



CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

NEW BUSINESS DISCUSSION: October 28, 2014
SUBJECT: Zoning Amendment No. 19-14
APPLICANT: City of Carson
REQUEST: Consider the attached draft ordinance, and determine whether to recommend to the City Council approval of an amendment to the Carson Municipal Code to permit and regulate medical marijuana dispensaries

PROPERTIES INVOLVED: Citywide

COMMISSION ACTION

☐ Concurred with staff
☐ Did not concur with staff
☐ Other

COMMISSIONERS' VOTE

<u>AYE</u>	<u>NO</u>		<u>AYE</u>	<u>NO</u>	
		Chairman Faletogo			Gordon
		Vice-Chairman Piñon			Saenz
		Brimmer			Schaefer
		Diaz			Verrett
		Goolsby			

I. INTRODUCTION

Medical marijuana dispensaries are currently prohibited everywhere in the City of Carson (Carson Municipal Code §§ 9191.391.5). Over the past several months, at least three (3) operators of such facilities have approached the Mayor about whether there may be community support for the limited establishment of these types of dispensaries. The Mayor, in turn, has requested that the Office of City Attorney review any proposals for, and regulations of, such facilities to assure the legality of the same and to provide the maximum protection to the City of Carson in the event that there was community support to modify the City's current blanket prohibition.

While not endorsing the establishment of medical marijuana dispensaries, or any of the proposed regulations to allow for such dispensaries within the City, the Office of the City Attorney has worked with staff and has reviewed various proposed ordinance iterations with the goal of explaining, and inviting consideration of, a possible medical marijuana dispensary ordinance by the Planning Commission and, potentially, the City Council.

The attached draft ordinance is the product of that review. As will be explained in more detail, this draft ordinance would allow a maximum of **three** medical marijuana dispensaries to operate in the City. The ordinance would further approve a zone text amendment to permit dispensaries to operate **only** in the ML and MH industrial zones; provided, however, that such dispensaries may **not** be located within:

- 1,000 feet from any public or private school,
- 500 feet from any public park, public library, or licensed child care facility,
- 1,000 feet from any other permitted medical marijuana dispensary, and
- 1,000 feet from the boundary of any residential zone.

The attached draft ordinance would also impose detailed regulations on the operations of each medical marijuana dispensary, designed to protect public health and safety from impacts related to neighborhood and patient safety, security and safety of the dispensary location and its personnel, aesthetic impacts on the community, concerns regarding disclosure of product sourcing, and other health and safety concerns.

For example, the draft ordinance requires that each owner and business manager for a medical marijuana dispensary undergo a background check, and prohibits the issuance of an operator's permit if such owner or business manager has ever been convicted of any offense involving drugs, violence, theft, or fraud. As another example, the draft ordinance limits operating hours from 8 a.m. to 7 p.m., requires a detailed security plan with surveillance cameras and an alarm system, contains numerous regulations on signs and advertising, product labeling requirements, and other regulations (to be explained in the staff presentation).

Finally, the draft ordinance will not take effect **unless and until** the voters of the City of Carson approve a ballot measure to be submitted to them at a future election that imposes a local tax on the gross receipts of medical marijuana dispensaries.



II. DISCUSSION

A. The Law Regarding Local Regulation of Medical Marijuana Dispensaries

In 1996, the California voters approved the Compassionate Use Act. The Compassionate Use Act provides a defense to prosecution under state law for any person possessing or cultivating marijuana for medical purposes upon the written or oral recommendation of a physician. (Cal. Health & Safety ("H&S") Code § 11362.5.) In 2003, the State Legislature adopted SB 420, the Medical Marijuana Program, which extended such protections to persons with doctor recommendations who collectively or cooperatively cultivate marijuana for medical purposes (H&S Code § 11362.775), and adopted various regulations on medical marijuana dispensaries (H&S Code § 11362.768), among other items.

A "medical marijuana dispensary," as defined by the proposed ordinance, is "any establishment, business, enterprise, or location where marijuana is distributed, transmitted, given, or otherwise provided to qualified patients or primary caregivers in accordance with [the Compassionate Use Act and the Medical Marijuana Program]."

State law allows cities and counties to regulate the location and operation of medical marijuana dispensaries. (H&S Code 11362.83.) The California Supreme Court has ruled that cities even have the zoning authority to completely ban medical marijuana dispensaries. (*City of Riverside v. Inland Empire Patients Health & Wellness Center, Inc.* (2013) 56 Cal. 4th 729.) The City of Carson adopted a complete ban in 2008, which is still in effect today.

