

# City of Hermosa Beach



Report Regarding Policy, Safety, and Health  
Considerations Related to the Cannabis  
Industry- Sponsored Initiative (Measure M)

October 11, 2022

## INTRODUCTION:

On November 17, 2021, the Hermosa Beach City Clerk received a petition from the cannabis industry for the purposes of adopting an initiative that would modify Hermosa Beach's policies and allow retail cannabis operations to be located in the City of Hermosa Beach within the C-3 (General Commercial) and Specific Plan Area-7 zones (**Attachment 1**). Having obtained the valid signatures of more than 10 percent of registered voters, the industry-sponsored initiative will be submitted, without alteration, to the voters on the November 8, 2022 General Municipal Election ballot.

At its May 24, 2022 meeting, the Hermosa Beach City Council directed staff to prepare a report for educational purposes covering policy, safety, and health considerations related to the cannabis industry-sponsored initiative. As requested, this informational report provides considerations regarding the qualified initiative, which will appear on the November 8, 2022 General Municipal Election ballot as Measure M.

This informational report focuses on considerations pertaining to Measure M, which would require two cannabis retail storefront businesses be located in the City of Hermosa Beach under the specific provisions outlined in the ordinance. This report does not address medicinal sales, cultivation, distribution, or any issues related to the legal adult use of cannabis products.

## BACKGROUND:

### The Initiative Qualification Process

On March 3, 2022, the proponents of Measure M submitted signed initiative petitions to the Hermosa Beach City Clerk. The City Clerk conducted a prima facie review and determined that there were a sufficient number of signatures to place the initiative on the ballot.

On the same day, March 3, 2022, the signed petition was sent to the Los Angeles County Registrar of Voters for signature verification based on the City Clerk's determination that the submitted number of signatures, prima facie, exceeded the minimum number required. The Registrar of Voters promptly began the process of verifying the signatures contained on the petition. The Registrar of

Voters determined that based on Hermosa Beach having 14,214 registered voters, 1,421 signatures, representing at least 10 percent of Hermosa's registered voters, were required to qualify the initiative for the City's next regular municipal election.

On March 15, 2022, Los Angeles County Registrar of Voters found 1,650 signatures sufficient and representing more than the 1,421 signatures required to place the measure on the ballot. As a result, the petition qualified to be placed on the ballot for the November 8, 2022 General Municipal Election.

### The City's Initiative Review Process

At its December 14, 2021 meeting, City Council thoroughly reviewed and discussed the current state of cannabis law and the salient provisions of the cannabis industry-sponsored initiative filed with the City Clerk. After concluding its deliberations, City Council directed the City Manager to form an Advisory Group, subject to the Brown Act, to explore policy issues and provide City Council with input on whether, in light of the cannabis industry initiative, the City's policies on cannabis business operations should be modified. A diverse group of stakeholders, leaders, and residents reflecting a wide array of experience and community opinions on the topic of cannabis was convened.

The group held a total of six public meetings and, at its sixth meeting on March 29, 2022, the Cannabis Advisory Group arrived at its final recommendations. With all nine members present, the group unanimously agreed that the lack of a retail storefront in Hermosa Beach does not cause a hardship for residents and that they were opposed to Measure M. The group's final report and recommendations were presented to the City Council at its April 12, 2022 meeting.

Given that the initiative petition secured the required signatures to qualify for the ballot, and considering all options available under the Elections Code, City Council opted not to adopt the cannabis industry initiative and instead submitted the ordinance, without alteration, to the voters in the November 8, 2022 General Municipal Election. At the same time, Council took a proactive step to protect the City's fiscal sustainability by placing a cannabis tax measure, Measure T, on the same November 8, 2022 Municipal Election Ballot.

City Council directed staff to prepare an informational impact report for educational purposes covering policy, safety, and health considerations related

to the qualified initiative. The purpose of this report is to educate the electorate on the cannabis industry-sponsored initiative, which will appear on the ballot as Measure M. As directed by Council, the report covers the following areas of consideration:

- A. Policy
- B. Public Safety
- C. Health

## **A. POLICY**

### City Policy History

At its March 8, 2016 meeting, City Council adopted Ordinance 16-1362 amending sections 17.42.110 and 17.26.030 of the Hermosa Beach Municipal Code (HBMC) to expressly prohibit all commercial medical marijuana uses in the City, cannabis deliveries to any location within the City, and prohibit cultivation for medical use by a qualified patient or primary caregiver. This ordinance codified the long-standing rule that since cannabis uses were not listed as a permitted use in the HBMC, medical marijuana uses were not permitted in the City.

At its November 28, 2017 meeting, the City Council modified its policy by adopting Ordinance 17-1380, which amended Title 17 of the HBMC to expressly prohibit all commercial cannabis activities in the City and prohibit outdoor cannabis cultivation for personal use. But the new policy allowed a person to cultivate no more than six living cannabis plants inside a private residence in accordance with Health and Safety Code Section 11362.2.

Current State law allows qualified patients and their caregivers to cultivate and possess cannabis for personal use in order to treat certain medical conditions. It also allows the personal possession and use of recreational cannabis. However, cities retain their authority to reasonably regulate the business of cultivating, processing, and selling cannabis and related products.

### Current City Policy

At its August 9, 2022 meeting, City Council introduced and waived first reading of an Ordinance of the City of Hermosa Beach, California, adding Chapter 5.80 of

the Hermosa Beach Municipal Code relating to cannabis delivery into the City and amending Section 1.10.040 to add that violations of Chapter 5.80 are subject to administrative penalty procedures. At its September 13, 2022 meeting, City Council waived the full second reading and adopted the ordinance by title.

Therefore, as of October 13, 2022, any resident can legally access cannabis products through delivery without City limitation or restriction as generally described below:

- Delivery activities may be provided by operators with physical locations outside of the City and may take place between the hours of 8:00 a.m. and 10:00 p.m.;
- Entities must be licensed and conform to all relevant legal standards and impose operational requirements to ensure health, safety, and welfare; and
- Entities must apply for, and be granted, a cannabis delivery use permit subject to standards that eliminate or minimize to the extent possible any associated impacts.

The City Manager will review any application for a cannabis delivery permit, which is accompanied by the application fee adopted by City Council, and issue a permit if all the required findings are supported by substantial evidence as described in detail in the ordinance. Once issued, cannabis delivery permit holders will be required to comply with all applicable State and local laws and tax requirements. They must also maintain detailed books and records.

As outlined in the retail delivery ordinance, the City Manager is authorized to establish any additional rules, regulations, and standards governing the issuance, denial, or renewal of cannabis delivery permits; the ongoing operations of a cannabis delivery permit holder; the City's oversight of cannabis delivery permits; or any other matters related to cannabis delivery that are determined to be necessary. Any decision by the City Manager may be appealed to the City Council.

By adopting the retail delivery ordinance, City Council ensured that residents have convenient and legal access to cannabis products, while maintaining local control and the ability to modify the ordinance to address any community

impacts that need to be addressed. Cannabis retail storefronts remain prohibited in the City of Hermosa Beach.

### Cannabis Industry Initiative (Measure M) Limits City's Ability to Address Impacts

The provisions of Measure M provide a one-size-fits-all policy, tailored specifically to the benefit the cannabis-industry sponsors, and are almost identical to initiatives on the ballots in other South Bay beach cities.

Should Measure M be approved by voters, it would become the prevailing City policy for cannabis regulation. It would repeal Hermosa Beach's existing ban on cannabis retail storefront operations and would require the subjective and mandatory issuance of two retail cannabis business licenses of indefinite terms. It would also effectively repeal the newly adopted cannabis delivery ordinance by indefinitely limiting cannabis delivery to the Hermosa Beach cannabis retailers who set up storefronts under Measure M.

Because it is a voter-approved initiative, Measure M would severely limit the ability of the City Council or City staff to make adjustments to address or ameliorate any impacts cannabis retail may have on the community. That's because voter-approved initiatives – unless they expressly allow it – cannot be changed by the Council. They can only be changed by voter approval at a subsequent election.

This means that the Council would not be able to make any modifications to manage, address, or mitigate impacts or issues related to the initiative ordinance or any of its provisions – without going back to the ballot to seek voter approval of those changes.

Measure M would only allow the Council, in its discretion, to permit cannabis cultivation, manufacturing, distribution, and testing operations (but not microbusinesses) subject to the rules and limitations determined by the Council.

A report on the local impacts of commercial cannabis prepared by the International City/County Management Association (ICMA) recommends cities "be wary of doors that are difficult to close once opened; consider sunset provisions or temporary caps as ways to test your local market and assure residents that you will continue to revisit regulations and make adjustments as necessary" (2018).

Recognizing the need to review and modify regulations pertaining to retail operations, the Hermosa Beach Cannabis Advisory Group recommended the requirement of a Conditional Use Permit (CUP) as a possible regulation for consideration if the City were to develop its own ordinance relative to cannabis retail storefronts (**Attachment 3**). While the requirement of a CUP would be consistent with the requirements placed on alcohol serving establishments in Hermosa Beach, it is not included in the initiative ordinance language.

### Measure M Would Establish New Business Licensing System Just for Cannabis Retailers

All business licenses issued in the City of Hermosa Beach are issued for a one-year term and must be renewed annually. In contrast to current City practice, Measure M would create an entirely new category of business licenses solely for the cannabis retail storefronts. It would require the City to issue licenses of indefinite terms for these businesses and place the onus on the City to conduct an annual review and initiate costly suspension or revocation proceedings if public safety or other problems are identified.

The selection and licensing process outlined in the ordinance is also unique from other business license processes. It is described as a merit-based process, but in implementation will become discriminatory in nature as it is tailored to favor a limited number of applicants. The process outlined in the ordinance dictates that the City Manager shall solely evaluate, and award points based on eight categories, with a range of points to be awarded in subcategories. The points categories are: (1) qualifications; (2) site plans; (3) business and operations plan; (4) security plan; (5) safety plan; (6) neighborhood compatibility plan; (7) community benefits plan; and (8) labor and employment plan.

While the criteria and point system may seem fairly objective, the ordinance would require the City Manager to award extra points to a very specific and limited category of applicants. Many of the requirements significantly limit the pool of applicants that could achieve a high enough score to obtain a license. The proposed ordinance differs from merit-based competitive selection processes established in other jurisdictions that provide for scoring by multiple panelists. The practice of averaging multiple scores tends to produce more well-rounded scoring.

Under the proposed ordinance, the decision of the City Manager is not subject to any appeal; which means that any aggrieved party's recourse is to immediately file a legal challenge of the decision. This lack of appeal process deprives the City of its normal tools to resolve licensing disputes in advance of litigation and invites frequent legal challenges from those dissatisfied with the process.

### Measure M Raises Operational and Enforcement Concerns

As stipulated by Measure M, the two retail business locations would be authorized "by right" in the C-3 (General Commercial) and Specific Plan Area-7 zones. These zones are generally located along the Pacific Coast Highway and Artesia Boulevard corridors. The overlay map attached to this report (**Attachment 2**) shows the permissible locations where the two storefront retail cannabis businesses may be located, taking into account the buffering from sensitive uses outlined in the ordinance. As shown in the map, cannabis retail would be allowed on approximately 35 properties on Pacific Coast Highway near the northerly and southerly boundaries of the City.

While the ordinance does contain operating and security regulations for the retail and delivery activities, it does not limit hours of operation for cannabis businesses. Under State law, the retail business can only engage in sales and deliveries from 6:00 a.m. to 10:00 p.m. Typically, cities could limit these hours further through a discretionary licensing or permitting process.

The ordinance states that the hours of operation would be as specified in the cannabis permit and in compliance with State law. But the ordinance does not provide express authority for the City Manager to place any business or site-specific operating conditions, such as hours of operation, on the permits when they are issued. This restriction is also contrary to the typical City business license processes.

Measure M requires the submittal of a cannabis retail operations plan including information on construction/tenant improvements, sources of capital/financial statements, and a description of the following elements of the operation: (1) products sold; (2) marketing plan; (3) day-to-day operations; (4) cash handling procedures; (5) inventory control/track and trace system; and (6) distribution, loading/unloading, and delivery procedures.



