

28 **5.10.240 Right to Occupy and to Use Property**

As a condition precedent to the City's issuance of a commercial cannabis business permit
pursuant to this Chapter, any person intending to open and to operate a commercial cannabis
business shall provide sufficient evidence, which sufficiency shall be determined in the
reasonable discretion of the Mayor and City Council, of the legal right to occupy and to use
the proposed location for the proposed commercial cannabis activity. In the event the
proposed location will be leased from another person, the applicant shall be required to
provide a signed and notarized statement from all owners of the property, acknowledging that

1 the property owners have read this Chapter and consent to the operation of the commercial
2 cannabis business on the owner's property.

3 **5.10.250 Location and Design of Cannabis Businesses**

4 Commercial cannabis businesses are permitted to engage in commercial cannabis activities
5 subject to the following zoning and locational requirements:

6 (a) The commercial cannabis business must be located on property zoned CG
7 (Commercial General), CG -2 (Commercial General-2), CG-3 (Commercial General -3), CR-
8 2 (Commercial Regional-Downtown), CR-3 (Commercial-Tri-City-Club), CCS-1 (Central
9 City South), CCS-2 (Central City), CH (Commercial Heavy), IL (Industrial Light), IH
10 (Industrial Heavy), OIP (Office Industrial Park), or as such successor zones as may be created
11 by the Mayor and City Council from time to time, and must meet all of the requirements for
12 development in these zones; and

13 (b) The property on which the cannabis business is located must also meet all of the
14 distance requirements listed below in subsections (b)(1)-(3), unless the Mayor and City
15 Council adopt an ordinance allowing for a lesser distance. All distances shall be the horizontal
16 distance measured in a straight line from exterior parcel line to exterior parcel line without
17 regard to intervening structures, except as listed in subsection (b)(4).

18 (1) The parcel shall be no closer than six hundred (600) feet of any residentially
19 zoned or residentially used parcel in the City, the City's sphere of influence, a
20 neighboring incorporated city, or unincorporated county.

21 (2) The parcel shall be no closer than six hundred (600) feet from any parcel in the
22 City, the City's sphere of influence, a neighboring incorporated city, or
23 unincorporated county containing any of the following:

24 A. A school providing instruction in kindergarten or any grades 1 through
25 12, (whether public, private, or charter, including pre-school,
26 transitional kindergarten, and K-12) that is in existence at the time the
27 permit is issued;

28 B. A commercial daycare center licensed by the City, another city, or
County that is in existence at the time the permit is issued;

C. A youth center that is in existence at the time the permit is issued; or

D. A park that is in existence at the time the permit is issued.

(3) The City shall consider the proximity of the proposed commercial cannabis
business to religious facilities and libraries in existence at the time the permit is
granted when determining whether to issue the permit and any conditions
thereto.

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- (4) For the purposes of this subsection (b), the distance measurement shall be without regard to intervening structures, with the exception of the following, in which case the distance measurement shall be the shortest path of travel around the listed intervening structures:
 - A. Freeways;
 - B. Flood control channels;
 - C. Railroads;
 - D. The Santa Ana River.

- (c) Each proposed cannabis business project shall:
 - (1) Conform with the City’s general plan, any applicable specific plans, master plans, and design requirements;
 - (2) Comply with all applicable zoning and related development standards;
 - (3) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties;
 - (4) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development;
 - (5) Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate; and
 - (6) Be provided with adequate electricity, sewage, disposal, water, fire protection and storm drain facilities for the intended purpose.

5.10.260 Limitations on City’s Liability

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

- (a) They must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant’s sole cost and expense), and hold the City of San Bernardino, and its elected officials, officers, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City’s issuance of the commercial cannabis business permit, the City’s

1 decision to approve the operation of the commercial cannabis business or activity, to the
2 process used by the City in making its decision, or the alleged violation of any federal, state
or local laws by the commercial cannabis business or any of its officers, employees or agents.

3 (b) Maintain insurance at coverage limits, and with conditions thereon determined
4 necessary and appropriate from time to time by the City Manager or his/her designee.

5 (c) Reimburse the City of San Bernardino for all costs and expenses, including but not
6 limited to legal fees and costs and court costs, which the City of San Bernardino may be
7 required to pay as a result of any legal challenge related to the City's approval of the
8 applicant's commercial cannabis business permit, or related to the City's approval of a
commercial cannabis activity. The City of San Bernardino may, at its sole discretion,
participate at its own expense in the defense of any such action, but such participation shall
not relieve any of the obligations imposed hereunder.

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10 **5.10.270 Records and Recordkeeping**

11 (a) Each person granted a commercial cannabis business shall maintain accurate books
12 and records in an electronic format, detailing all of the revenues and expenses of the business,
13 and all of its assets and liabilities. On no less than an annual basis (at or before the time of the
14 renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any
15 time upon reasonable request of the City Manager or his/her designee, each commercial
16 cannabis business shall file a sworn statement detailing the number of sales by the commercial
17 cannabis business during the previous twelve-month period (or shorter period based upon the
18 timing of the request), provided on a per-month basis. The statement shall also include gross
19 sales for each month, and all applicable taxes paid or due to be paid, including, but not limited
20 to, employee withholdings. On an annual basis, each permittee shall submit to the City a
financial audit of the business's operations conducted by an independent certified public
accountant. At the request of the City Manager, or his/her designee, the each permittee shall
provide copies of the last three (3) years of their local, state and federal tax returns so that the
City may verify the information provided above. Each permittee shall be subject to a
regulatory compliance review and financial audit as determined by the City Manager or
his/her designee(s).