Several cities in California have decided to allow and regulate medical marijuana dispensaries. These include Oakland, Palm Springs, San Diego, San Francisco, Berkeley, Desert Hot Springs, and Cathedral City, among others. Los Angeles allows a certain number of grandfathered dispensaries. Long Beach is currently considering an ordinance to allow and regulate dispensaries. The draft Carson ordinance is derived, to some extent, from the proposed Long Beach ordinance.

Under federal law, it is illegal to manufacture, distribute, dispense, or possess marijuana for any purpose (21 U.S.C. §§ 841 et seq & § 812(c)). Any marijuana dispensary in California could be shut down and prosecuted by federal authorities for violating federal law at any time. However, the United States Attorney General's Office indicated in an August 2013 memo that it is unlikely to pursue enforcement of federal drug laws against dispensaries in states that have decriminalized marijuana, as long as the dispensaries are in compliance with strong and effective state and local regulatory and enforcement systems to control the cultivation, distribution, possession, and sale of marijuana.



B. Detailed Description of the Proposed Ordinance

The City of Carson currently bans marijuana dispensaries from operating anywhere in the City (Carson Municipal Code § 9191.391.5).

1. Maximum number of dispensaries and location restrictions

As discussed above, the draft ordinance would repeal the ban and, in its place, permit a maximum of **three** medical marijuana dispensaries to operate in the City. The three dispensaries may operate only in the ML and MH industrial zones, and may not be located within:

- 1,000 feet from any public or private school,
- 500 feet from any public park, public library, or licensed child care facility,
- 1,000 feet from any other permitted medical marijuana dispensary, and
- 1,000 feet from the boundary of any residential zone.

Exhibit 3 to this staff report is a map showing the 1,000 and 500 foot boundaries. The ML and MH zones are the dark blue and light blue areas. Staff has determined these boundaries would provide sufficient locations for a maximum of three dispensaries to operate.

2. Permits & Permit Applications

No dispensary may operate without a permit from the City. Permit applications will be evaluated and approved or denied administratively by City Planning Staff. The City will accept applications during a publicly noticed application period. In the event more than three valid applications are submitted, staff will decide which three applications are issued permits based on a point system. Applications are awarded points in various ways, for instance by significantly exceeding the 1,000 and 500 foot boundaries, by operating an odor-elimination system, by employing 24-hour security guards, by demonstrating a commitment to involvement in the Carson community, among many other criteria.

Applications must contain detailed contact information, including home address, cell phone number, and driver license, of every owner and business manager of the dispensary. At least one owner or business manager must be onsite at all times the dispensary is open for business. Each owner and business manager must undergo a background check and cannot have ever been convicted of any offense involving drugs, violence, theft, or fraud. All owners and business managers must be at least 21 years of age. Consent from the property owner must be submitted with the application, along with a copy of the lease. A detailed site plan and floor plan must also be submitted, along with other required submissions.



For dispensaries proposing to cultivate medical marijuana onsite, a ventilation plan must be submitted that demonstrates that odors will be eliminated, and a certification from Southern California Edison that the property is equipped to provide the required electric load is required to be submitted with the application, among other requirements.

A security plan must be submitted with the application that includes video surveillance cameras at all entry and exit points of the building, a safe for product and cash storage when the business is closed, and fire and burglar alarm systems monitored by an alarm company at all times.

Permits expire after three years, and may be renewed upon filing of a renewal application demonstrating continuing compliance with all applicable regulations. Permits become null and void for the following reasons: upon the cessation of operations for more than 30 days; the relocation of the dispensary to a different location; an increase of more than 50% to the building square footage used for dispensary operations; non-payment of the City's tax for a period of two months; or revocation of the permit by City staff due to a violation of the ordinance. Permit holders may not transfer a permit to any other person.

City staff must publicly notice and open an additional application period if on July 1 of any year there are fewer than three dispensaries operating with valid permits in the City.

3. Operating Regulations

The draft ordinance imposes numerous regulations on the operations of each medical marijuana dispensary, designed to protect public health and safety from impacts related to neighborhood and patient safety, security and safety of the dispensary location and its personnel, aesthetic impacts on the community, concerns regarding disclosure of product sourcing, and other health and safety concerns.