The operational requirements also attempt to regulate such things as: prohibiting issuance of doctors' recommendations on-site; providing business contact information to the City Manager; prohibiting odors that can be detected outside the business; prohibiting loitering; requiring criminal background checks for owners, managers, supervisors, and employees; and prohibiting products and graphics from being visible from the exterior.

Per the ordinance, a security plan would be prepared by professional security consultants and would show security procedures and equipment, description of the alarm and monitoring systems, and description of onsite security personnel and their responsibilities. However, the ordinance does not include any minimum standards or requirements for the security provisions.

The initiative requires any cannabis business to implement sufficient security measures to deter and prevent unauthorized access and to deter and prevent theft. Cannabis must be stored in a secured and locked room. The business must have 24-hour surveillance cameras, and the footage must be remotely accessible by the Police Department. The ordinance requires sensors and panic buttons and a designated security representative/liaison to the City, in addition to other requirements. Under State law, alcohol and tobacco cannot be consumed or sold on-site. State law only permits cannabis to be consumed onsite if the local jurisdiction permits it and certain requirements are met. The operating requirements in the initiative prohibit onsite cannabis consumption.

While all of the above outlined requirements are, in theory, designed to protect the community from impacts, they leave the City with significant enforcement responsibilities and no tools or financial support for that enforcement. As identified in the ICMA report, implementing protective operating and siting requirements places a significant responsibility and workload on the City's Code Enforcement (2018). The City's current staffing cannot assume the additional responsibility created by Measure M without impacting the current level of services provided to the community. Without the ability to modify any provisions of Measure M, management of cannabis retail operations would be a challenge.

## B. PUBLIC SAFETY

If Measure M is approved by voters and two cannabis retail storefronts established under the specific terms of the ordinance, public safety in the area surrounding the retail establishments and the overall community would be impacted.

In the most favorable of comparisons, the business model of a retail cannabis storefront could be compared to a package liquor store or a convenience store. In each of these licensed operations, high pedestrian and vehicular traffic is experienced, and it is very common to see customers who purchased products at these businesses consuming the products nearby, but not immediately on the property of the business. With Measure M, nearby consumption is a serious concern because the ordinance does prohibit onsite cannabis consumption.

### Nuisances and Crime Associated with Cannabis Retail

The existence of a cannabis retail outlet has been associated with increases in nuisance-related crimes. A recent study published in the Journal of Regional Science and Urban Economics estimated that in census tracts with marijuana dispensaries relative to other census tracts, nuisance-related crime reports increase by about 4.2 per 10,000 census tract residents (2021).

The Hermosa Beach Police Department HBPD is not equipped to handle an increase in crimes without additional resources. When a crime is committed, the impact is not limited to the response of an officer but also includes the investigation of crimes, handling of paperwork, and processing of arrested individuals. The work hours and employees required to address additional crime reports would be significant.

A similar study published in the Journal of Qualitative Criminology found a statistically significant increase in property crimes in the area surrounding retail outlets (2021). According to this study, the analysis “shows some evidence that opening a retail marijuana outlet is associated with an increase in crimes reported within the immediate area specifically for property crimes, violent crimes, and robberies.” The increase in crime, particularly robberies, is partially due to the fact that cannabis retail operations are almost completely a cash business. Another factor contributing to the increase is that cannabis is a highly desirable product

with a high resale value on the black market. The value of the product makes retail storefronts more susceptible to afterhours burglaries.

The authority of onsite security for a cannabis retail operator is limited to protecting the business itself and does not extend to surrounding properties. Therefore, the Hermosa Beach Police Department and the City's Code Enforcement officers would be called upon to maintain community safety by responding to crimes impacting the retail operator, as well as quality of life issues and other crimes in the surrounding area.

#### City Would have Increased Licensing Enforcement Responsibilities

If passed by the voters, Measure M would also create a low-level misdemeanor crime if unlicensed operators moved into Hermosa Beach and tried to open. This would create a situation where the licensed establishment would call and ask for assistance from the City in investigating the legality of the unlicensed operator and would be a challenge from a legal and resource perspective. Enforcement of illicit businesses would have a significant impact on the City and would require additional staffing.

Because every cannabis licensee must have a California State license to operate, the State Department of Cannabis Control would provide some level of enforcement resources. However, the State agency would rely heavily on partnership with local law enforcement to uphold California's commercial cannabis laws and regulations.

The Hermosa Beach Police Department and Code Enforcement Division entrusted with protecting community safety are small teams that strive to be accessible to our residents, visitors, and business. Proactive patrol, high visibility, and responsiveness are important parts of the City's public safety services. Without local control and the ability to regulate, improve, or enforce safe practices at cannabis retail storefronts, any increase in calls would create a drain on the City staffing resources and reduce the City's ability to maintain the current level of public safety throughout the community.

## C. HEALTH

Cannabis has a substantial impact on the health of our youth and young adults. The Substance Abuse and Mental Health Services Administration reports that youth are susceptible to the substantial effects of cannabis (2021). In the short-term, cannabis commonly causes an increased heart rate, anxiety, and memory impairment. It also causes the impaired ability to perform complex tasks, difficulty thinking and problem solving, decreased alertness and impaired ability to drive. In the long-term, human brain development continues into an individual's twenties, and exposure to cannabis can alter the brain's normal communication mechanisms and the brain's reward pathway.

The Beach Cities Health District (BCHD) is a healthcare district focused on preventive health that serves the communities of Hermosa Beach, Manhattan Beach, and Redondo Beach. Based on medical evidence, BCHD recommends that youth and young adults under the age of 21 abstain from the use of substances such as alcohol, cannabis, vaping, and unprescribed prescription drugs in order to protect their developing brains and optimize healthy brain development.

### Cannabis Retail Establishments Would be in Areas Highly Visible to Youth

If approved by the voters, Measure M would require the issuance of two retail cannabis business licenses along the major throughfares of Pacific Coast Highway and Artesia Boulevard. In a small community like Hermosa Beach, visibility and proximity are unavoidable. Of concern is the visibility and proximity to our most vulnerable population, youth.

Based on the map of possible locations for cannabis retail operations (**Attachment 2**), one of the possible locations is along Artesia Boulevard, which is designated as a Safe Route to School that leads to and from Mira Costa High School. The other possible locations, near the south end of town on Pacific Coast Highway, are near the school crossing guard location at 5<sup>th</sup> street.

These locations near areas young people frequent are concerning because of the findings in recent studies. A 2021 statewide survey regarding recreational marijuana legalization and use among California adolescents found that recreational marijuana legalization in California has been associated with

increases in the likelihood of adolescents having used marijuana in the last 30 days, as well as lifetime use of marijuana. Further, a research report regarding associations between young adult marijuana outcomes and availability of medical marijuana dispensaries and storefront signage found more frequent use among young adults who live near medical marijuana dispensaries in the Los Angeles County (2019).

### Cannabis Retail Establishments Could Increase Youth Access to Cannabis

While Measure M does limit the sale of cannabis products to persons over 21 years of age, Beach Cities Health District's survey has found that beach cities youths under the age of 21 have found ways to obtain cannabis despite these limitations. Placing two dispensaries in Hermosa Beach likely would increase Hermosa young people's access to cannabis products.

The 2022 Beach Cities Health District California Healthy Kids Survey found 22.4 percent of beach cities 11<sup>th</sup> graders report obtaining marijuana from an adult acquaintance and 22.5 percent reported purchasing the products at a dispensary.

**How do most kids at your school who use marijuana usually get it? (Mark all that apply)**

	Beach Cities 2022 (11th graders)	California 2017-2019 (11th graders)
At school	11.5%	29%
At parties	33%	37.7%
At concerts or other social events	13.5%	19%
At their own home	18.5%	25.1%
From an adult acquaintance	22.5%	23.8%
From friends or another teenager	35.5%	44.4%
Buy it at a marijuana dispensary	22.5%	19.3%
At bars or clubs	2.5%	5%
Other	8%	11.3%
Don't know	58.5%	49.6%

Source: California Healthy Kids Survey, 2022

The Healthy Kids Survey also found that by 11<sup>th</sup> grade, as many as 16 percent of our local beach cities youth reported using marijuana in the past 30 days:

	2018	2019	2020	2021	2022	L.A. County (2017-2019)	California (2017-2019)
7th grade	1%	1%	<1%	<1%	<1%	3%	4%
9th grade	13%	11%	6%	4%	4%	10%	10%
11th grade	27%	24%	19%	15%	16%	13%	16%

Source: California Healthy Kids Survey, 2018-22

California and Los Angeles County data are provided by the Biennial State California Healthy Kids Survey (CHKS) Report, based on a randomly-selected representative sample of secondary schools surveyed over a two-year period. The most recent available data is from 2017-2019.

Measure M cannot control for the “shoulder tap” method of obtaining products by standing outside of a cannabis storefront and asking adults to buy them cannabis.

The Decoy Shoulder Tap Program is an enforcement program that California Department of Alcoholic Beverage Control and local law enforcement agencies use to detect and deter shoulder tap activity related to the sale of alcohol. During the program, a minor decoy, under the direct supervision of law enforcement officers, solicits adults outside of licensed stores to buy the minor decoy alcohol. Any person seen furnishing alcohol to the minor decoy is arrested for furnishing alcohol to a minor. The California Department of Cannabis Control does not currently have a shoulder tap enforcement program and the HBPD would not be able to undertake such enforcement activities.

## CONCLUSION:

Given the diversity of viewpoints on this policy matter, this report is intended to focus on the considerations pertaining to Measure M itself and not on the individual merit of cannabis retail operations.

If voters reject Measure M, the residents of Hermosa Beach may continue to legally order cannabis products without City limitation or restriction.

If approved by the voters, Measure M would become the prevailing City policy and could only be modified by a costly special election. As written, the ordinance:

- Limits the City's ability to revoke or adjust regulations to address any potential impacts;
- Places an enforcement responsibility on the City and its public safety resources without tax support; and
- Places cannabis retail storefronts in closer proximity to the City's adolescent population.

Further, if approved by a simple majority of voters, and thereafter challenged in court, the City would be required to defend Measure M. This includes defending the measure from constitutional or statutory challenges to the measure's validity or implementation. This legal obligation may result in costly legal fees for the City and its taxpayers.

For the reasons described herein, the City of Hermosa Beach encourages voters of the electorate to carefully weigh the merits of Measure M and determine whether the ordinance represents objective and responsible local policy.

#### Attachments

1. Cannabis Initiative (Measure M)
2. Location Map
3. Cannabis Advisory Group Final Votes and Recommendations

## References

1. International City/County Management Association, Local Impacts of Commercial Cannabis (2018).  
[https://icma.org/sites/default/files/Local%20Impacts%20of%20Commercial%20Cannabis%20Final%20Report\\_0.pdf](https://icma.org/sites/default/files/Local%20Impacts%20of%20Commercial%20Cannabis%20Final%20Report_0.pdf)
2. Journal of Regional Science and Urban Economics, Hits from the Bong: The impact of recreational marijuana dispensaries on property values (2021).  
<https://www.sciencedirect.com/science/article/abs/pii/S0166046221000156?via%3Dihub>
3. Journal of Quantitative Criminology, Exploring the Neighborhood-Level Impact of Retail Marijuana Outlets on Crime in Washington State (2021).  
<https://link.springer.com/article/10.1007/s10940-021-09534-5>
4. Substance Abuse and Mental Health Services Administration, Preventing Marijuana Use Among Youth (2021).  
[https://store.samhsa.gov/product/preventing-marijuana-use-among-youth/PEP21-06-01-001?referer=from\\_search\\_result](https://store.samhsa.gov/product/preventing-marijuana-use-among-youth/PEP21-06-01-001?referer=from_search_result)
5. Recreational Marijuana Legalization and Use Among California Adolescents, Findings From a Statewide Survey (2021).  
<https://doi.org/10.15288/jsad.2021.82.103>
6. Associations Between Young Adult Marijuana Outcomes and Availability of Medical Marijuana Dispensaries and Storefront Signage (2019).  
<https://doi.org/10.1111/add.14711>
7. California Healthy Kids Survey, Hermosa Beach, Manhattan Beach, and Redondo Beach (2018-2021). <https://calschls.org/>



## **Attachment 1: Cannabis Initiative (Measure M)**

THE PEOPLE OF THE CITY OF HERMOSA BEACH DO ORDAIN AS FOLLOWS:

**SECTION 1.** This measure shall be known and may be cited as the Hermosa Beach Cannabis Regulation and Public Safety Measure (the "Measure").