21 (b) Each person granted a commercial cannabis business shall maintain a current register
22 of the names and the contact information (including the name, address, and telephone number)
23 of anyone owning or holding an interest in the commercial cannabis business, and separately
24 of all the officers, managers, employees, and agents currently employed or otherwise engaged
by the commercial cannabis business. The register required by this paragraph shall be
provided to the City Manager or his/her designee(s) upon a reasonable request.

25 (c) Prior to state licensing, each commercial cannabis business shall maintain a record of
26 all persons, patients, collectives and primary caregivers served by the commercial cannabis
27 business, for a period of no less than four (4) years. Once a state license is obtained, the
28 commercial cannabis business must maintain such records only to the extent permitted or
required by the MAUCRSA.

1 (d) All commercial cannabis businesses shall maintain an inventory control and reporting
2 system that accurately documents the present location, amounts, and descriptions of all
3 cannabis and cannabis products for all stages of the growing and production or manufacturing,
4 laboratory testing and distribution processes until purchase as set forth MAUCRSA.
5 Additionally, all commercial cannabis businesses shall maintain records that identify the
6 source of all products (company name, location, license numbers etc.).

7 (e) Subject to any restrictions under the Health Insurance Portability and Accountability
8 Act (HIPAA) regulations, each commercial cannabis business shall allow the City of San
9 Bernardino officials to have access to the business's books, records, accounts, together with
10 any other data or documents relevant to its permitted commercial cannabis activities, for the
11 purpose of conducting an audit or examination. Books, records, accounts, and any and all
12 relevant data or documents will be produced no later than twenty-four (24) hours after receipt
13 of the City's request, unless otherwise stipulated by the City. The City may require the
14 materials to be submitted in an electronic format that is compatible with the City's software
15 and hardware.

11 **5.10.280 Security Measures**

12 (a) A commercial cannabis business shall implement sufficient security measures to deter
13 and prevent the unauthorized entrance into areas containing cannabis or cannabis products,
14 and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis
15 business. Except as may otherwise be determined by the City Manager or his/her designee(s),
16 these security measures shall include, but shall not be limited to, all of the following:

- 17 (1) Preventing individuals from remaining on the premises of the commercial
18 cannabis business if they are not engaging in an activity directly related to the
19 permitted operations of the commercial cannabis business.
- 20 (2) Establishing limited access areas accessible only to authorized commercial
21 cannabis business personnel.
- 22 (3) Except for live growing plants which are being cultivated at a cultivation
23 facility, all cannabis and cannabis products shall be stored in a secured and
24 locked room, safe, or vault. All cannabis and cannabis products, including live
25 plants that are being cultivated, shall be kept in a manner as to prevent
26 diversion, theft, and loss,
- 27 (4) Installing 24-hour security surveillance cameras of at least HD-quality to
28 monitor all entrances and exits to and from the premises, all interior spaces
within the commercial 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. Cameras shall clearly show each point of sale
location, register with a time/date stamp. The commercial cannabis business
shall be responsible for ensuring that the security surveillance camera's footage
is remotely accessible by the City Manager or his/her designee(s), and that it is

1 compatible with the City's software and hardware. In addition, remote and
2 real-time, live access to the video footage from the cameras shall be provided
3 to the City Manager or his/her designee(s). Video recordings shall be
4 maintained for a minimum of one hundred twenty (120) days, and shall be
5 made available to the City Manager or his/her designee(s) upon request. Video
6 shall be of sufficient quality for effective prosecution of any crime found to
7 have occurred on the site of the commercial cannabis business.

8 (5) Sensors shall be installed to detect entry and exit from all secure areas.

9 (6) Panic buttons shall be installed in all commercial cannabis businesses.

10 (7) Having a professionally installed, maintained, and monitored alarm system.
11 The owner and operator shall be subject to the City's security alarm systems
12 requirements of Chapter 8.81 of this Code.

13 (8) Any bars installed on the windows or the doors of the commercial cannabis
14 business shall be installed only on the interior of the building as approved by
15 the Community Development Department and Fire Department.

16 (9) Security personnel shall be on-site 24 hours a day or alternative security as
17 authorized by the City Manager or his/her designee(s). Security personnel must
18 be licensed by the State of California Bureau of Security and Investigative
19 Services personnel and shall be subject to the prior review and approval of the
20 City Manager or his/her designee(s), with such approval not to be unreasonably
21 withheld.

22 (10) Each commercial cannabis business shall have the capability to remain secure
23 during a power outage and shall ensure that all access doors are not solely
24 controlled by an electronic access panel to ensure that locks are not released
25 during a power outage.

26 (b) Each commercial cannabis business shall identify a designated security
27 representative/liaison to the City of San Bernardino, who shall be reasonably available to meet
28 with the City Manager or his/her designee(s) regarding any security related measures or and
operational issues. The commercial cannabis business shall notify the City Manager or his/her
designee within twenty four (24) hours of a change in designated security
representative/liaison.

(c) As part of the application and permitting process each commercial cannabis business
shall have a storage and transportation plan, which describes in detail the procedures for
safely and securely storing and transporting all cannabis, cannabis products, and any currency.

(d) The commercial cannabis business shall cooperate with the City whenever the City
Manager or his/her designee(s) makes a request, upon reasonable notice to the commercial
cannabis business, to inspect or audit the effectiveness of any security plan or of any other
requirement of this Chapter.