All operations must be conducted indoors and may not be visible from the outside of the building, including all onsite cultivation. Dispensaries may operate only between the hours of 8 a.m. and 7 p.m. No more than 500 square feet may be used for onsite cultivation. No persons other than patients with doctor recommendations may be allowed access to the dispensary. No marijuana product may be consumed onsite. Dispensaries may not operate any type of delivery service by vehicle or any other type of delivery. Product must be distributed onsite.

No more than \$1,000 in cash may be kept on the premises at the close of each business day, and cash must be removed from the premises at least once each day. No medical marijuana dispensary may operate for a profit. The owner, business manager, or their legal representative must respond by phone or email to the City within 24 hours of a call from the City about the operations of the dispensary.

Dispensaries may not advertise in a way that promotes marijuana for recreational use or for any purpose other than medical use. No advertising is permitted on signs, billboards, vehicles, or leaflets unless such advertising is located on the dispensary premises and is



solely for purposes of identifying the location of the dispensary. All signage must also comply with the City's general sign regulations. Dispensaries may advertise in newspapers, magazines, or on the Internet, but no discount coupons or free product deals are permitted.

Each dispensary must keep a complete set of books of account, invoices, and copies of orders and sales to show fully the transactions of the dispensary, to track product inventory purchases and cultivation amounts, sources of inventory purchases, and to track revenue from sales. These records must be kept for at least seven years. The City may audit these records at any time.

All marijuana products must contain a label to inform the consumer that the product contains marijuana and is manufactured without any state or federal regulatory oversight for health, safety, or medical effectiveness. Packaging must be sealed in a manner that cannot be opened without obvious damage to the packaging.

4. Ordinance Takes Effect Only Upon Approval of Tax by Voters

Should the proposed ordinance be recommended by the Planning Commission and adopted by the City Council, it still will not take effect unless and until the voters of the City of Carson approve a ballot measure at some point in the future that imposes a local tax on the gross receipts of medical marijuana dispensaries.

C. Conditional Use Permit Not Required

Upon compliance with the strict requirements of new Section 9148.11, the proposed ordinance authorizes the planning manager to issue a permit for medical marijuana dispensaries. Because these requirements are detailed and specific, many cities which have these ordinances are comfortable having a City officer issue the permit. However, if the Commission would prefer to vest final permitting authority in the Planning Commission, subject to appeal to the City Council, the ordinance could be revised to require the permit be issued as a conditional use permit (CUP) by the Planning Commission at a public hearing. On balance, and given the detailed requirements for permit issuance, a CUP may be unnecessary. The provisions in the proposed Section 9148.11 act as conditions for approval, and violation of any of those provisions are grounds for denying an application or revoking a permit. Staff is interested in the views of the Planning Commission on this issue regarding final permitting authority.



III. RECOMMENDATION

That the Planning Commission CONSIDER and PROVIDE DIRECTION whether to:

- Recommend approval to the City Council of the proposed amendment to the Carson Municipal Code to permit and regulate medical marijuana dispensaries, as described in Exhibits 1 and 2; and
- Waive further reading and adopt Resolution No. _____ entitled "A Resolution of the Planning Commission of the City of Carson Recommending Approval to the City Council of an Amendment to the Carson Municipal Code to Permit and Regulate Medical Marijuana Dispensaries."

IV. EXHIBITS

1. Proposed resolution
2. Proposed ordinance amendment
3. Map of allowable dispensary locations under proposed ordinance (under separate cover)

Prepared by: Jeff Malawy, Deputy City Attorney

Reviewed and Approved by:


John F. Signo, AICP, Acting Planning Manager



CITY OF CARSON
PLANNING COMMISSION
RESOLUTION NO. 14-_____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF CARSON RECOMMENDING APPROVAL TO THE CITY
COUNCIL OF AN AMENDMENT TO THE CARSON MUNICIPAL
CODE TO PERMIT AND REGULATE MEDICAL MARIJUANA
DISPENSARIES**

**THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA,
HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:**

Section 1. On October 28, 2014, the Planning Commission held a public hearing regarding an amendment to the Carson Municipal Code that would allow medical marijuana dispensaries in certain locations in the ML and MH zones, and would regulate the operations of same, which amendment is attached hereto as Exhibit A. The public hearing was held at 6:30 p.m. at City Hall, Helen Kawagoe Council Chambers, 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid hearing was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. The Planning Commission finds that:

a) Policy LU-5.2 of the Land Use Element of the General Plan seeks to "Implement and expand strategies to market, attract, and/or retain retail commercial areas and encourage businesses to participate."