**SECTION 2. Purpose and Intent.** The purpose and intent of this Measure is to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes, as advised and recommended by their health care provider(s), and adults over the age of twenty-one (21), and to implement State of California ("State") law, which includes, but is not limited to the provisions of the Medicinal & Adult-Use Cannabis Regulation & Safety Act (hereinafter, "MAUCRSA"), as may be amended and augmented under State law, while imposing regulations on the conduct of business and use of land to protect the City of Hermosa Beach's (the "City") neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Measure to regulate the cultivation, manufacturing, processing, testing, distribution, and retail sale and delivery of cannabis and cannabis products in a manner which is responsible, which protects the health, safety, and welfare of the residents of the City, and which enforces rules and regulations consistent with State law. In part to meet these objectives, a commercial cannabis business permit shall be required to own or to operate a cannabis business within the City. Further, this Measure's requirement for a cannabis business to possess commercial cannabis business permit is in addition to any other permits, licenses, and approvals which may be required to conduct business in the City, and is in addition to any permits, licenses, and approvals required under State or County of Los Angeles ("County") law.

**SECTION 3. Legal Authority.** Pursuant to Section 7 of Article XI of the California Constitution, and the provisions of the MAUCRSA, as may be amended and augmented under State law and any subsequent State legislation regarding the same, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Except as otherwise provided in this Measure, any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State, or any of its departments or divisions, shall be the minimum standards applicable to commercial cannabis activity in the City.

**SECTION 4.** Title 5 (Business Licenses and Regulations) of the City Municipal Code is hereby amended by adding Chapter 5.84 (Commercial Cannabis Activity) to read as follows:

### **Chapter 5.84 - COMMERCIAL CANNABIS ACTIVITY**

#### **5.84.010 - Commercial Cannabis Activity Prohibited Unless Specifically Authorized.**

- A. Except as specifically authorized by this Chapter 5.84, to the fullest extent permitted by State law, the City expressly prohibits any and all commercial cannabis activity within the City. In particular and if allowable under State law, the City hereby expressly prohibits the delivery of cannabis and cannabis products within the City except by cannabis retailers based within the City and permitted under this Chapter 5.84. If the City is required by State law to permit the delivery of cannabis and cannabis products by cannabis retailers not based within the City, such cannabis retailers not based within the City shall be required to comply with the requirements under this Chapter 5.84, including the City commercial cannabis business permit application and approval processes under Section 5.84.070.

- B. Nothing in this Chapter 5.84 shall be construed or interpreted to permit the commercial possession, furnishing, manufacture, cultivation, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of industrial hemp.
- C. To the extent expressly authorized in this Chapter 5.84 and Title 17 of the City Municipal Code, the following types of commercial cannabis activity are permitted in the City, subject to the satisfaction of all requirements set forth in this Chapter 5.84, Title 17 of the City Municipal Code, MAUCRSA, and all other applicable State and local laws, rules, and regulations:
  - 1. Retail sales
  - 2. Cultivation
  - 3. Manufacturing
  - 4. Distribution
  - 5. Testing laboratory
- D. Microbusinesses are not a type of commercial cannabis activity permitted to be based within the City pursuant to this Chapter 5.84 and Title 17 of the City Municipal Code.
- E. To the extent that the following activities are permitted by State law, nothing in this Chapter 5.84 shall prohibit a person from cultivating no more than six (6) living plants inside a private residence in accordance with Section 11362.2 of the State Health & Safety Code.

#### **5.84.020 - Compliance with Laws.**

It is the responsibility of the owners, managers, officers, employees, and agents of any cannabis business to ensure that it is operating in a manner compliant with all applicable State and local laws and any regulations promulgated thereunder. Nothing in this Chapter 5.84 shall be construed as in conflict with State law.

#### **5.84.030 - Definitions.**

When used in this Chapter 5.84, the following words shall have the meanings ascribed to them as set forth herein. Any reference to State statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

"Applicant" means the person applying for the commercial cannabis business permit under this Chapter 5.84 (not the owners or the managers of the applicant).

"Cannabis" means all parts of the *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as

defined by Section 11018 of the State Health & Safety Code. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter 5.84, cannabis does not mean industrial hemp as that term is defined by Section 81000 of the State Food & Agricultural Code or Section 11018.5 of the State Health & Safety Code.

“Cannabis business” means a person engaged in commercial cannabis activity.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter 5.84. A cannabis concentrate is not considered food, as defined by Section 109935 of the State Health & Safety Code, or drug, as defined by Section 109925 of the State Health & Safety Code.

“Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the State Health & Safety Code.

“Chief of Police” means the Police Chief of the City of Hermosa Beach Police Department or his or her designee(s).

“City” means the City of Hermosa Beach.

“City Attorney” means the City Attorney of the City of Hermosa Beach or his or her designee(s).

“City Council” means the City Council of the City of Hermosa Beach.

“City Manager” means the City Manager of the City of Hermosa Beach or his or her designee(s).

“Clark Stadium” means the stadium / recreational hub owned and operated by the City and located on County Assessor’s Identification Numbers 4187-017-900 and 4187-018-900. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code, Clark Stadium shall not be considered a day care center, school, or youth center pursuant to the definitions of “day care center”, “school”, or “youth center” in MAUCRSA or under this Chapter 5.84, but rather Clark Stadium shall be its own, independent sensitive use under this Chapter 5.84.

“Commercial cannabis activity” has the same meaning as that term is defined under MAUCRSA and includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as regulated under this Chapter 5.84.

“Commercial cannabis business permit” means a regulatory license issued by the City pursuant to this Chapter 5.84 to a cannabis business and is required before any commercial cannabis activity may be conducted in the City and is made expressly contingent upon the cannabis

business's ongoing compliance with all of the requirements of this Chapter 5.84 and any regulations adopted by the City governing the commercial cannabis activity at issue.

"County" means the County of Los Angeles.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities may occur. Cultivation sites must be licensed by the City and State pursuant to this Chapter 5.84.

"Customer" means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age that is a qualified patient or primary caregiver.

"Day care center" or "childcare facility" means a facility, other than a family day care home, serving infant, toddler, preschool, and school age children licensed by the State Department of Social Services pursuant to Section 1596.951 of the State Health & Safety Code. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code, this definition of "day care center" under this Chapter 5.84 shall override the definition of "day care center" in MAUCRSA at Section 26001 of the State Business & Professions Code.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer (or a microbusiness engaging in retail sales).

"Dispensary" or "retailer" means a location where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products.

"Dispensing" or "retail sale(s)" means any activity involving the retail sale of cannabis or cannabis products from a retailer (or a microbusiness engaging in retail sales).

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between persons lawfully conducting commercial cannabis activity under this Chapter 5.84 and State law.

"Distributor" means a person engaged in the distribution of cannabis and cannabis products, who is based within the City, and licensed by the City and State pursuant to this Chapter 5.84.

"Edible cannabis product" means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the State Food & Agriculture Code. An edible cannabis product is not considered food, as defined by Section 109935 of the State Health & Safety Code, or drug, as defined by Section 109925 of the State Health & Safety Code. An edible cannabis product shall not be deemed to be adulterated pursuant to Section 26131 of the State Business & Professions Code solely because it contains cannabis.

"Employee" means each natural person employed by a cannabis business who is a part-time, full-time, temporary, or permanent employee.

"Gross receipts" means, except as otherwise specifically provided herein, whether designated as a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

- A. Cash discounts where allowed and taken on sales;
- B. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- C. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
- D. Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business;
- E. Cash value of sales, trades, or transactions between departments or units of the same business;
- F. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a given year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered; and
- G. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar.

"Hermosa Beach Community Center" means the community center owned and operated by the City and located on County Assessor's Identification Number 4187-024-902. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code, the Hermosa Beach Community Center shall not be considered a day care center, school, or youth center pursuant to the definitions of "day care center", "school", or "youth center" in MAUCRSA or under this Chapter 5.84, but rather Hermosa Beach Community Center shall be its own, independent sensitive use under this Chapter 5.84.

"Labor peace agreement" means an agreement between a cannabis business and any bona fide labor organization that, at a minimum, protects the City's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with a cannabis business. This agreement means that the cannabis business has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the cannabis business's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the cannabis business's employees work, for the purpose of meeting with employees to

discuss their right to representation, employment rights under State law, and terms and conditions of employment.

“Licensing authority” means a State agency responsible for the issuance, renewal, or reinstatement of State license, or a State agency authorized to take disciplinary action against a State licensee.

“Liquid assets” means assets that can be readily converted into cash. “Liquid assets” include, but are not limited to, the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, and United States savings bonds. “Liquid assets” does not mean household items, furniture and equipment, vehicles, cannabis or cannabis products, business inventory, or real property and improvements thereto.

“Live plants” means living cannabis flowers and plants, including seeds, immature plants (including unrooted clones), and vegetative stage plants.

“Manager” means any individual who will be participating in the direction, control, or management of an applicant or a permittee, including but not limited to, any (i) manager or managing member or other officer of a limited liability company or (ii) president, chief executive officer, secretary, treasurer, chief financial officer, or other officer of a for profit corporation.

“Manufacture(ing)” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container. A manufacturer may also be a person that infuses cannabis in its products but does not perform its own extraction.

“Manufacturing site” means a location where cannabis or cannabis products, directly or indirectly are produced, prepared, propagated, or compounded by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Marijuana” means “cannabis” as that term is defined in this Chapter 5.84.

“MAUCRSA” means Division 10 (commencing with Section 26000) of the State Business and Professions Code and any regulations promulgated thereunder.

“Measure” means the Hermosa Beach Cannabis Regulation and Public Safety Measure.

“Microbusiness” means a cannabis business engaged in at least three (3) of the following commercial cannabis activities: cultivation (on areas less than ten thousand (10,000) square feet), manufacturing (without the use of volatile solvents), distribution, or retail sale.

“Owner” means any of the following:

- A. A person owning in the aggregate equity interests representing twenty (20) percent or more of the voting power of all outstanding equity in the applicant or a permittee;

- B. The president, chief executive officer, secretary, or treasurer / chief financial officer of a nonprofit applicant or permittee; or
- C. A member of the board of directors of a nonprofit applicant or permittee.

Notwithstanding the above, every applicant and permittee must have at least one individual person designated as an "owner" for the purpose of compliance with this Chapter 5.84, including the review and evaluation of any commercial cannabis business permit application.

"Panic button" means an emergency electronic contact device which allows an employee in the event of an ongoing crime, threat, or other emergency to alert a security guard responsible for providing immediate on-scene assistance.

"Patient" or "qualified patient" means a natural person who is entitled to the protections of Section 11362.5 of the State Health & Safety Code and includes a person issued an identification card issued pursuant to Article 2.5 of Chapter 5.84 of Division 10 of the State Health & Safety Code.

"Permittee" means the holder of a valid, City-issued commercial cannabis business permit.

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

"Person with an identification card" shall have the meaning given to that term in Section 11362.7 of the State Health & Safety Code.

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

"School" means as evidenced by the State Department of Education school directory, a public school instructing children in grades kindergarten through 12, as authorized by the State Department of Education or a private school instructing children in grades kindergarten through 12 that has filed a verification of private school affidavit with the State Department of Education pursuant to Section 33190 of the State Education Code, excluding any private school in which education is primarily conducted in a private home. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code, this definition of "school" under this Chapter 5.84 shall override the definition of "school" used in MAUCRSA or Section 11362.768 of the Health & Safety Code.

"State" means the State of California.

"State license" means a permit or license issued by the State, or one of its departments or divisions, under MAUCRSA and any subsequent State legislation regarding the same to engage in commercial cannabis activity.

“Testing laboratory” means a laboratory, facility, or entity in the City that offers or performs tests of cannabis or cannabis products and that is both of the following:

- A. Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the State; and
- B. Licensed by the Bureau of Cannabis Control and is owned and operated by a person issued a valid commercial cannabis business permit for laboratory testing from the City.

“Topical cannabis” means a cannabis product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the State Health & Safety Code.