1 (e) A commercial cannabis business shall notify the City Manager or his/her designee(s)
2 within twenty-four (24) hours after discovering any of the following:

3 (1) Significant discrepancies identified during inventory. The level of significance
4 shall be determined by the regulations promulgated by the City Manager or
5 his/her designee(s).

6 (2) Diversion, theft, loss, or any criminal activity involving the commercial
7 cannabis business or any agent or employee of the commercial cannabis
8 business.

9 (3) The loss or unauthorized alteration of records related to cannabis, registering
10 qualifying patients, primary caregivers, or employees or agents of the
11 commercial cannabis business.

12 (4) Any other breach of security.

13 **5.10.290 Restriction on Alcohol & Tobacco Sales**

14 (a) No person shall cause or permit the sale, dispensing, or consumption of alcoholic
15 beverages to any person, including minors, on or about the property occupied by the
16 commercial cannabis business.

17 (b) No person shall cause or permit the sale of tobacco products to any person, including
18 minors, on or about the property occupied by the commercial cannabis business.

19 **5.10.300 Fees and Charges**

20 (a) No person may commence or continue any commercial cannabis activity in the City,
21 without timely paying in full all fees and charges required for the operation of a commercial
22 cannabis activity. Fees and charges associated with the operation of a commercial cannabis
23 activity shall be established by Resolution of the Mayor and City Council which may be
24 amended from time to time. Such fees and charges may include, but are not limited to, a
25 regulatory fee imposed for the reasonable regulatory costs to the City for issuing licenses and
26 permits, performing investigations, inspections, and audits, and the administrative and
27 criminal enforcement and adjudication thereof.

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

1 **5.10.310 Miscellaneous Operating Requirements**

2 (a) Commercial cannabis businesses may operate only during the hours specified in the
3 commercial cannabis business permit issued by the City.

4 (b) On-site consumption of cannabis is prohibited at all times by all individuals on the
5 property.

6 (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products
7 shall be visible from the exterior of any property issued a commercial cannabis business
8 permit, or on any of the vehicles owned or used as part of the commercial cannabis business.
9 No outdoor storage of cannabis or cannabis products is permitted at any time.

10 (d) Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis
11 business shall have in place a point-of-sale or management inventory tracking system to track
12 and report on all aspects of the commercial cannabis business including, but not limited to,
13 such matters as cannabis tracking, inventory data, gross sales (by weight and by sale), time
14 and date of each sale and other information which may be deemed necessary by the City. The
15 commercial cannabis business shall ensure that such information is compatible with the City's
16 record-keeping systems. In addition, the system must have the capability to produce historical
17 transactional data for review. Furthermore, any system selected must be approved and
18 authorized by the City Manager or his/her designee(s) prior to being used by the permittee.

19 (e) All cannabis and cannabis products sold, distributed or manufactured shall be
20 cultivated, manufactured, and transported by licensed facilities that maintain operations in full
21 conformance with the State and local regulations. No cannabis or cannabis products may be
22 sold, distributed, or transferred out of the State.

23 (f) There shall not be a physician located in or around any commercial cannabis business
24 at any time for the purpose of evaluating patients for the issuance of a cannabis
25 recommendation or card where applicable.

26 (g) Prior to dispensing medicinal cannabis or medicinal cannabis products where
27 applicable to any person, the commercial medicinal cannabis business shall obtain verification
28 from the recommending physician that the person requesting medicinal cannabis or medicinal
cannabis products is a qualified patient.

(h) Emergency Contact. Each commercial cannabis business shall provide the City
Manager or his/her designee(s) with the name, telephone number (both land line and mobile,
if available) of an on-site employee or owner to whom emergency notice can be provided at
any hour of the day. The commercial cannabis business shall notify the City Manager or
his/her designee within twenty four (24) hours of a change in the emergency contact.

(i) Signage and Notices.

(1) In addition to the requirements otherwise set forth in this section, business
identification signage for a commercial cannabis business shall conform to the

1 requirements of Chapter 19.22 of this Code, including, but not limited to,
2 seeking the issuance of a City sign permit.

3 (2) No signs placed on the premises of a commercial cannabis business shall
4 obstruct any entrance or exit to the building or any window.

5 (3) Each entrance to a commercial cannabis business shall be visibly posted with a
6 clear and legible notice indicating that smoking, ingesting, or otherwise
7 consuming cannabis on the premises or in the areas adjacent to the commercial
8 cannabis business is prohibited.

9 (4) Business identification signage shall be limited to that needed for identification
10 only and shall not contain any logos or information that identifies, advertises,
11 or lists the services or the products offered. No commercial cannabis business
12 shall advertise by having a person holding a sign and advertising the business
13 to passersby, whether such person is on the premises of the commercial
14 cannabis business or elsewhere including, but not limited to, the public right-
15 of-way.

16 (5) [Repealed]

17 (6) In accordance with state law and regulations or as stipulated in the City of San
18 Bernardino commercial cannabis business permit, holders of a commercial
19 cannabis business permit shall agree that, as an express and ongoing condition
20 of permit issuance and subsequent renewal, the holder of the permit shall be
21 prohibited from advertising any commercial cannabis business located in the
22 City of San Bernardino utilizing a billboard (fixed or mobile), bus shelter,
23 placard, aircraft, or other similar forms of advertising, anywhere in the state.
24 This paragraph is not intended to place limitations on the ability of a
25 commercial cannabis business to advertise in other legally authorized forms,
26 including on the internet, in magazines, or in other similar ways.