b) Policy LU-5.3 states, "Identify unique economic opportunities, such as niche markets, that will allow the City to capitalize on its location, its cultural diversity, and the tourism industry in the region."

c) Policy LU-6.6 states, "Attract land uses that generate revenue to the City of Carson, while maintaining a balance of other community needs such as housing, open space, and public facilities."

d) Policy SAF-6.3 of the Safety Element of the General Plan seeks to "Develop standards and/or guidelines for new development and redevelopment with an emphasis on site and building design, or CPTD [Crime Prevention Through Design], to minimize vulnerability to criminal activity."

e) The proposed ordinance amendment would allow medical marijuana dispensaries under strict standards that protect the health, safety, and welfare of the community, yet allows the City to attract and retain a use for a niche market that would generate sales tax revenue for the City. Furthermore, the provisions in the proposed ordinance amendment includes standards to minimize the vulnerability to criminal activity by requiring surveillance cameras and other security measures, as well as background checks



for all operators. Therefore, the proposed ordinance amendment is consistent with the above policies of the City of Carson General Plan.

Section 4. The Planning Commission further finds that the zoning code text amendment is exempt from the California Environmental Quality Act (CEQA) by CEQA Guidelines Section 15061(b)(3) because there is no possibility the ordinance amendment will have a significant impact on the environment, and because the ordinance amendment is not a "project" as that term is defined by CEQA Guidelines Section 15378.

Section 5. Based on the aforementioned findings, the Commission hereby recommends approval to the City Council of the amendment to the Carson Municipal Code attached hereto as Exhibit A.

Section 6. The Secretary shall certify to the adoption of this Resolution and shall transmit copies of the same to the applicant.

PASSED, APPROVED AND ADOPTED THIS 28th DAY OF OCTOBER, 2014.

CHAIRMAN

ATTEST:

SECRETARY



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON
AMENDING THE CARSON MUNICIPAL CODE BY AMENDING SECTION
9141.1, DELETING SECTION 9191.391.5, AND ADDING SECTION 9148.11
TO ALLOW AND REGULATE MEDICAL MARIJUANA DISPENSARIES

WHEREAS, the people of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 ("CUA") (codified in Health and Safety Code Section 11362.5, *et seq.*), which allows for the possession and cultivation of marijuana for medical use by certain qualified persons; and

WHEREAS, the CUA creates a limited exemption from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited circumstances; and

WHEREAS, in 2004, the State of California enacted Senate Bill 420, the Medical Marijuana Program Act ("MMPA") (codified in California Health and Safety Code Section 11362.7 *et seq.*), which purports to clarify the scope of the CUA, and also which recognizes the right of cities and other governing bodies to adopt and enforce rules and regulations consistent with the MMPA; and

WHEREAS, notwithstanding the passage of the CUA and MMPA, the cultivation, possession, and distribution of marijuana is strictly prohibited by federal law and specifically by the Controlled Substances Act ("CSA") (codified in 21 U.S.C. Section 841); and Section 841 of the CSA makes it unlawful for a person to manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense marijuana; and

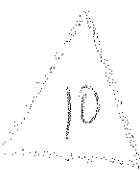
WHEREAS, the regulations for medical marijuana uses are not adequate at the state level to address the impacts on the City of medical marijuana, making it appropriate for local regulation of the impacts of medical marijuana uses; and

WHEREAS, pursuant to the City's police powers authorized in Article XI, Section 7, of the California Constitution, the Carson Municipal Code, and other provisions of California law including, but not limited to California Government Code Section 38771, the City has the power through its City Council to determine, for purposes of the public health, safety, and welfare, the appropriate uses of land within a local jurisdiction's borders; and

WHEREAS, nothing in this Section is intended to promote or condone the production, distribution, or possession of marijuana in violation of any applicable law; and

WHEREAS, this Section is to be construed to protect the public over medical marijuana related interests; and

EXHIBIT NO. 02



WHEREAS, operation of a medical marijuana dispensary is a revocable privilege and not a right in the City. There is no property right for an individual or entity to have a medical marijuana business in the City; and

WHEREAS, the City has a zero tolerance policy for violations of this Ordinance; and

WHEREAS, the City Council wishes to delete Section 9191.391.5 of the Municipal Code banning medical marijuana dispensaries in its entirety and at the same time adopt regulations allowing for the limited existence of medical marijuana dispensaries in the City of Carson;