“Volatile solvent” means a solvent that is or produces a flammable gas vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

“Youth center” means (A) any public or private facility that is primarily used to host recreational or social activities for minors such as private youth membership organizations or clubs, social service teenage club facilities or (B) a park, playground, or recreational area specifically designed to be used by children that may have play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, County, or State parks. “Youth center” shall not include any private martial arts, yoga, ballet, music, or similar studio of this nature nor shall it include any private athletic training facility, pizza parlor, restaurant, video arcade, dentist office, or doctor’s office primarily serving children. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code, this definition of “youth center” under this Chapter 5.84 shall override the definition of “youth center” in MAUCRSA at Section 26001 of the State Business & Professions Code.

#### **5.84.040 - Commercial Cannabis Business Permit Required.**

- A. No person shall operate a cannabis business or engage in commercial cannabis activity within the City unless such business or activity is currently in compliance with all applicable State and local laws, rules, and regulations and the cannabis business has:
  - 1. A valid City business license to conduct such business or activity;
  - 2. A valid commercial cannabis business permit issued by the City pursuant to this Chapter 5.84 to conduct such business or activity;
  - 3. A valid State license authorizing such business or activity in the City; and
  - 4. A valid certificate of occupancy issued by the City’s Community Development Department to conduct the commercial cannabis activity at the premises identified in the commercial cannabis business permit.
- B. A separate commercial cannabis business permit shall be required for each type of commercial cannabis activity listed in Section 5.84.010.C whether conducted in or engaged on the same premises or on different premises.

#### **5.84.050 - Maximum Number and Type of Authorized Cannabis Businesses Permitted.**



- A. The number of commercial cannabis business permits for retailers based within the City shall be no more than two (2).
- B. The number of commercial cannabis business permits for retailers (including microbusinesses engaged in retail sales) based outside the City to engage in delivery within the City shall be zero (0).
- C. The maximum number of commercial cannabis business permits issued for cannabis retailers based within the City or outside the City (including microbusinesses engaged in retail sales) may not be amended by the City Council or regulations promulgated by the City Manager pursuant to this Chapter 5.84. However, the City Council may and shall increase the maximum number of commercial cannabis business permits issued for retailers based within the City or outside the City (including microbusinesses engaged in retail sales) if ordered to do so by a court of competent jurisdiction as a judicial remedy.
- D. The number of commercial cannabis business permits for cultivation sites, manufacturing sites, distributors, and testing laboratories shall be established by resolution of the City Council, at the sole discretion of the City Council, including the possibility that the number of commercial cannabis business permits for cultivation sites, manufacturing sites, distributors, and testing laboratories may be zero (0).

#### **5.84.060 - Location and Design Requirements for Cannabis Businesses.**

Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business & Professions Code and overriding the location and design requirements contained in Section 26054(b) of the State Business & Professions Code, cannabis businesses in the City shall be subject to the following location and design requirements:

- A. Retailers shall be a permitted use by right subject to this Chapter 5.84 on property (1) located more than six-hundred (600) feet from any day care center or youth center, (2) located more than one-thousand (1,000) feet from any school, (3) located more than one-thousand five-hundred (1,500) feet from Clark Stadium or the Hermosa Beach Community Center, and (4) zoned: C-3 (General Commercial Zone) or SPA-7 (Specific Plan Area No. 7)
- B. The location and design requirements for cultivation sites, manufacturing sites, distributors, and testing laboratories shall be established by ordinance of the City Council, at the sole discretion of the City Council, including the possibility that cultivation sites, manufacturing sites, distributors, and testing laboratories may not be types of commercial cannabis activity permitted to be based within the City pursuant to this Chapter 5.84 and Title 17 of the City Municipal Code.
- C. The distances specified in this Section 5.84.060 shall be the horizontal distance measured in a straight line from the parcel line of the sensitive use to the closest parcel line of the lot on which the cannabis business is to be located without regard to intervening structures.
- D. Each cannabis business shall:

1. Be constructed in a manner that prevents odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. Odors from the cannabis business shall not be detectable from outside the premises and adequate odor control technology shall be utilized;
2. Be provided with adequate electricity, sewerage, disposal, water, fire protection, and storm drainage facilities for the intended purpose; and
3. Provide and maintain a neighborhood compatibility plan so the City Manager or designee(s) may find that the cannabis business and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.

#### **5.84.070 - Cannabis Retailer Application Procedure.**

- A. Within forty-five (45) days following the effective date of this Chapter, the City Manager, pursuant to Section 5.84.290, shall, as a ministerial duty, make available the necessary forms, adopt any necessary application rules for the submission, intake, review, and approval of commercial cannabis business permit applications for retailers up to the maximum number of commercial cannabis business permits authorized in Section 5.84.050.
- B. The City Manager shall, as a ministerial duty, cease acceptance of a commercial cannabis business permit application for retailers thirty (30) days after making available the necessary forms and adopting any necessary application rules for the submission, intake, review, and approval of commercial cannabis business permit applications for retailers.
- C. Within thirty (30) days of ceasing the acceptance of commercial cannabis business permit application for retailers, the City Manager shall, as a ministerial duty, review timely submitted retailer applications for the following minimum requirements:
  1. Payment of an application fee established by resolution of the City Council within forty-five (45) days following the effective date of this Chapter to cover all costs incurred by the City in the application process;
  2. Sufficient evidence of the legal right to use the proposed property for the proposed use, to include a lease, sublease, purchase agreement, assignment of purchase agreement, or lease or purchase option, in the name of the applicant, which may include nominal consideration and be contingent upon issuance of a commercial cannabis business permit or other approvals. The City shall only consider one applicant per property address or County Assessor's Identification Number. In the event that more than one applicant applies for a commercial cannabis business permit application at a given property address or a given County Assessor's Identification Number, the City Manager shall, as a ministerial duty, only accept the commercial cannabis business permit application with the earliest dated evidence of the legal right to use the proposed property for the proposed use in the name of the applicant;

3. Sufficient evidence to demonstrate that the proposed property complies with location and zoning requirements in Section 5.84.060;
4. Proof that an owner or owners of the applicant with an aggregate ownership interest of forty (40) percent or more has served as an owner or owners with an aggregate ownership interest of forty (40) percent or more of (or is an owner as a result of being the chief executive officer of a nonprofit entity of) one or more other cannabis retailers (including microbusinesses with a retail sales component) licensed by a city, county, or state since at least March 1, 2019;
5. Proof of funds showing that the applicant has access and control of over \$400,000.00 in liquid assets, which may be via a binding legal agreement in the name of the applicant such as a promissory note so long as said legal agreement is accompanied by a proof of funds in the name of a party to the agreement. Applicants and permittees shall not be required to show that the applicant or permittee has access and control of over \$400,000.00 in liquid assets except on initial application pursuant to this Section 5.84.070, a change in location application pursuant to Section 5.84.130, or an ownership transfer application pursuant to Section 5.84.140;
6. For an applicant with two (2) or more employees, proof of a labor peace agreement between a bona fide labor organization and the applicant (the applicant shall provide the City with a copy of the labor peace agreement that contains the signatures of the union representative and the cannabis business). For applicants with less than two (2) employees who have not yet entered into a labor peace agreement, the applicant shall provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within thirty (30) days after employing two (2) employees;
7. A set of plans, including a site development plan, floor plan(s), building elevations (all four (4) sides), and a conceptual landscape plan with the percentage of landscaping in the parking lot, setback areas, and tree size and species;
8. Colored interior and elevation renderings;
9. A completed background check application and receipt for each owner and manager of the applicant pursuant to Section 5.84.210.L; and
10. The following application components: (a) Qualifications of the applicant's owners and managers; (b) business and operations plan; (c) security plan; (d) safety plan; (e) neighborhood compatibility plan; (f) labor and employment plan; and (g) community benefits plan.

The City Manager shall, as a ministerial duty, reject any commercial cannabis business permit application that fails to meet the minimum requirements contained in this Subsection C.

- D. Within sixty (60) days of completing the application review under Subsection C above, the City Manager shall, as a ministerial duty, review and score any complete applications

pursuant to the following objective review criteria according to the following quantitative evaluation scale:

1. Qualifications of the applicant's owners and managers – 250 points

The People of the City find that a proven track-record of cannabis retailer operations that successfully generate tax revenue carries out the purpose and intent of the Measure and are, therefore, critical for an applicant to demonstrate the qualifications of the applicant's owners and managers. Accordingly, 150 of the 250 points awardable under this Subsection 1 shall only be awarded, as a ministerial duty, if an owner or owners of the applicant with an aggregate ownership interest of forty (40) percent or more is currently at the time of application submission under this Section an owner or owners with an aggregate ownership interest of forty (40) percent or more of (or is an owner as a result of being the chief executive officer of a nonprofit entity of) a single licensed and lawfully operating commercial cannabis retailer operation (excluding any non-retailer microbusiness, cultivation, manufacturing, distribution, or other non-retailer commercial cannabis operation components) that has generated at least \$3,500,000.00 in gross receipts in a consecutive six-month period in the year immediately preceding the date of the application submission under this Section, as demonstrated by tax payment receipts from, tax filings to, or tax returns filed with a city, county, or state.

The remaining 100 of the 250 points awardable under this Subsection 1 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 50 points – A description of the applicant's owner and manager qualifications detailing any special business or professional qualifications or licenses of the applicant's owner and manager that would add to the quality of services that the cannabis business would provide, including in areas related to cannabis, such as legal, finance, business ownership / administration, real estate development, scientific, or healthcare fields.
- b. Up to 50 points – Documentation that the applicant's owners and managers have experience operating cannabis retailers in any jurisdiction where cannabis retailers are permitted.

2. Plans, renderings, and overall location – 50 points

The 50 points awardable under this Subsection 2 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – A premise diagram in accordance with Section 5006 of Division 42 of Title 16 of the State Code of Regulations.
- b. Up to 10 points – A site development plan that provides information on existing conditions and proposed improvements to the site and how it meets or will meet the development standards outlined in the City Zoning Code. Information on existing conditions shall include:
  - i. Exterior photographs showing all sides of any existing structure(s);

- ii. Photographs of existing parking areas, landscaping, trash enclosure, and signage;
- iii. Information on existing use on the site, including the addresses, uses, and square footages.
- iv. Photographs of the existing site if the site is vacant; and
- v. Photographs of adjacent properties for context.
- c. Up to 10 points – A floor plan showing information on the existing layout and proposed layout of the building interior.
- d. Up to 10 points – Building elevations that provide information on existing conditions and proposed improvements.
- e. Up to 5 points – A conceptual landscape plan with the percentage of landscaping in the parking lot, setback areas, and tree size and species.
- f. Up to 5 points – Colored interior renderings and exterior elevation renderings (for both existing and/or proposed improvements).

### 3. Business and operations plan – 100 points

The 100 points awardable under this Subsection 3 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – A written description of the total square footage of the facility with estimated square footage of proposed uses.
- b. Up to 10 points – A schedule for beginning operations, including a narrative outlining any proposed construction improvements and a timeline for completion.
- c. Up to 10 points – A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operating costs.
- d. Up to 5 points – A description of the sources(s) of capital and use(s) of capital.
- e. Up to 10 points – Pro forma financial statements for at least three (3) years of operation.
- f. Up to 5 points – A description of the type of products to be sold and the estimated quantity and value of product(s) to be sold.
- g. Up to 5 points – A description of marketing procedures and tactics.

- h. Up to 10 points – A description of day-to-day operations that should acknowledge both state and local laws and should be consistent with industry best practices.
- i. Up to 5 points – A description of hours of operation and opening procedures.
- j. Up to 10 points – A description of cash handling procedures.
- k. Up to 10 points – A description of inventory control procedures to include identification of point-of-sale systems, and track and trace software.
- l. Up to 10 points – A description of transportation, loading and unloading, distribution, or delivery procedures.

4. Security plan – 100 points

The 100 points awardable under this Subsection 4 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 20 points – The security plan shall be prepared by a professional security consultant.
- b. Up to 10 points – A premises security diagram.
- c. Up to 50 points – A description of access control, inventory control, cash handling, and other security procedures and security equipment demonstrating compliance with the security requirements under this Chapter 5.84.
- d. Up to 10 points – A description of the intrusion alarm and monitoring system including the name and contact information for the monitoring company.
- e. Up to 10 points – A description of the services of on-site security guards to include the (1) number of security guards; (2) the hours security guards will be on-site; (3) locations where security will be positioned; and (4) security guard responsibilities.