27 (j) Minors.

28 (1) Persons under the age of twenty-one (21) years shall not be allowed on the
premises of a commercial 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 commercial cannabis
business who is not at least twenty-one (21) years of age. Except as provided
for under section 5.10.330 (c).

(2) The entrance to the commercial cannabis business shall be clearly and legibly
posted with a notice that no person under the age of twenty-one (21) years of
age is permitted to enter upon the premises of the commercial cannabis
business. Except as provided for under section 5.10.330 (c).

1 (k) Odor Control. Odor control devices and techniques shall be incorporated in all
2 commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site.
3 Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and
4 exhaust system so that odor generated inside the commercial cannabis business that is
5 distinctive to its operation is not detected outside of the facility, anywhere on adjacent
6 property or public rights-of-way, on or about the exterior or interior common area walkways,
7 hallways, breezeways, foyers, lobby areas, or any other areas available for use by common
8 tenants or the visiting public, or within any other unit located inside the same building as the
9 commercial cannabis business. As such, commercial cannabis businesses must install and
10 maintain the following equipment, or any other equipment which the Community
11 Development Director or his/her designee(s) determine is a more effective method or
12 technology:

- 13 (1) An exhaust air filtration system with odor control that prevents internal odors
14 from being emitted externally;
- 15 (2) An air system that creates negative air pressure between the commercial
16 cannabis business's interior and exterior, so that the odors generated inside the
17 commercial cannabis business are not detectable on the outside of the
18 commercial cannabis business.

19 (l) Display of Permit and City Business License. The original copy of the commercial
20 cannabis business permit issued by the City pursuant to this Chapter and the City issued
21 business license shall be posted inside the commercial cannabis business in a location readily-
22 visible to the public.

23 (m) Background Check. Every person listed as an owner, manager, or supervisor of the
24 commercial cannabis business must submit fingerprints and other information deemed
25 necessary by the Chief of Police or his/her designee(s) for a background check by the City of
26 San Bernardino's Police Department pursuant to California Penal Code Sections 11105(b)(11)
27 and 13300(b)(11), which authorizes City authorities to access state and local summary
28 criminal history information for employment, licensing, or certification purposes; and
authorizes access to federal level criminal history information by transmitting fingerprint
images and related information to the Department of Justice to be transmitted to the Federal
Bureau of Investigation. Pursuant to California Penal Sections 11105(b)(11) and
13300(b)(11), which requires that there be a requirement or exclusion from employment,
licensing or certification based on specific criminal conduct on the part of the subject of the
record, no person shall be issued a permit to operate a commercial cannabis business unless
they have first cleared the background check, as determined by the Chief of Police or his/her
designee(s). A fee for the cost of the background investigation, which shall be the actual cost
to the City of San Bernardino to conduct the background investigation as it deems necessary
and appropriate, shall be paid at the time the application for a commercial cannabis business
permit is submitted.

(n) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit
loitering by persons outside the facility both on the premises and within fifty (50) feet of the
premises.

1 (o) Permits and other Approvals. Prior to the establishment of any commercial cannabis
2 business or the operation of any such business, the person intending to establish a commercial
3 cannabis business must first obtain all applicable planning, zoning, building, and other
4 applicable permits from the relevant governmental agency which may be applicable to such
commercial cannabis business.

5 (p) If the commercial cannabis business permittee is operating as a collective or
6 cooperative under Health and Safety Code Section 11362.775, subdivision (a), the
7 commercial cannabis business shall terminate the membership of any member violating any of
the provisions of this Chapter.

8 (q) The interior and exterior of the premises of the commercial cannabis business shall be
9 well lit at all times. The windows of the building shall provide an unobstructed view into the
interior.

10 **5.10.320 Other Operational Requirements**

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

14 **5.10.330 Operating Requirements for Retailer Facilities; Delivery**

15 (a) No more than the number of retailers adopted by resolution may operate within the
16 City of San Bernardino at any one time and no more than that number adopted by resolution
17 shall be issued a permit by the City of San Bernardino to operate a retailer at one time. Both
18 retailers offering storefront purchase (customers purchase and obtain cannabis onsite) and
19 retailers offering delivery only shall be permitted. Each shall be required to maintain a
physical location from which commercial cannabis activities are conducted that are permitted
under this Chapter.

20 (b) Retailers may only deliver to customers within a county or city that does not expressly
21 prohibit delivery by ordinance. Retailers may only deliver to customers within the City of San
22 Bernardino after obtaining a commercial cannabis business permit issued under the Chapter.
Security plans developed pursuant to this chapter shall include provisions relating to vehicle
security and the protection of employees and product during loading and in transit.

23 (c) M-licensee retailers must verify the age and all necessary documentation of each
24 customer to ensure the customer is not under the age of eighteen (18) years and that the
25 potential customer has a valid doctor's recommendation. A-licensee retailers must verify the
age of customers to ensure persons under the age of twenty-one (21) are not permitted.

26 (d) Entrances into the retailer shall be locked at all times with entry strictly controlled. A
27 "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to
28 the retailer to separate it from the reception/lobby area.

1 (e) Uniformed licensed security personnel shall be employed to monitor site activity,
2 control loitering and site access, and to serve as a visual deterrent to unlawful activities.

3 (f) Retailers may have only that quantity of cannabis and cannabis products reasonably
4 anticipated to meet the daily demand readily available for sale on-site in the publically
5 accessible retail sales area of the retailer.