NOW, THEREFORE, the CITY COUNCIL of the CITY of CARSON, CALIFORNIA, does hereby ordain as follows:

Section 1. Section 9141.1 of Division 1 of Part 4 of Chapter 1 of Article IX of the Carson Municipal Code is hereby amended by adding to the "Uses Permitted in Manufacturing Zones" section, immediately below the "Indoor mini-mart" entry, an entry for "Medical marijuana dispensary" to read as follows:

	"ZONES	
	ML	MH
Medical marijuana dispensary, subject to the requirements of Section 9148.11."	L	L

Section 2. Section 9191.391.5 of the Carson Municipal Code, entitled "Medical Marijuana Dispensaries," is deleted in its entirety.

Section 3. Chapter 1, Part 4, Division 8 is hereby amended to add Section 9148.11 to read as follows:

"9148.11. Medical Marijuana Dispensaries

A. Purpose.

1. The purpose of this Section is to protect the public health, safety and welfare of the residents and patients of the City of Carson by prescribing the manner in which medical marijuana dispensaries can operate within the City.

2. This Section regulates the use, acquisition, cultivation, production, and distribution of medical marijuana in a manner that is consistent with California Health and Safety Code sections 11357 through 11362.9, also referred to as the Compassionate Use Act ("CUA") and the Medical Marijuana Program Act ("MMPA"). The CUA and MMPA do not provide a legal manner for patients to obtain medical marijuana unless the patient grows the marijuana or the marijuana is



grown by the patient's primary caregiver or a collective or cooperative of which the patient is a member. The following regulations are intended to apply to all medical marijuana operations in the City whether by a patient, collective or cooperative of patients, or primary caregiver, or any medical marijuana related entity allowed under the state law. Medical marijuana cultivation and production can have an impact on health, safety and community resources, and this Section is intended to allow medical marijuana distribution and cultivation only where it will have a minimal impact. To do so, the following regulations:

a. Provide for a means for cultivation, production, and distribution of marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes under the CUA and MMPA;

b. Protect public health and safety through reasonable limitations on medical marijuana business operations as they relate to noise, air, and water quality, food safety, neighborhood and patient safety, security for the dispensary location and its personnel, and other health and safety concerns;

c. Promote lively street life and high quality neighborhoods by limiting the concentration of any medical marijuana businesses in the City;

d. Impose fees to cover the cost to the City of regulating medical marijuana related operations in an amount sufficient for the City to recover its related costs;

e. Adopt a mechanism for monitoring compliance with the provisions of this Section;

f. Create regulations that address the particular needs of the residents and patients of the City and coordinate with laws that may be enacted by the State regarding the same;

g. Facilitate the implementation of the CUA and MMPA without going beyond the authority granted by it;

h. Allow medical marijuana related operations only by individuals and entities that have demonstrated an intent and ability to comply with this Section; and

i. Protect public safety and residential areas by limiting the areas of the City where medical marijuana businesses may operate.

3. The provisions in this Section are consistent with the City's responsibility to protect the public health, safety, and welfare as authorized by the inherent local police power authority granted to the City by Article XI, §7 of the California Constitution. The City intends that both State law and this Section apply within the City.



B. Definitions.

For purposes of this Section, the following terms and phrases, whenever used in this Section, shall be construed as defined:

1. "Applicant" means a person who is required to file an application for a permit under this Section, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a medical marijuana dispensary or an operator of a medical marijuana dispensary.
2. "Building" means any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels, or property of any kind.
3. "City" means the City of Carson.
4. "Live Scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice ("DOJ") which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.
5. "Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.
6. "Marijuana" is defined as in California Health and Safety Code Section 11018 and further shall specifically include any product that contains marijuana or a derivative of marijuana.
7. "Medical Marijuana Dispensary" means any establishment, business, enterprise, or location where marijuana is distributed, transmitted, given, or otherwise provided to qualified patients or primary caregivers in accordance with California Health and Safety Code Sections 11362.5 through 11362.83, inclusive, commonly referred to as "The Compassionate Use Act of 1996" and Senate Bill 420.
8. "Operator" means any person with responsibility for the establishment, organization, registration, supervision, or oversight of a medical marijuana dispensary, including but not limited to any person who performs the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, or treasurer of the medical marijuana dispensary.
9. "Permittee" means the person or entity to which a medical marijuana dispensary permit is issued.