5. Safety plan – 100 points

The 100 points awardable under this Subsection 5 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 20 points – The safety plan shall be prepared by a professional fire prevention and suppression consultant.
- b. Up to 10 points – A premises safety diagram to include (1) a description / illustration of evacuation routes and (2) location of fire extinguishers and other fire suppression equipment.

- c. Up to 50 points – A description of safety procedures, training for emergency situations, and safety equipment demonstrating compliance with the safety requirements under this Chapter 5.84.
- d. Up to 10 points – Identify all gases, pesticides, and chemicals to be used and their storage locations.
- e. Up to 10 points – A description of the firm alarm and monitoring system including the name and contact information for the monitoring company.

6. Neighborhood compatibility plan – 100 points

The 100 points awardable under this Subsection 6 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 40 points – A “Good Neighbor Policy” that (i) includes policies and measures in place to protect adjacent uses from any potential impacts (e.g., noise, light, odor, traffic, etc.) related to the proposed cannabis business and (ii) describes how the cannabis business and its operating characteristics will be proactively managed so the business is not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding area and will not result in the creation of a nuisance.
- b. Up to 20 points – A description of odor mitigation practices to include: (i) identifying potential sources of odor; (ii) a description of odor control devices and techniques employed to ensure that odors from cannabis are not detectable beyond the permitted premises; and (iii) all proposed staff odor training and system maintenance.
- c. Up to 20 points – A description of a waste management plan that includes waste disposal locations within the proposed premises and the applicant’s security measures and methods of rendering waste unusable and unrecognizable.
- d. Up to 20 points – A description of efforts at sustainability / environmental impact mitigation.

7. Community benefits plan – 100 points

The People of the City find that monetary donations to local non-profit organizations, financial support of City sponsored activities or organizations, in kind donations to the City or other charitable organizations, and economic incentives to the City carry out the purpose and intent of the Measure and are, therefore, critical for an applicant to demonstrate an effective community benefits plan. Accordingly, 50 of the 100 points awardable under this Subsection 7 shall only be awarded if the applicant pledges to voluntarily provide a public benefit to a public use (or a combination thereof), which is defined as a direct financial contribution equal to two percent (2%) of projected gross receipts of the applicant to a public school located within the City, a public park located within the City, and/or a public or nonprofit community organization serving the City or its

residents. Beyond the above, no further direct financial contributions shall be considered as part of an applicant's community benefits plan.

The remaining 50 of the 100 points awardable under this Subsection 7 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 25 points – A description of a social responsibility plan to include identification of a community liaison, plans to serve as a social equity business incubator, plans to aide and participate in the work of local non-profits, community-based organizations, civic organizations, or social services organizations.
- b. Up to 25 points – A description of a plan to develop a public health outreach and educational program that outlines the risks of youth use of cannabis and that identifies resources available to youth related to drugs and drug addiction.

8. Labor and employment plan – 200 points

The People of the City find that a proven track-record of cannabis retailer operations with high labor standards and commitment to labor peace carries out the purpose and intent of the Measure and are, therefore, critical for an applicant to demonstrate an effective labor and employment plan. Accordingly, 25 of the 200 points awardable under this Subsection 8 shall only be awarded if the applicant provides documentation that an owner or owners of the applicant with an aggregate ownership interest of fifty-one (51) percent or more are an owner or owners with an aggregate ownership interest of fifty-one (51) percent or more prior to May 31, 2021, of an existing licensed or permitted cannabis retailer, or an existing licensed or permitted microbusiness with a retail sales component (and remains an owner or owners with an aggregate ownership interest of fifty-one (51) percent or more on the date of the application submission under this Section) with a collective bargaining agreement with a labor organization that currently represents cannabis workers in the United States effective since at least May 31, 2021, inclusive of renewals (and remaining effective, inclusive of renewals, on the date of the application submission under this Section).

The remaining 175 of the 200 points awardable under this Subsection 8 shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 20 points – An organizational chart of showing owners, managers, and employees.
- b. Up to 20 points – A description of the owner's and manager's roles in day-to-day operations and decisions.
- c. Up to 20 points – A description of the number of employees, title / position, and their respective responsibilities
- d. Up to 25 points – A description of compensation to employees, opportunities for continuing education, and employee training.



- e. Up to 25 points – A description of whether the cannabis business is committed to offering employees a living wage.
  - f. Up to 25 points – A description of benefits provided to employees such as health care, vacation, and medical leave, to the degree they are offered as part of employment.
  - g. Up to 20 points – A description of a plan to recruit employees from socially and economically disadvantaged backgrounds.
  - h. Up to 20 points – A description of a plan to have at least 50% of employee positions filled and hours worked by employees residing in the City.
- E. Upon timely receipt of a commercial cannabis business permit application, the City Manager shall direct the Police Chief to conduct background checks in accordance with Section 5.84.210.L. Following review and scoring of complete applications pursuant to objective review criteria under Subsection D, the City Manager shall, as a ministerial duty, issue commercial cannabis business permits to applicants in order of their rank under Subsection D up to the maximum number of commercial cannabis business permits authorized in Section 5.84.050. In the event of a tie in the order of ranking under Subsection D up to the maximum number of commercial cannabis business permits authorized in Section 5.84.050, the City Manager shall, as a ministerial duty, break the tie and issue commercial cannabis business permits to applicant with the highest scoring application component in the following order: (1) Qualifications of the applicant's owners and managers; (2) labor and employment plan; (3) security plan; (4) safety plan; (5) community benefits plan; (6) neighborhood compatibility plan; (7) business and operations plan; and (8) plans, renderings, and overall location. In the event of a tie on all application components between one or more applicants up to the maximum number of commercial cannabis business permits authorized in Section 5.84.050, the City Manager shall not hold a public lottery, but rather arrange for the tied applicants to provide public presentations before the City Council, after which the City Council shall publicly rank the applicants pursuant to ranking sheets prepared by the City Manager that achieve a forced ranking based on all of the objective review criteria and quantitative evaluation scale in Subsection D, and the City Manager shall issue commercial cannabis business permits to applicants in order of their rank up to the maximum number of commercial cannabis business permits available following the City Manager's original ranking and issuance of commercial cannabis business permits and the limits contained in Section 5.84.050. However, the City Manager shall not issue a commercial cannabis business permit to any applicant with an owner or manager that:
- 1. Provided false or misleading information on the applicant's commercial cannabis business permit application;
  - 2. Has been convicted of (or pled no contest to) "an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made" as that term is defined in 26057(b)(4) of the State Business & Professions Code; or
  - 3. Has been sanctioned by a licensing authority or a city, county, or state for unauthorized commercial cannabis activities or has had a license suspended or

revoked under MAUCRSA in the three (3) years immediately preceding the date the application was submitted.

- F. Any decision of the City Manager or City Council under this Section 5.84.070 shall be a final administrative decision not subject to administrative appeal under any provisions of this Chapter 5.84 or any provisions of the City Municipal Code but, rather, subject to judicial review and remedies.
- G. In the event that (1) the number of active, operating retailers and issued commercial cannabis business permits falls below the maximum number of commercial cannabis business permits for retailers authorized in Section 5.84.050 or (2) the City Council is ordered to increase the maximum number of commercial cannabis business permits issued for retailers by a court of competent jurisdiction as a judicial remedy (e.g., if a court of competent jurisdiction orders the City Council to make commercial cannabis business permits available for retailers (including microbusinesses engaged in retail sales) based outside the City to engage in delivery within the City), the City Manager shall, as a ministerial duty, within thirty (30) days reinstitute the application procedure under this Section 5.84.070, subject to the maximum number of commercial cannabis business permits for retailers authorized and available (not allocated to an active, lawfully operating retailer) for issuance. For the purpose of this Section, a retailer shall be considered operating if (1) upon initial issuance of commercial cannabis business permit (or approval of a change in location pursuant to Section 5.84.130), the retailer commences lawful operations within thirty-six (36) months or (2) following initial commencement of lawful operations, the retailer does not cease or abandon operations for one-hundred twenty (120) consecutive or cumulative days in any one (1) year period.

#### **5.84.080 - Application Procedure for Commercial Cannabis Activity Other than Retailers.**

In the event that the City Council, in the sole discretion of the City Council, should amend this Chapter 5.84 and Title 17 of the City Municipal Code to permit the issuance of commercial cannabis business permits for commercial cannabis activity other than retailers, the City Council, at the sole discretion of the City Council, shall by resolution make available the necessary forms, adopt any necessary application rules for the submission, intake, review, and approval of commercial cannabis business permit applications for commercial cannabis activity other than retailers up to the maximum number of commercial cannabis business permits authorized pursuant to Section 5.84.050.

#### **5.84.090 - Limitations on the City's Liability.**

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Chapter 5.84 or otherwise approving the operation of any 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 a commercial cannabis business permit:

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

used by the City in making its decision, or the alleged violation of any federal, State, or local laws by the cannabis business or any of its officers, employees, or agents.

- B. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney.
- C. Defend and indemnify the City for all costs and expenses, including but not limited to attorneys' fees and court costs, that the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit or related to the City's approval of a commercial cannabis activity. The City, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall neither relieve nor increase any of the obligations imposed on the applicant hereunder.

#### **5.84.100 - Commercial Cannabis Business Permit Term.**

- A. Subject to this Section 5.84.100 and Section 5.84.110, the term of each commercial cannabis business permit shall be indefinite.
- B. Upon the one (1) year anniversary of the date of issuance for each commercial cannabis business permits and each year thereafter, the City Manager shall conduct a performance review of the permittee to assess compliance with the requirements of this Chapter 5.84. Within thirty (30) days of the conclusion of the annual performance review of the permittee, the City Manager or designee(s) shall issue a letter of compliance or noncompliance outlining all items to be corrected to ensure full compliance. In the event of any noncompliance, the permittee shall have sixty (60) days to remedy such noncompliance. However, in the event such noncompliance items cannot be remedied within sixty (60) days, such failure to remedy shall constitute a material violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this Chapter 5.84 subject to suspension or revocation under Section 5.84.110.
- C. The permittee shall pay a fee in an amount to be set by the City Council via resolution to cover the costs of conducting the performance review, together with any costs incurred by the City to administer the program created under this Chapter 5.84.

#### **5.84.110 - Suspension and Revocation of Commercial Cannabis Business Permits.**

- A. The City Manager may suspend or revoke a commercial cannabis business permit for any material violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this Chapter 5.84.
- B. Suspension or revocation of a State license issued by the State or by any of its departments or divisions, corresponding to the commercial cannabis business permit shall immediately result in the suspension of the associated commercial cannabis business permit until the State, or its applicable department or division, reinstates the State license or otherwise lifts such suspension.
- C. A permittee shall inform the City Manager or designee(s) of any suspension, revocation, or termination of a State license corresponding to its commercial cannabis business permit within two (2) business days of the suspension, revocation, or termination of the State license.

#### **5.84.120 - Appeals Regarding Commercial Cannabis Business Permits.**

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

#### **5.84.130 - Change in Location; Updated Application Information.**

- A. A permittee may change the business location specified in a commercial cannabis business permit upon submission and approval of a change in location application promulgated, as a ministerial duty, by the City Manager pursuant to regulations adopted under Section 5.84.290 within one-hundred eighty (180) days following the effective date of this Chapter 5.84. The permittee shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the review and processing of change in location applications. The City Manager shall process such change in location applications as a ministerial duty within sixty (60) days of receipt.
- B. An applicant or permittee shall notify the City Manager or designee(s) within fifteen (15) calendar days of any material change in the information provided in the applicant or permittee's commercial cannabis business permit application or any change in status of compliance with the provisions of this Chapter 5.84, including any change in the cannabis business ownership or management.