6 (g) All restroom facilities shall remain locked and under the control of management.

7 **5.10.340 Operating Requirements for Commercial Cultivation Facilities**

8 (a) All outdoor (i.e. open air) cultivation is prohibited. The cultivation of all cannabis
9 must occur indoors or within mixed light structures.

10 (b) In no case, shall cannabis plants be discernable from a public or private road,
11 sidewalk, park or any common public viewing area.

12 (c) A permittee permitted to engage in commercial cannabis cultivation in the City of San
13 Bernardino shall only be allowed to cultivate the square feet of canopy space permitted by
14 state law.

15 (d) Cannabis cultivation shall be conducted in accordance with state and local laws related
16 to land conversion, grading, electricity, water usage, water quality, woodland and riparian
17 habitat protection, agricultural discharges, and similar matters.

18 (e) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination
19 through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.

20 (f) The cultivation of cannabis shall at all times be operated in such a way as to ensure the
21 health, safety, and welfare of the public, the employees working at the commercial cannabis
22 business, visitors to the area, neighboring properties, and the end users of the cannabis being
23 cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the
24 security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.

25 (g) All applicants for a cannabis cultivation permit shall submit the following in addition
26 to the information generally otherwise required for a commercial cannabis business:

27 (1) A cultivation and operations plan that meets or exceeds minimum legal
28 standards for water usage, conservation and use; drainage, runoff, and erosion
control; watershed and habitat protection; and proper storage of fertilizers,
pesticides, and other regulated products to be used on the parcel, and a
description of the cultivation activities (indoor, mixed-light) and schedule of
activities during each month of growing and harvesting, or explanation of
growth cycles and anticipated harvesting schedules for all-season harvesting
(indoor, mixed-light).

(2) A description of a legal water source, irrigation plan, and projected water use.

- 1 (3) Identification of the source of electrical power and plan for compliance with
2 applicable Building Codes and related codes.
- 3 (4) Plan for addressing odor and other public nuisances that may derive from the
4 cultivation site.

5 **5.10.350 Operating Requirements for Testing Labs**

- 6 (a) Testing Labs shall be required to conduct all testing in a manner pursuant to Business
7 and Professions Code Section 26100, *et seq.*, and shall be subject to state and local law. Each
8 Testing Lab shall be subject to additional regulations as determined from time to time as more
9 regulations are developed under this Chapter and any subsequent State of California
10 legislation regarding the same.
- 11 (b) Testing Labs shall conduct all testing in a manner consistent with general requirements
12 for the competence of testing and calibrations activities, including sampling using verified
13 methods.
- 14 (c) Testing Labs shall obtain and maintain ISO/IEC 17025 accreditation as required by the
15 bureau.
- 16 (d) Testing Labs shall destroy any harvest batch whose testing sample indicates
17 noncompliance with health and safety standards required by the bureau unless remedial
18 measures can bring the cannabis or cannabis products into compliance with quality standards
19 as specified by law and implemented by the bureau.
- 20 (e) Each operator of a Testing Lab shall ensure that any Testing Lab employee takes the
21 sample of cannabis or cannabis products from the distributor's premises for testing as required
22 by state law and that the Testing Lab employee transports the sample to the Testing Lab.
- 23 (f) Except as provided by state law, a Testing Lab shall not acquire or receive cannabis or
24 cannabis products except from a licensee in accordance with state law, and shall not
25 distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from
26 which the cannabis or cannabis products were acquired or received. All transfer or
27 transportation shall be performed pursuant to a specified chain of custody protocol.
- 28 (g) A Testing Lab may receive and test samples of cannabis or cannabis products from a
qualified patient or primary caregiver only if the qualified patient or primary caregiver
presents the qualified patient's valid physician's recommendation for cannabis for medicinal
purpose. A Testing Lab shall not certify samples from a qualified patient or primary caregiver
for resale or transfer to another party or licensee. All tests performed by a Testing Lab for a
qualified patient or primary caregiver shall be recorded with the name of the qualified patient
or primary caregiver and the amount of the cannabis or cannabis products received.

1 **5.10.360 Cannabis Manufacturing: Edibles and Other Cannabis Products; Sale or**
2 **Distribution of Edible and Other Cannabis Products**

3 (a) In addition to any locational restrictions contained within this Chapter, manufacturers
4 requiring a Type-6, or Type-7 or any subsequent created manufacturing state license (using
5 non-volatile and volatile solvents) as defined in MAUCRSA, may only be permitted to
operate within those zone districts as similar manufacturing activities under Title 19 of this
Code.

6 (b) Any compressed gases used in the manufacturing process shall not be stored on any
7 property within the City of San Bernardino in containers that exceeds the amount which is
8 approved by Fire Department and authorized by the commercial cannabis business permit.
Each site or parcel subject to a commercial cannabis business permit shall be limited to a total
number of tanks as authorized by the Fire Department on the property at any time.

9 (c) Manufacturers may use the hydrocarbons N-butane, isobutane, propane, or heptane or
10 other solvents or gases exhibiting low to minimal potential human-related toxicity approved
11 by both the Community Development Department and Fire Department. These solvents must
12 be of at least ninety-nine percent purity and any extraction process must use them in a
13 professional grade closed loop extraction system designed to recover the solvents and work in
an environment with proper ventilation, controlling all sources of ignition where a flammable
atmosphere is or may be present.