10. "Person" means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability corporation, collective, cooperative, or combination thereof in whatever form or character.

11. "Premises" means the space in any buildings of a medical marijuana dispensary together with the spaces within any structures, yards, open spaces, lot width, and lot area at a location that is occupied or used in the operation of the medical marijuana dispensary.

12. "Structure" means anything constructed or erected which is supported directly or indirectly on the ground, but not including any vehicle.

C. Medical Marijuana Dispensary Permit Required.

1. It shall be unlawful for any person or entity to operate, in or upon any property, a medical marijuana dispensary without a medical marijuana dispensary permit issued by the City's Planning Division.

2. The medical marijuana dispensary permit requirement set forth in this Section shall be in addition to, and not in lieu of, a City of Carson business license and any other licensing and permitting requirement imposed by any other federal, state or local law, including a seller's permit issued by the California Board of Equalization and building and occupancy permits issued by the City.

3. The issuance of a medical marijuana dispensary permit pursuant to this Section does not create an exception, defense, or immunity to any person or entity from state or federal criminal liability for the cultivation, production, distribution, transportation or possession of marijuana.

4. A permit issued pursuant to this Section shall become null and void upon the closure or cessation of operation of the medical marijuana dispensary, for any reason, for more than thirty (30) days and/or the relocation of the business to a different location. The following shall be deemed a change in location: 1) a relocation or expansion that includes a separate piece of property or parcel of land from the initially permitted Property; and 2) any expansion of the initially permitted property which represents a greater than fifty percent (50%) increase in the square footage of space devoted to the medical marijuana dispensary operations.

5. The Permittees of a medical marijuana dispensary shall be only those persons disclosed in the application or subsequently disclosed to the City in accordance with this Section.

6. Sale or transfer of a medical marijuana dispensary permit is prohibited.



D. Number of Permits; Determining Priority for Issuance of Permits

1. There shall be no more than a total of three (3) medical marijuana dispensary permits issued pursuant to this Section at any one time in the City.

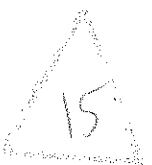
2. Initial application period. The Planning Manager shall determine and set an initial application period for the submission of applications for medical marijuana dispensary permits pursuant to this Section. Notice of such application period shall be published in accordance with Government Code Section 6063. Additionally, any person may make a written request to the Planning Manager to be provided notice by mail of the initial application period. At the end of such initial application period, the Planning Manager will review timely submitted applications to determine whether such applications comply with the minimum requirements of this Section. Applications not meeting the minimum requirements of this Section shall be denied. The Planning Manager, may, in his or her discretion, accept amended applications so that an Applicant may demonstrate that it meets the minimum requirements of this Section. In the event more than three (3) medical marijuana dispensaries submit applications that comply with the requirements of this Section, medical marijuana dispensary permits shall be granted to those three (3) Applicants with the highest number of points based on the criteria set forth in subsection 4 of this Section. In the event of a tie, the City will utilize a lottery to determine which Applicant receives priority.

3. Subsequent application periods. In the event that there are fewer than 3 licensed medical marijuana dispensaries as of July 1 of a given year in the City of Carson, the Planning Manager shall determine and set an application period for the submission of applications for medical marijuana dispensary permits pursuant to this Section. Notice of such application period shall be published in accordance with Government Code Section 6063. Additionally, any person may make a written request to the Planning Manager to be provided notice by mail of all subsequent application periods. At the close of such application period, the City will review those submitted applications to determine whether such applications comply with the requirements of this Section. Applications not meeting the minimum requirements of this Section shall be denied. The Planning Manager, may, in his or her discretion, accept amended applications so that an Applicant may demonstrate that it meets the minimum requirements of this Section. In the event that during such Application period the City receives more applications than number of available permits, then the Applicant shall be granted to that Applicant with the highest number of points based on the criteria set forth in subsection 4 of this Section. In the event of a tie, the City will utilize a lottery to determine which Applicant receives priority.

4. Determination of priority of medical marijuana dispensary application. Priority for the issuance of medical marijuana dispensary permits shall be granted based on the highest number of points accumulated according to the following criteria as determined by the Planning Manager:

a. Suitability of proposed property and business design.

(1) The Applicant demonstrates the proposed location exceeds all buffer zones established in subsection 9148.11(I) by at least two hundred feet. (1 Point.)