#### **5.84.140 - Transfer of a Commercial Cannabis Business Permit.**

- A. An owner of a commercial cannabis business permit shall not transfer ownership or control of such permit to another person unless and until the permittee and transferee obtain an amendment to the permit from the City Manager stating that the transferee is now an owner of the permittee. A permittee may change the ownership specified in a

commercial cannabis business permit upon submission and approval of a change in ownership application promulgated, as a ministerial duty, by the City Manager pursuant to regulations adopted under Section 5.84.290 within one-hundred eighty (180) days following the effective date of this Chapter 5.84. The permittee shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the review and processing of change in ownership applications. The City Manager shall process such change in ownership applications as a ministerial duty once the City Manager reasonably determines that the transferee passed the background check required for owners and meets all other requirements of this Chapter 5.84.

- B. Notwithstanding Subsection A, during the first three years following the issuance of a commercial cannabis business permit, the City Manager shall not process any application to change the ownership or control of a commercial cannabis business permit that results in the permittee altering its ownership composition in a manner that would result in the permittee not being entitled to points it was awarded when the permittee was an applicant pursuant to Section 5.84.070. For example, if a permittee received 25 points when it was an applicant for providing documentation that an owner or owners of the applicant with an aggregate ownership interest of fifty-one (51) percent or more are an owner or owners with an aggregate ownership interest of fifty-one (51) percent or more prior to May 31, 2021, of an existing licensed or permitted cannabis retailer, or an existing licensed or permitted microbusiness with a retail sales component (and remains an owner or owners with an aggregate ownership interest of fifty-one (51) percent or more on the date of the application submission under this Section 5.84.070) with a collective bargaining agreement with a labor organization that currently represents cannabis workers in the United States effective since at least May 31, 2021, inclusive of renewals (and remaining effective, inclusive of renewals, on the date of the application submission), the City Manager shall not process or authorize any change in ownership or control of the permittee if the change would result in the permittee being unable to continue to satisfy the aforementioned criteria subsequent to its approval.
- C. Notwithstanding Subsection A, no commercial cannabis business permit may be transferred when the City Manager has notified the permittee that its commercial cannabis business permit has been or may be suspended or revoked.
- D. Any attempt to transfer a commercial cannabis business permit either directly or indirectly in violation of this Section 5.84.140 is hereby declared void, and such an unpermitted transfer shall be deemed a ground for revocation of the permit.

#### **5.84.170 - Records and Recordkeeping.**

- A. Each cannabis business shall maintain accurate books and records in an electronic format, which detail all revenues and expenses of the business, including, but not limited to, all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter 5.84), or at any time upon reasonable request of the City, each cannabis business shall file a sworn statement detailing the number of sales by the cannabis business during the previous 12-month period (or shorter period based upon the timing of the request) detailing sales for each month within such period in question. The statement shall also include gross sales for each month and all applicable taxes paid or due to be paid. On an annual basis, each cannabis business shall submit to the City a financial audit of the business's operations conducted by an independent certified public

accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager.

- B. Each cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business and, separately, the same contact information of all officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the City Manager upon a reasonable request.
- C. Each cannabis business shall maintain a record of all distributions of cannabis and cannabis products to other cannabis businesses authorized by State law for a period of no less than seven (7) years.
- D. All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing, production, manufacturing, laboratory testing, distribution, sale, delivery, or other commercial cannabis activity processes until purchase or distribution.
- E. Subject to any applicable restrictions under the Health Insurance Portability & Accountability Act ("HIPAA") regulations, each cannabis business shall grant the City Manager access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents shall be produced no later than five (5) business days after receipt of the City Manager's request for such data, unless otherwise stipulated by the City Manager. The City Manager may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

#### **5.84.180 - Security Measures.**

- A. A cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis or cannabis products at the cannabis business. Except as may otherwise be determined by the Chief of Police, these security measures shall include, but are not limited to, all of the following:
  - 1. Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business.
  - 2. Establishing limited access areas accessible only to authorized cannabis business personnel.
  - 3. Except for live plants, which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner designed to prevent diversion, theft, and loss.

4. Installing twenty-four-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis business, which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis, and all interior spaces where diversion of cannabis could reasonably occur. The cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Chief of Police, and that it is compatible with the city's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the Chief of Police. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the Chief of Police upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the cannabis business.
  5. Sensors shall be installed to detect entry and exit from all secure areas.
  6. Panic buttons shall be installed in all cannabis businesses.
  7. Having a professionally installed, maintained, and monitored alarm system.
  8. Any bars installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building.
  9. Security personnel shall be on-site twenty-four (24) hours a day unless the cannabis business has an alternative security program authorized by the Police Chief or designee(s). Security personnel must be licensed by the State Bureau of Security & Investigative Services personnel and shall be subject to the prior review and approval of the Chief of Police, which shall not be unreasonably withheld.
  10. Each cannabis business shall install standby generators and have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
  11. Additional security measures may be added through the review of a commercial cannabis business permit application.
- B. Each cannabis business shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the Chief of Police regarding any security related measures or and operational issues.
- C. Each cannabis business (including as part of the commercial cannabis business permit application process) shall have a storage and transportation plan and currency management plan, which describes in detail the procedures for safely and securely storing, disposing and transporting all cannabis, cannabis products, and any currency.
- D. The cannabis business shall cooperate with the City whenever the Chief of Police makes a request, upon reasonable notice to the cannabis business, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter 5.84.

- E. A cannabis business shall notify the Chief of Police within twenty-four (24) hours after discovering any of the following:
1. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager.
  2. Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business.
  3. The loss or unauthorized alteration of records related to cannabis and cannabis products or registering customers or employees and/or agents of the cannabis business.
  4. Any other breach of security.

**5.84.190 - Restriction on Alcohol and Tobacco Sales.**

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

**5.84.200 - Fees and Charges.**

- A. No person may commence or continue any commercial cannabis activity in the City without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of such activity shall be established by resolution of the City Council which may be amended from time to time.
- B. All cannabis businesses authorized to operate under this Chapter 5.84 shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, State, and local law. Each cannabis business shall cooperate with City with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with this Section 5.84.200, including, but not limited to, a verification of the amount of taxes required to be paid during any period.

**5.84.210 - Generally Applicable Operating Requirements.**

- A. Cannabis businesses may operate only during the hours specified in the commercial cannabis business permit issued by the City and must comply with State law at all times.
- B. Cannabis shall not be consumed on the premises of any cannabis businesses.
- C. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- D. Each cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the cannabis business including, but



not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale), and other information which may be deemed necessary by the City. The cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager prior to being used by a permittee.

- E. All cannabis and cannabis products sold, distributed, and/or manufactured shall be cultivated, manufactured, and distributed by licensed facilities that maintain operations in full conformance with the State and local regulations. The packaging and labeling of cannabis and cannabis products shall comply at all times with State law.
- F. There shall not be a physician located in any cannabis business at any time for the purpose of evaluating patients for the issuance of a medicinal cannabis recommendations.
- G. Each cannabis business shall provide the City Manager 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.
- H. Signage and Notices.
  - 1. In addition to the requirements otherwise set forth in this Section 5.84.210, business identification signage for a cannabis business shall conform to the requirements of the City Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
  - 2. No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.
  - 3. Each entrance to a cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises, or in the areas adjacent to the premises, is prohibited.
  - 4. The entrance to the 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 cannabis business, other than as lawful customers permitted under State law in the case of retailers.
  - 5. No cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the cannabis business or elsewhere including, but not limited to, the public right-of-way.
- I. Other than as lawful customers permitted under State law in the case of retailers, individuals under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business and shall not be allowed to serve as a driver for a cannabis business. It shall be unlawful and a violation of this Chapter 5.84 for any person to employ any person at a cannabis business who is not at least twenty-one (21) years of age.

- J. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment, or any other equipment which the City Manager determines is a more effective odor control method or technology:
1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; and
  2. An air system that creates negative air pressure between the cannabis business's interior and exterior, so that the odors generated inside the cannabis business are not detectable on the outside of the commercial cannabis business.
- K. The original copy of the commercial cannabis business permit issued by the City pursuant to this Chapter 5.84 and the City issued business license shall be posted inside the cannabis business in a location readily visible to the public.
- L. Pursuant to Sections 11105(b)(11) and 13300(b)(11) of the State Penal Code, which authorizes City authorities to access State and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee, or volunteer of the cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police for a background check by the City Police Department. Pursuant to Sections 11105(b)(11) and 13300(b)(11) of the State Penal Code, 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 commercial cannabis business permit unless they have first cleared the background check, as determined by the Chief of Police, as required by this Chapter 5.84. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.
- M. The cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- N. Within sixty (60) days of licensure, for a permittee with two (2) or more employees, the permittee shall attest to the City that the permittee has entered into a labor peace agreement and will abide by the terms of the agreement. The permittee shall submit a copy of the page of the labor peace agreement that contains the signatures of the labor representative and the applicant. For permittees with less than two (2) employees who have not yet entered into a labor peace agreement, the permittee shall provide a notarized statement indicating that the applicant will enter into and abide by the terms of

a labor peace agreement within thirty (30) days after employing two (2) employees. If an attestation that the permittee is party to a labor peace agreement, and a copy of the page of the labor peace agreement that contains the signatures of the labor representative was submitted to the City by the permittee as part of the application process, that will meet this obligation.

- O. Cannabis businesses shall implement a workforce plan that includes at least the following provisions:
1. Commitment for thirty percent (30%) of employees to be local hires; this local hiring requirement is satisfied when a cannabis business shows that it has either hired or made a good faith effort to hire bona fide residents of the City or persons that may establish residency after initial employment with the permittee;
  2. Commitment to offer apprenticeships and/or compensation for continuing education in the field of commercial cannabis activity; and
  3. Entering into a collective bargaining agreement and/or paying a living wage to employees. "Living wage" means fifty percent (50%) more than the applicable amount of the hourly minimum wage mandated by State law (convertible to an annual salary by multiplying that hourly minimum wage by 2,080, as applicable), whichever is greater.
- P. It shall be unlawful for a cannabis business to discriminate in any manner or take adverse action against any employee in retaliation for exercising rights protected under this Chapter 5.84 or City or State law. These rights include, but are not limited to (1) the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter 5.84 or City or State law and (2) the right to inform any person of his or her potential rights under this this Chapter 5.84 or City or State law and to assist him or her in asserting such rights. Protections under this this Chapter 5.84 or City or State law shall apply to any employee who mistakenly, but in good faith, alleges noncompliance with this this Chapter 5.84 or City or State law. Taking adverse action against an employee within ninety (90) days of the employee's exercise of rights protected under this this Chapter 5.84 or City or State law shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

#### **5.84.220 - Additional Operational Requirements in General.**

The City Manager may, pursuant to Section 5.84.290, develop additional cannabis business operational requirements or regulations for all authorized commercial cannabis activities as are determined to be necessary to protect the public health, safety, and welfare.

#### **5.84.230 - Additional Operating Requirements for Cultivation Sites.**

If the City Council should amend this Chapter 5.84 and Title 17 of the City Municipal Code to permit the issuance of commercial cannabis business permits for the commercial cannabis activity of cultivation within the City, the City Council shall amend this Section to adopt operating requirements for cultivation within the City.

#### **5.84.240 - Additional Operating Requirements for Manufacturing Sites.**

If the City Council should amend this Chapter 5.84 and Title 17 of the City Municipal Code to permit the issuance of commercial cannabis business permits for the commercial cannabis activity of manufacturing within the City, the City Council shall amend this Section to adopt operating requirements for manufacturing within the City.

**5.84.250 - Additional Operating Requirements for Testing Laboratories.**

If the City Council should amend this Chapter 5.84 and Title 17 of the City Municipal Code to permit the issuance of commercial cannabis business permits for the commercial cannabis activity of testing laboratories within the City, the City Council shall amend this Section to adopt operating requirements for testing laboratories within the City.

**5.84.260 - Additional Operating Requirements for Distributors.**

If the City Council should amend this Chapter 5.84 and Title 17 of the City Municipal Code to permit the issuance of commercial cannabis business permits for distributors based within the City, the City Council shall amend this Section to adopt operating requirements for distributors based within the City.