14 (d) If an extraction process uses a professional grade closed loop CO₂ gas extraction
15 system every vessel must be certified by the manufacturer for its safe use as referenced in
16 5.10.360 (f). The CO₂ must be of at least ninety-nine percent purity.

17 (e) Closed loop systems for compressed gas extraction systems must be commercially
18 manufactured and bear a permanently affixed and visible serial number.

19 (f) Certification from an engineer licensed by the State of California must be provided to
20 the Community Development Department for a professional grade closed loop system used by
21 any commercial cannabis manufacturing manufacturer to certify that the system was
commercially manufactured, is safe for its intended use, and was built to codes of recognized
and generally accepted good engineering practices, including but not limited to:

- 22 (1) The American Society of Mechanical Engineers (ASME);
23 (2) American National Standards Institute (ANSI);
24 (3) Underwriters Laboratories (UL); or
25 (4) The American Society for Testing and Materials (ASTM).
26

27 (g) The certification document must contain the signature and stamp of the professional
28 engineer and serial number of the extraction unit being certified.

1 (h) Professional closed loop systems, other equipment used, the extraction operation, and
2 facilities must be approved for their use by the Fire Department and meet any required fire,
safety, and building code requirements specified in the California Building Reference Codes.

3 (i) Manufacturers may use heat, screens, presses, steam distillation, ice water, and other
4 methods without employing solvents or gases to create keef, hashish, bubble hash, or infused
dairy butter, or oils or fats derived from natural sources, and other extracts.

5 (j) Manufacturers may use food grade glycerin, ethanol, and propylene glycol solvents to
6 create or refine extracts. Ethanol should be removed from the extract in a manner to recapture
7 the solvent and ensure that it is not vented into the atmosphere.

8 (k) Manufacturers creating cannabis extracts must develop standard operating procedures,
9 good manufacturing practices, and a training plan prior to producing extracts for the
marketplace.

10 (l) Any person using solvents or gases in a closed looped system to create cannabis
11 extracts must be fully trained on how to use the system, have direct access to applicable
material safety data sheets and handle and store solvents and gases safely.

12 (m) Parts per million for one gram of finished extract cannot exceed state standards for any
13 residual solvent or gas when quality assurance tested.

14 **5.10.370 Promulgation of Regulations, Standards and Other Legal Duties**

15 (a) In addition to any regulations adopted by the Mayor and City Council, the City
16 Manager or his/her designee is authorized to establish, subject to approval by the Mayor and
17 City Council, any additional rules, regulations and standards governing the issuance, denial or
18 renewal of commercial cannabis business permits, the ongoing operation of commercial
cannabis businesses and the City's oversight, or concerning any other subject determined to be
19 necessary to carry out the purposes of this Chapter.

20 (b) Regulations shall be published on the City's website.

21 (c) Regulations promulgated by the City Manager or his/her designee shall become
22 effective upon date of publication. Commercial cannabis businesses shall be required to
23 comply with all state and local laws and regulations, including but not limited to any rules,
regulations or standards adopted by the City Manager or his/her designee.

24 (d) Testing Labs and Distribution facilities shall be subject to state law and shall be
25 subject to additional regulations as determined from time to time as more regulations are
26 developed under Section 5.10.350 (a) of this Chapter and any subsequent State of California
27 legislation regarding the same.
28

1 **5.10.380 Community Relations**

2 (a) Each commercial cannabis business shall provide the name, telephone number, and
3 email address of a community relations contact to whom notice of problems associated with
4 the commercial cannabis business can be provided. Each commercial cannabis business shall
5 also provide the above information to all businesses and residences located within one
6 hundred (100) feet of the commercial cannabis business. The commercial cannabis business
7 shall notify the City Manager or his/her designee within twenty four (24) hours of a change in
8 community relations contact.

9 (b) During the first year of operation pursuant to this Chapter, the owner, manager, and
10 community relations representative from each commercial cannabis business holding a permit
11 issued pursuant to this Chapter shall attend meetings with the City Manager or his/her
12 designee(s), and other interested parties as deemed appropriate by the City Manager or his/her
13 designee(s), to discuss costs, benefits, and other community issues arising as a result of
14 implementation of this Chapter. After the first year of operation, the owner, manager, and
15 community relations representative from each such commercial cannabis business shall meet
16 with the City Manager or his/her designee(s) when and as requested by the City Manager or
17 his/her designee(s).

18 (c) Commercial cannabis businesses to which a permit is issued pursuant to this Chapter
19 shall develop a City approved public outreach and educational program for youth
20 organizations and educational institutions that outlines the risks of youth addiction to
21 cannabis, and that identifies resources available to youth related to drugs and drug addiction.

22 **5.10.390 Fees Deemed Debt to the City of San Bernardino**

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

26 **5.10.400 Permittee Responsible for Violations**

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

5.10.410 Inspection and Enforcement

(a) The City Manager, Chief of Police or designee of either of them charged with
enforcing the provisions of this Chapter, or any provision thereof, may enter the location of a
commercial cannabis business at any time, without notice, and inspect the location of any
commercial cannabis business as well as any recordings and records required to be maintained
pursuant to this Chapter or under applicable provisions of State law.

1 (b) It is unlawful for any person having responsibility over the operation of a commercial
2 cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to
3 conduct an inspection, review or copy records, recordings or other documents required to be
4 maintained by a commercial cannabis business under this Chapter or under state or local law.
5 It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records,
6 recordings or other documents required to be maintained by a commercial cannabis business
7 under this Chapter or under state or local law.