(2) The proposed property possesses air scrubbers of a filtration system capable of eliminating odors from escaping the building or commitment to do so before operating. (1 Point.)

(3) The Applicant has submitted a business interior plan demonstrating that the medical marijuana dispensary appears to be professional in appearance, resembling that of a pharmacy or neighborhood drugstore. (1 Point.)

b. Suitability of security plan.

(1) The Applicant's security plan includes the presence of security personnel on premises twenty-four (24) hours per day. (1 Point.)

(2) The applicant's security plan demonstrates a method to track and monitor inventory so as to prevent theft and diversion of marijuana. (1 Point.)

(3) The Applicant's security plan describes the enclosed, locked facility that will be used to secure or store marijuana when the location is both open and closed for business, and the steps taken to ensure marijuana is not visible to the public. (1 Point.)

(4) The Applicant's security plan includes measures to prevent the diversion of marijuana to persons under the age of 21. (1 Point.)

(5) The Applicant demonstrates security measures exceeding the requirements of this Section, including but not limited to brick or concrete construction or additional fire and/or security alarms. (1 Point.)

c. Suitability of business plan and financial record keeping.

(1) The Applicant describes a staffing plan that will provide and ensure safe dispensing, adequate security, theft prevention, and the maintenance of confidential information (1 Point.)

(2) The Applicant provides an operations manual that demonstrates compliance with this Section. (1 Point.)

d. Criminal history.

(1) The Applicant does not have any felony convictions within the previous 10 years. (1 Point.)

(2) The Applicant does not have any misdemeanor convictions within the previous 10 years, other than misdemeanor traffic violations. (1 Point.)

(3) The Applicant does not have any pending criminal complaints. (1 Point.)

(4) The Applicant certifies as a condition of maintaining the revocable license that they will not employ as manager or employees any person with any type of felony conviction. (1 Point.)

(5) The Applicant certifies as a condition of maintaining the permit that they will not employ as manager or employees any narcotics related misdemeanor conviction. (1 Point.)

e. Community service. Applicant demonstrates a commitment to involvement in the community of the City of Carson. (1 Point.)

E General Permit Requirements.

1. Insurance required. A medical marijuana dispensary shall at all times maintain workers' compensation insurance, public liability insurance with minimum limits of \$150,000 for any one person and \$1,000,000 for any one accident, and public property damage insurance with a minimum limit of \$100,000 for any one accident.

2. Costs of inspection, enforcement, and abatement. In the event the City incurs costs in the inspection, enforcement, abatement, surrender, or any other requirements to remove medical marijuana or related equipment or property from any medical marijuana dispensary, or any person cultivating, proceeding, distributing or possessing marijuana, the business and responsible persons shall reimburse the City all actual costs incurred by the City for such inspection, enforcement, or abatement. All actual costs required by this Section shall constitute a lien upon the property upon which the medical marijuana dispensary is situated. The lien for any inspection, enforcement, or abatement costs shall attach thirty (30) days after the responsible parties are notified of the costs, and shall remain until the fee is paid or the property sold in payment thereof.

3. Landlord duty. It shall be unlawful for the owner of a building to allow the use of any portion of the building by a medical marijuana dispensary unless the tenant has a valid permit issued pursuant to this Section.

F. Required Application Information

1. Basic application requirements.

An application for a medical marijuana dispensary permit shall include forms provided by the Planning Manager for that purpose. The Applicant shall use the application to demonstrate its compliance with this Section and any other applicable law, rule or regulation. The application shall include the following information:

a. Name, home address, email address and cellular phone number of the owner or owners of the medical marijuana dispensary in whose name the permit is proposed to be issued. Name, home address, email address and cellular phone number of any business managers of the medical marijuana dispensary, if business managers are proposed other than the owner. The Applicant, and any existing or prospective owner or manager, must be at least twenty-one years

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of age. A fully legible copy of one valid government issued form of photo identification, such as a State Driver's license, must be submitted for each owner and business manager.

b. If the Applicant intends to operate the medical marijuana dispensary under a name other than that of the Applicant, the Applicant shall file the fictitious name of the medical marijuana dispensary and show proof of registration of the fictitious name at the time it submits its application.

c. In the event the Applicant is not the owner of record of the real property upon which the medical marijuana dispensary is, or is to be, located the application must be accompanied by a notarized statement and consent from the owner of the property acknowledging that a medical marijuana dispensary is or will be located on the property. In addition to furnishing such notarized statement, the applicant shall furnish the name and address of the owner of record of the property, as well as a copy of the lease or rental agreement pertaining to the premises in which the medical marijuana dispensary is or will be located.