**5.84.270 - Additional Operating Requirements for Retailers.**

- A. Retailers and the operation thereof shall comply with State law at all times.
- B. Prior to dispensing medicinal cannabis or medicinal cannabis products to a qualified patient, a retailer shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation or identification card as described in Sections 11362.71 through 11362.77 of State Health & Safety Code, as may be amended from time to time, on site for period of not less than seven (7) years.
- C. Prior to dispensing cannabis or cannabis products to an adult-use customer, a retailer shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of twenty-one (21) years.
- D. All restroom facilities shall remain locked and under the control of managers onsite.
- E. A retailer shall notify customers (verbally or by written agreement) and by posting of a notice or notices conspicuously in at least 15-point type within the permitted premises that state as follows:
  - 1. "The sale or diversion of cannabis or cannabis products without a license issued by the City of Hermosa Beach is a violation of State law and the Hermosa Beach Municipal Code."
  - 2. "Secondary sale, barter, or distribution of cannabis or cannabis products purchased from a permittee is a crime and can lead to arrest."
  - 3. "Customers must not loiter in or near these premises and may not consume cannabis or cannabis products in the vicinity of this business or in any place not

lawfully permitted. These premises and vicinity are monitored to ensure compliance."

4. "WARNING: The use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate heavy machinery."
5. "CALIFORNIA PROP. 65 WARNING: Smoking of cannabis and cannabis-derived products will expose you and those in your immediate vicinity to cannabis smoke. Cannabis smoke is known by the State of California to cause cancer and reproductive harm."

**5.84.280 - Additional Operating Requirements for Delivery.**

- A. Delivery shall comply with State law at all times.
- B. Security plans developed pursuant to this Chapter 5.84 shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
- C. A retailer shall facilitate the delivery of cannabis or cannabis products with a technology platform owned by or licensed to the delivery-only retailer that uses point-of-sale technology to track and database technology to record and store the following information for each transaction involving the exchange of cannabis or cannabis products between the retailer and customer:
  1. The identity of the individual dispensing cannabis or cannabis products on behalf of the permittee;
  2. The identity of the customer receiving cannabis or cannabis products from the permittee;
  3. The type and quantity of cannabis or cannabis products dispensed and received;
  4. The gross receipts charged by the permittee and received by the individual dispensing cannabis or cannabis products on behalf of the permittee for the cannabis or cannabis products dispensed and received; and
  5. The location or address where the sale or retail sale took place or closed.
- D. A permittee shall maintain a database and provide a list of the individuals and vehicles authorized to conduct delivery, and a copy of the valid State driver's license issued to the driver of any such vehicle on behalf of the retailer to the Chief of Police.
- E. Individuals making deliveries of cannabis or cannabis products on behalf of the retailer shall maintain a physical copy of the delivery request (and invoice) and shall make it available upon the request of agents or employees of the City requesting documentation.
- F. During delivery, a copy of the permittee's commercial cannabis business permit and State license shall be in the vehicle at all times, and the driver shall make it available upon the request of agents or employees of the City requesting documentation.

- G. A retailer shall only permit or allow delivery of cannabis or cannabis products in a vehicle that is (1) insured at or above the legal requirement in the State; (2) capable of securing (locking) the cannabis or cannabis products during transportation; (3) capable of being temperature controlled if perishable cannabis or cannabis products is being transported; and (4) does not display advertising or symbols visible from the exterior of the vehicle that suggest the vehicle is used for cannabis delivery or affiliated with a retailer.
- H. A retailer shall facilitate deliveries with a technology platform owned by or licensed to the retailer that uses global positioning system technology to track, and database technology to record and store the following information:
1. The time that the individual conducting delivery on behalf of the retailer departed the licensed premises.
  2. The time that the individual conducting delivery on behalf of the retailer completed delivery to the customer.
  3. The time that the individual conducting delivery on behalf of the retailer returned to the licensed premises.
  4. The route the individual conducting delivery on behalf of the retailer traveled between departing and returning to the licensed premises to conduct delivery.
  5. For each individual delivery transaction, the identity of the individual conducting deliveries on behalf of the retailer.
  6. For each individual delivery transaction, the vehicle used to conduct delivery on behalf of the retailer.
  7. For each individual delivery transaction, the identity of the customer receiving cannabis or cannabis products from the retailer.
  8. For each individual delivery transaction, the type and quantity of cannabis or cannabis products dispensed and received.
  9. For each individual delivery transaction, the gross receipts charged by the retailer and received by the individual conducting deliveries on behalf of the retailer for the cannabis or cannabis products dispensed and received.
- I. The individual making deliveries on behalf of the retailer shall personally verify for each individual delivery transaction the identity of the customer receiving cannabis or cannabis products from the retailer and (1) for medicinal cannabis or medicinal cannabis products to a qualified patient, the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation or identification card as described in Sections 11362.71 through 11362.77 of State Health & Safety Code, as may be amended from time to time, on site for period of not less than seven (7) years or (2) for cannabis or cannabis products to an adult-use customer, age and all necessary documentation of each customer to ensure the customer is not under the age of twenty-one (21) years.

#### **5.84.290 - Promulgation of Regulations, Standards, and Other Legal Duties.**

- A. Consistently with stated requirements of this Chapter 5.84 (and in particular not to repeal or constructively repeal this Chapter 5.84), in addition to any regulations adopted under State law, the City Manager is authorized to establish any additional rules, regulations, and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of cannabis businesses, and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter 5.84.
- B. Such regulations shall be published on the City's website.
- C. Regulations promulgated by the City Manager shall become effective upon date of publication. Cannabis businesses shall be required to comply with all State and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

#### **5.84.300 - Community Relations.**

- A. Each cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis business can be provided. Each cannabis business shall also provide the above information to all businesses and residences, in the City, located within one hundred and fifty (150) feet of the cannabis business. Such community relations contact shall respond to any complaints within forty-eight (48) hours of receipt of such complaints.
- B. During the first year of operation pursuant to this Chapter 5.84, the owner(s), manager(s), and community relations representative from each cannabis business holding a commercial cannabis business permit issued pursuant to this Chapter 5.84 shall attend a quarterly meeting with the City Manager and other interested parties as deemed appropriate by the City Manager, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter 5.84. After the first year of operation, the owner(s), manager(s), and community relations representative from each such cannabis business shall meet with the City Manager when and as requested by the City Manager.
- C. Cannabis businesses to which a commercial cannabis business permit is issued pursuant to this Chapter 5.84 shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

#### **5.84.310 - Fees Deemed Debt to City.**

The amount of any fee, cost, or charge imposed pursuant to this Chapter 5.84 shall be deemed a debt to the City that is recoverable via authorized processes as set forth in the City Municipal Code or available through any court of competent jurisdiction.

#### **5.84.320 - Permittee, Owner, and Property Owner Responsible for Violations.**

- A. Each permittee and each owner and each manager of the permittee (and each individual owner and each individual manager of an owner or manager of the permittee) shall be responsible for all violations of the laws of the State or of the regulations and/or the ordinances of the City occurring within the City or in or about the premises of the cannabis business, if committed by the permittee or any employee or agent of the permittee and whether or not said violations occur within the permittee, owner, or manager's presence.
- B. No person may engage in any commercial cannabis activity within the City unless the person is in compliance with the requirements of this Chapter 5.84.
- C. It shall be unlawful to rent, lease, or otherwise permit any commercial cannabis activity at any location, structure, or vehicle in the City by a person (1) that does not have a valid commercial cannabis business permit issued by the City; (2) that does not have a valid State license; (3) that does not have any other applicable approvals, including, but not limited to, a building permit and City business license; or (4) that is not currently in compliance with all applicable State and local laws and regulations pertaining to the commercial cannabis activity. Property owners shall have strict liability for any commercial cannabis activity at any location, structure, or vehicle in the City by a person (1) that does not have a valid commercial cannabis business permit issued by the City or (2) that does not have a valid State license.

#### **5.84.330 - Inspection and Enforcement.**

- A. The City Manager, Chief of Police, or designee(s) charged with enforcing the provisions of the City Municipal Code, or any provision thereof, may enter the location of a cannabis business at any time, without notice, and inspect the location of any cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter 5.84 or under applicable provisions of State law.
- B. It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings, or other documents required to be maintained by a cannabis business under this Chapter 5.84 or under State or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this Chapter 5.84 or under State or local law.
- C. The City Manager, Chief of Police, or designee(s) charged with enforcing the provisions of this Chapter 5.84 may enter the location of a cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City shall be logged, recorded, and maintained in accordance with the City Police Department standards for evidence.

#### **5.84.340 - Concurrent Regulation with the State.**

It is the stated intent of this Chapter 5.84 to regulate commercial cannabis activity in the City concurrently with the State.

#### **5.84.350 - Violations Declared a Public Nuisance.**



Each and every material violation of the provisions of this Chapter 5.84 is hereby deemed unlawful and a public nuisance.

**5.84.360 - Each Violation a Separate Offense.**

Each and every violation of this Chapter 5.84 shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City Municipal Code. Additionally, as a nuisance per se, any material violation of this Chapter 5.84 shall be subject to injunctive relief, any commercial cannabis business permit issued pursuant to this Chapter 5.84 being deemed null and void, disgorgement, and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney's fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under State and local laws for any violations committed by the cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, Chief of Police, or designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the City, pending a public hearing before the City Council.

**5.84.370 - Criminal Penalties.**

Each and every material violation of the provisions of this Chapter 5.84 may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a material violation is committed or permitted to continue shall constitute a separate offense.

**5.84.380 - Remedies Cumulative and Not Exclusive.**

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

**SECTION 5.** Section 17.42.110 (Commercial cannabis activities and cannabis cultivation prohibited.) of Chapter 17.42 (General Provisions, Conditions and Exceptional Uses) of Title 17 (Zoning) of the City Municipal Code is hereby repealed in its entirety.

**SECTION 6.** The following definitions within Section 17.04.050 (Commercial land use definitions.) of Chapter 17.04 (Definitions) of Title 17 (Zoning) of the City Municipal Code are hereby repealed in their entirety:

"Cannabis," or "marijuana," shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or resin. "Cannabis" or "marijuana" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" or "marijuana" also includes cannabis that is used for medical, nonmedical, or other purposes. "Cannabis" or "marijuana" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or case, or the sterilized seed of the plant which is

incapable of germination. "Cannabis" or "marijuana" also does not include industrial hemp, as defined in California Health and Safety Code Section 11018.5.

"Cannabis delivery" shall include the use by a dispensary of any technology platform owned and controlled by the dispensary or independently licensed by the state which enables persons, qualified patients, and/or primary caregivers to arrange for or facilitate the commercial transfer of cannabis or cannabis products.

"Cannabis/marijuana accessories" means any equipment, products or materials of any kind which are intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

"Cannabis/marijuana product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

"Commercial cannabis activity" means cultivation, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, packaging, delivery or sale of cannabis or cannabis products for medical and nonmedical use or any other purpose and includes the activities of any business licensed by the state or other government entity under Division 10 of the California Business and Professions Code, or any provision of state law that regulates the licensing of cannabis businesses. This definition also includes mobile cannabis dispensary and a medical marijuana dispensary.

"Concentrated cannabis" means manufactured cannabis that has undergone a process to concentrate one (1) or more active cannabinoids, thereby increasing the product's potency. "Concentrate" includes resin from granular trichomes from a cannabis plant.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

"Manufacture cannabis" means to compound, blend, extract, infuse, or otherwise prepare a cannabis product.

"MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

"Mobile cannabis dispensaries" means any dispensary, clinic, cooperative, association, club, business or group which transports or delivers, or arranges the transportation or delivery of, cannabis to a person.

**SECTION 7.** Section 17.26.030 (C-1, C-2 and C-3 land use regulations.) of Chapter 17.26 (C1, C2 and C3 Commercial Zones) of Title 17 (Zoning) of the City Municipal Code is hereby amended by the repeal and addition of the following land uses to the table within such Section 17.26.030:

USES	C1	C2	C3	See Section
<del>Cannabis delivery</del>	-	-	-	<del>17.42.110</del>
<del>Commercial cannabis activities</del>	-	-	-	<del>17.42.110</del>
<del>Cultivation of cannabis or medical marijuana</del>	-	-	-	<del>17.42.110</del>
<del>Medical marijuana dispensaries</del>	-	-	-	<del>17.42.110</del>
<del>Cannabis retailer</del>	-	-	P	<del>5.84</del>

**SECTION 8.** Section 17.38.300.A (Plan area no. 7 permitted uses.) of Chapter 17.38 (Specific Plan Areas) of Title 17 (Zoning) of the City Municipal Code is hereby amended to read as follows:

A. Commercial permitted uses shall be the same as those permitted in C-3 general commercial zone as contained in Section 17.26.040, and nonconforming uses shall be subject to the provisions of Chapter 17.52. To clarify, cannabis retailers subject to the requirements of Chapter 5.84 shall be a permitted use by right.