8 (c) The City Manager, Chief of Police or designee of either of them charged with
9 enforcing the provisions of this Chapter may enter the location of a commercial cannabis
10 business at any time during the hours of operation and without notice to obtain samples of the
11 cannabis to test for public safety purposes. Any samples obtained by the City of San
12 Bernardino shall be logged, recorded, and maintained in accordance with established
13 procedures by the San Bernardino Police Department or regulations adopted pursuant to the
14 authority of this Chapter.

10 **5.10.420 Compliance with State Regulation**

11 It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of
12 San Bernardino in compliance with all provisions MAUCRSA and any subsequent state
13 legislation.

14 **5.10.430 Violations declared a public nuisance**

15 Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a
16 public nuisance and may be summarily abated by the City Manager, Chief of Police, or
17 designee of either of them. The City may recover any nuisance abatement costs and/or
18 administrative fines relating to such violations in accordance with Government Code Sections
19 38773.1 and 38773.5 in accordance with Chapter 8.30 of this Code.

19 **5.10.440 Each violation a separate offense**

20 Each and every violation of this Chapter shall constitute a separate violation and shall be
21 subject to all remedies and enforcement measures authorized by the City of San Bernardino.
22 Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive
23 relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement
24 and payment to the City for any monies unlawfully obtained, costs of abatement, costs of
25 investigation, attorney fees, and any other relief or remedy available at law or in equity. The
26 City of San Bernardino may also pursue any and all remedies and actions available and
27 applicable under state and local laws for any violations committed by the commercial
28 cannabis business or persons related to, or associated with, the commercial cannabis activity.
29 Additionally, when there is determined to be an imminent threat to public health, safety or
30 welfare, the City Manager, Chief of Police or designee of either of them, may take immediate
31 action to temporarily suspend a commercial cannabis business permit issued by the City,
32 pending a hearing before the City Manager, or his/her designee(s).

1 **5.10.450 Criminal Penalties**

2 Any person causing, permitting, aiding, abetting, suffering or concealing a violation of this
3 Chapter shall be guilty of a misdemeanor, and may, in the discretion of the City Attorney, be
4 prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one
5 thousand dollars (\$1,000) or imprisonment in the city or county jail for a period of not more
6 than six (6) months, or by both such fine and imprisonment. The City Attorney, in his or her
7 sound discretion, may prosecute a violation of this Chapter as an infraction, rather than a
8 misdemeanor, or reduce or agree to the reduction of a previously filed misdemeanor to an
9 infraction. Any person convicted of an infraction under this provisions of this Chapter shall be
10 punished by a fine not exceeding one hundred dollars (\$100) for the first violation, a fine not
11 exceeding two hundred dollars (\$200) for a second violation within one year, and a fine not
12 exceeding five hundred dollars (\$500) for a third violation within one year. A fourth violation
13 of this Chapter within one year shall be charged as a misdemeanor and may not be reduced to
14 an infraction. Each day a violation is committed or permitted to continue shall constitute a
15 separate offense.

11 **5.10.460 Remedies cumulative and not exclusive**

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

14 **SECTION 4. REPEAL**

15 All previous ordinances related to the establishment and operation of commercial cannabis
16 activities within the City of San Bernardino, and to the extent that such ordinances may be in
17 force before or at the time this Ordinance takes effect, including, without limitation, the
18 moratorium established by Ordinance No. MC-1452, are hereby repealed and shall be of no
19 further effect from the effective date of this Ordinance.

18 **SECTION 5. ADDITIONAL FINDINGS**

19 **5.1 GENERAL PLAN**

20
21 *The Ordinance is consistent with the General Plan.* The Mayor and City Council of the City
22 of San Bernardino find that the Ordinance is consistent with the General Plan. The Ordinance
23 proposes a comprehensive regulatory system for commercial cannabis activities. The
24 regulations include numerical, locational, design, operating, security and sensitive-use
25 distance regulations on commercial cannabis activities. The Ordinance includes review and
26 recommendations of applications for commercial cannabis activities, which will be overseen
27 by the City Manager, and will include the Police Department and Planning Division of the
28 Community Development Department. The Ordinance is also consistent with the following
General Plan goals and policies:

*Policy 2.2.8 requires the City to control the location and
number of community-sensitive uses, such as alcohol sales,
adult bookstores and businesses, game arcades, and similar*

1 *uses based on proximity to residences, schools, religious*
2 *facilities, and parks.*

3 The Ordinance establishes a maximum number of permitted commercial
4 cannabis activities within the City. The Ordinance also establishes locational
5 restrictions, including zoning and distance restrictions. The Ordinance
6 establishes a distance buffer between commercial cannabis activities and
7 residential zones and uses. The Ordinance establishes a distance buffer
8 between commercial cannabis activities and schools, daycare centers, youth
9 centers, and parks. The discretionary approval process within the Ordinance
10 allows the City to consider the proximity of a proposed location to other
11 community-sensitive uses such as religious facilities and libraries when
12 determining whether to approve an application for a permit under the
13 Ordinance.