**SECTION 9. Sensitive Uses.** The People of the City find that the definitions of the sensitive uses (day care centers, schools, youth centers, Clark Stadium, and the Hermosa Beach Community Center) under the amendment to Section 5.84.030 of the City Municipal Code in this Measure are subject to some degree of interpretation. However, the People of the City also find that certainty regarding the identification of sensitive uses (day care centers, schools, youth centers, Clark Stadium, and the Hermosa Beach Community Center) under the amendments to Sections 5.84.030 and 5.84.060 of the City Municipal Code in this Measure is required to carry out the purpose and intent of the Measure so the that People, the City, and prospective applicants can clearly identify where and where not lawful cannabis businesses under this Measure may be located. Accordingly and pursuant to the authority delegated by the State to the People of the City under Section 26054(b) of the State Business & Professions Code and overriding the location and design requirements contained in Section 26054(b) of the State Business & Professions Code, the following sensitive uses (day care centers, schools, youth centers, Clark Stadium, and the Hermosa Beach Community Center) and only the following sensitive uses (day care centers, schools, youth centers, Clark Stadium, and the Hermosa Beach Community Center) located on the following County Assessor's Identification Numbers and only the following County Assessor's Identification Numbers shall be considered under the amendment to Section 5.84.060.A of the City Municipal Code in this Measure for the purpose of the initial establishment of cannabis retailers pursuant to the initial iteration of the cannabis retailer application procedure under the amendment to Section 5.84.070 of the City Municipal Code in this Measure (to include any review and scoring of any applications pursuant to the objective review criteria and quantitative evaluation scale under the amendment to Section 5.84.070.D of the City Municipal Code in this Measure). Only following the initial iteration of the cannabis retailer application procedure and the initial issuance of commercial cannabis business permits under the amendment to Section 5.84.070 of the City Municipal Code in this Measure, may the City Manager (his or her designee(s)) reinterpret the following list of sensitive uses (day care centers, schools, youth centers, Clark Stadium, and the Hermosa Beach Community Center) and County Assessor's Identification Numbers for the purpose of subsequent iterations of the cannabis retailer application procedure under the amendment to

Section 5.84.070 of the City Municipal Code in this Measure, change in location applications under the amendment to Section 5.84.130 of the City Municipal Code in this Measure, and any iterations of the application procedure for commercial cannabis activity other than retailers under the amendment to Section 5.84.080 of the City Municipal Code in this Measure.

Name	Sensitive Use Type	County Assessor's Identification Number(s)
Clark Stadium	Clark Stadium	4187-017-900, 4187-018-900
Edith Rodaway Friendship Park	Youth Center	4160-025-902, 4160-025-903
Fort Lots-of-Fun Park	Youth Center	4160-026-900
Fusion Academy South Bay	School	4184-025-210
Hermosa Beach Community Center	Hermosa Beach Community Center	4187-024-902
Hermosa Valley Elementary	School	4183-019-901, 4183-020-900, 4183-020-901
Hermosa View Elementary School	School	4185-023-910
Hermosa Vista School	School	4182-028-900, 4182-029-902
Journey of Faith School	Day Care Center	4168-011-001
King Harbor Youth Foundation	Youth Center	7503-003-900
La Marina Preschool	Day Care Center	4169-022-024
Mathnasium	Youth Center	4168-013-014
Mira Costa High School	School	4168-002-906
Miss Bee's Tutoring	Youth Center	4183-018-013
Moondust Parkette	Youth Center	4186-027-900
Ocean View Academy	Day Care Center	4185-015-001
OK Corral Child Center	Day Care Center	4169-028-004
Our Lady of Guadalupe School	School	4160-022-005, 4160-022-039, 4160-022-046
Robinson Elementary School	School	4181-001-900, 4181-012-902
Seaview Parkette	Youth Center	4185-023-904
South Bay Artist Collective Youth Program	Youth Center	4187-031-024
South Park	Youth Center	4188-019-019, 4188-019-907, 4188-019-910
Study Hut Consulting	Youth Center	4184-003-006
Sylvan Learning Center	Youth Center	4185-017-014, 4185-017-015
Valley Park	Youth Center	4182-029-902, 4181-004-900, 4181-004-901, 4181-005-900, 4181-005-901, 4182-029-903, 4182-030-900, 4182-030-901, 4182-030-902, 4182-030-903
Waterfront Education	Youth Center	7503-013-016, 7503-013-017

**SECTION 10. Categorically Exempt from CEQA.** The People of the City find that the actions contemplated by the Measure, including the issuance of commercial cannabis business permits, are categorically exempt from the California Environmental Quality Act ("CEQA") under

Section 15060(c)(2) and Section 15060(c)(3) of Title 14 of the State Code of Regulations and the holding by the State Supreme Court in *Tuolumne Jobs & Small Business Alliance v. Superior Court* (2014) 59 Cal.4th 1029. Further, the People of the City find that pursuant to Section 5.84.060 of Chapter 5.84 of the City Municipal Code as codified by this Measure, cannabis retailers are a use permitted by right in certain zoning districts within the City. As permitted in those zoning districts, cannabis retailers are similar to already existing permitted general uses in those zoning districts with the only difference being the type of product being delivered or sold.

**SECTION 11. Conflicting Measures.** The People of the City find and declare that the provisions of the Measure relating to the regulation of commercial cannabis activity in the City may conflict with one or more provisions of other initiative measures. It is the intent of the People that if the Measure receives a greater number of affirmative votes than a conflicting measure at the same election, this Measure shall prevail in its entirety over a conflicting measure.

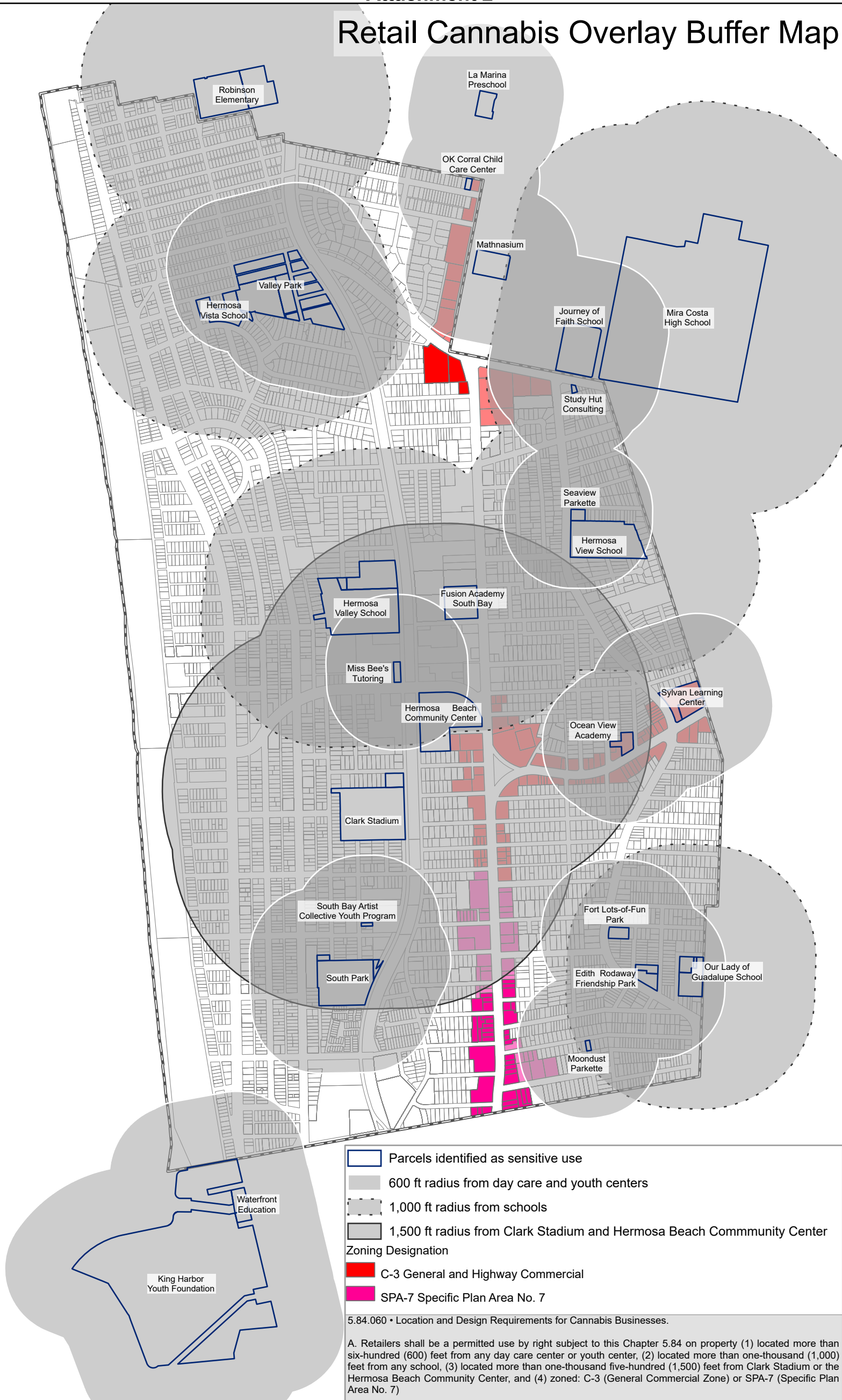
**SECTION 12. Severability.** If any provision, section, paragraph, sentence, phrase, or word of the Measure is rendered or declared invalid, illegal, or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, such unconstitutionality, illegality, or invalidity shall only affect such provision, section, paragraph, sentence, phrase, or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases, or words, or the application of the Measure to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to be the intention of the People of the City that that the Measure would have been adopted had such unconstitutional, illegal, or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

**SECTION 13. Liberal Construction.** The Measure is an exercise of the initiative power of the People of the City to provide for safe and regulated access to cannabis and cannabis products, and shall be liberally construed to effectuate that purpose.

**SECTION 14. Legal Defense.** If approved by a simple majority of voters, and thereafter challenged in court of competent jurisdiction, the City shall defend the Measure in such court of competent jurisdiction. The People of the City by approving this Measure by a simple majority of voter hereby declare that the proponent(s) of the Measure have a direct and personal stake in defending the Measure from constitutional or statutory challenges to the Measure's validity or implementation. In the event the City fails to defend the Measure, or the City fails to appeal an adverse judgment against this Measure, in whole or in part, in any court of competent jurisdiction, the Measure's proponent(s) shall be entitled to assert his, her, or their direct personal stake by defending the Measure's validity and implementation in any court of competent jurisdiction and shall be empowered by the People through this Measure to act as agents of the People of the City, and the City shall indemnify the proponent(s) for reasonable attorneys' fees.

**SECTION 15. Effective Date.** The Measure shall be in full force and effect upon the tenth day following certification by the City Council of the election returns indicating passage of the Measure by a majority of the voters casting votes on the Measure.

# Retail Cannabis Overlay Buffer Map



## Attachment 3

## CANNABIS ADVISORY GROUP FINAL VOTES

# March 29, 2022

[illegible]



**Possible Regulations for Consideration**  
**(In the event City Council desires a competing initiative related to storefronts)**

- 1,500 foot minimum distance from schools – if it would not create a ban;
- Restrictions regarding density and proximity to schools, as well as routes to school;
- Prohibition of retail in the area surrounding the Pier;
- Prohibition of outdoor advertising;
- Restriction on flavored products and combustibles and products marketed towards youth;
- The exploration of a regional agreement with neighboring cities;
- Funding for schools and ongoing education;
- Buffer in-between storefront locations;
- Security with Police Department access to security camera system feed;
- Limit on number of storefronts;
- Requirement for Conditional Use Permit;
- No cultivating or manufacturing activities;
- Requirement to correct issues within 24 hours or be shut down;
- No property requirement to apply; and
- Merit based selection process.