14 *Policy 2.2.9 requires the Police Department review uses that*
15 *may be characterized by high levels of noise, nighttime*
16 *patronage, and/or rates of crime; providing for the conditioning*
17 *or control of use to prevent adverse impacts on adjacent*
18 *residences, schools, religious facilities, and similar “sensitive”*
19 *uses.*

20 The Police Department has been involved in the development of the Ordinance
21 to ensure that the Ordinance contains adequate regulations that prevent adverse
22 impacts on adjacent “sensitive” uses. The Ordinance contains regulations
23 mandating minimum security measures, including security cameras, panic
24 buttons, monitored alarm systems, and on site security guards. The application
25 process adopted by the Mayor and City Council of the City of San Bernardino
26 pursuant to the Ordinance will allow for the Police Department to review
27 applications and provide recommendations to the City Manager. The Police
28 Department’s review will be incorporated into the City Manager’s final
 recommendation to the Mayor and City Council on whether to approve a
 permit application. The Mayor and City Council may reject any application if it
 determines rejection would be in the best interests of the City, taking into
 account any health, safety and welfare impacts on the community.

Policy 2.2.10 requires the City to protect the quality of life
 during the review of projects. The City is required to use its
 discretion to deny or requirement mitigation of projects that
 result in impacts that outweigh the benefits to the public.

 The Mayor and City Council may reject any application that it determines
 rejection would be in the best interests of the City, taking into account any
 health, safety and welfare impacts on the community. Additionally, as a
 discretionary approval, the Ordinance authorizes the Mayor and City Council
 to condition its approval of a permit to mitigate the negative effects of a
 commercial cannabis activity.

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5.2 PUBLIC HEALTH, SAFETY AND WELFARE

The Ordinance is not detrimental to the public interest, health, safety, convenience, or welfare. There are a high number of unpermitted commercial cannabis businesses currently operating in the City of San Bernardino. The unpermitted commercial cannabis businesses have caused significant public health, safety and welfare concerns as discussed in the recitals above. The Ordinance addresses those public health, safety and welfare concerns by limiting the number and location of the commercial cannabis activities and imposing operating conditions that will ensure that qualified patients and persons over 21 years of age have safe access to cannabis while maintaining the quality of life for the City’s residents. The Ordinance is not detrimental to the public interest, health, safety, convenience, or welfare.

5.3 BALANCE OF LAND USES

The Ordinance would maintain the appropriate balance of land uses within the City. The Ordinance limits the location of commercial cannabis activities to specified zones within the City and establishes distance buffers from sensitive-uses. The Ordinance includes numerical restrictions on the total number of permitted commercial cannabis activities to ensure that the land uses in the City remain balanced. The Ordinance includes discretionary approval which allows the Mayor and City Council to consider the balance of land uses when considering the approval of an application.

5.4 SUITABILITY

The subject parcel(s) are physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation(s) and the anticipated land use development(s). The Ordinance includes discretionary approval which allows the Mayor and City Council to consider the suitability of the property proposed in each application for the proposed commercial cannabis activity. The zoning restrictions included within the Ordinance were selected because those zones are the most likely to contain suitable properties for the establishment of commercial cannabis activities.

SECTION 6. ENVIRONMENTAL DETERMINATION

The Mayor and City Council of the City of San Bernardino, California, hereby find and determine that this Ordinance is not subject to environmental review under the California Environmental Quality Act pursuant to Title 14 of the California Code of Regulations Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); Section 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in a physical change of the environment, directly or indirectly; and Business and Professions Code Section 26055(h) because the Ordinance requires the discretionary review of permits to include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

1 **SECTION 7. EFFECTIVE DATE**

2 This Ordinance shall be effective upon the thirty-first (31st) day following its final passage by
3 a majority vote of the Mayor and City Council.

4 **SECTION 8. SEVERABILITY**

5 While it is the intent of Mayor and City Council of the City of San Bernardino to adopt a
6 comprehensive regulatory system for commercial cannabis activities within the City of San
7 Bernardino, if any provision of this Ordinance or the application thereof to any person or
8 circumstances is held invalid, such invalidity shall not affect other provisions or applications
9 of this Ordinance which can be given effect without the invalid provision or application, and
to this end, the provisions of this Ordinance are severable. The Mayor and City Council of the
City of San Bernardino declare that they would have adopted this Ordinance irrespective of
the invalidity of any particular portion thereof.

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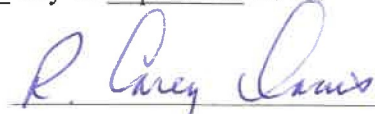
1 **ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN**
 2 **BERNARDINO, CALIFORNIA, AMENDING CHAPTER 5.10 OF THE SAN**
 3 **BERNARDINO MUNICIPAL CODE RELATED TO THE REGULATION OF**
 4 **COMMERCIAL CANNABIS ACTIVITIES**

5 I HEREBY CERTIFY that the foregoing Ordinance was duly adopted by the Mayor
 6 and City Council of the City of San Bernardino at a joint regular meeting thereof, held on the
 7 5th day of September 2018, by the following vote, to wit:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
MARQUEZ	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
BARRIOS	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
VALDIVIA	<u> </u>	<u>X</u>	<u> </u>	<u> </u>
SHORETT	<u>Y</u>	<u> </u>	<u> </u>	<u> </u>
NICKEL	<u> </u>	<u> </u>	<u> </u>	<u>X</u>
RICHARD	<u> </u>	<u> </u>	<u> </u>	<u>X</u>
MULVIHILL	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

17 
 18 Georgeann Hanna, CMC, City Clerk

19 The foregoing Ordinance is hereby approved this 5th day of September 2018.

20 
 21 R. Carey Davis, Mayor
 22 City of San Bernardino

23 Approved as to form:
 24 Gary D. Saenz, City Attorney

25 By: 
 26
 27
 28