d. Proof of ownership or legal possession of the Property at which the medical marijuana dispensary will be located. If the medical marijuana dispensary is not the owner of the property of the business, the applicant shall provide written authorization to the City from the property owner to enter the property for inspection of the property on a form approved by the City.

e. A certificate of proof of insurance signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of workers' compensation and public liability and property damage insurance naming the City and its officers and employees as an additional named insured on the liability policy at least to the limits required by subsection E of this Section.

f. An executed release of liability and hold harmless in the form set forth in the City's application form.

g. A statement indicating whether any of the named owners, business managers, or persons named on the application have been: a) convicted of violating any law, other than a traffic violation infraction, or completed any portion of a sentence due to a violation of any law; or ii) convicted of driving or operating other machinery under the influence of alcohol, drugs, or medication, driving while impaired, or any comparable law, or a misdemeanor related to abuse of alcohol or a controlled substance.

h. A statement indicating that the Applicant, or any existing or prospective owner or manager, has not had a similar type of license previously revoked or denied for good cause within the immediately preceding two years prior to the license application.

i. Additionally, the Applicant must submit proof of a successful Live Scan background check of each owner and business manager named on the application. Neither the applicant nor any proposed or prospective manager or employee shall have been convicted of:

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(1) Any offense relating to possession, manufacture, sales, or distribution of a controlled substance;

(2) Any offense involving the use of force or violence upon the person of another; and

(3) Any offense involving theft, fraud, dishonesty or deceit.

For purposes of this subsection, a conviction includes a plea or verdict of guilty or a conviction following a plea of *nolo contendere*.

j. An operating plan for the proposed medical marijuana business, including the following information:

(1) a security plan, including, but not limited to, lighting, alarms and security guard arrangements;

(2) a general description of all the products and services to be provided by the medical marijuana business;

(3) a description of the procedure for documenting the source of the marijuana to be dispensed by the collective;

(4) text and graphic materials showing the site in the context of the immediate neighborhood and floor plan of the facility, which shall include the principal uses of the area depicted on the floor plan and the separation of the areas depicted on the floor plan, including the areas where non-patients will be permitted, private consulting areas, storage areas, retail areas, and restricted areas where medical marijuana will be located. Such materials shall also include a straight-line drawing prepared within thirty (30) days prior to application depicting the building and the portion thereof to be occupied by the medical marijuana dispensary, and: (i) the property line of any other medical marijuana dispensary or any private or public school within one thousand (1,000) feet of the closest property line of the medical marijuana dispensary; and (ii) the property lines of any public park, public library, or licensed child care facility within five hundred (500) feet of the closest property line of the medical marijuana dispensary; and (iii) the boundary of any residential zone within one thousand (1,000) feet of the closest property line of the medical marijuana dispensary;

(5) a description of the screening, registration and validation process for qualified patients;

(6) a description of qualified patient records acquisition and retention procedures;

(7) a description of the process for tracking medical marijuana quantities and inventory controls, including on-site cultivation (if any), processing and medical marijuana products received from outside sources;

(8) a description of measures taken to minimize or offset energy use from the cultivation or processing of medical marijuana;

(9) a description of chemicals stored or used on-site and any effluent proposed to be discharged into the city's wastewater or storm water systems;

(10) a diagram or document showing the lighting outside of the medical marijuana dispensary and locations of proposed signage in color, which demonstrates compliance with applicable City requirements; and

(11) a plan for disposal of any medical marijuana or medical marijuana-infused product that is not sold to a patient or primary caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal.

k. Authorization for the City to verify the information and representations contained in the application.

l. The Applicant must provide a copy of a valid seller's permit issued by the California Board of Equalization.

m. A statement in writing by the Applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct, and that he or she has read, understands, and shall ensure compliance with the terms of this Section.

n. Any application for a medical marijuana dispensary permit shall be accompanied by the application fee, estimated building and planning fees, and any other applicable fees.

2. Cultivation-specific requirements.

In addition to the requirements above in subsection 1, medical marijuana dispensaries cultivating medical marijuana on-site shall provide the following additional information as part of their application:

a. A plan that specifies: a) the methods to be used to prevent the growth of harmful mold and compliance with limitations on discharge into the wastewater system of the City; b) a minimum of a one-hour fire separation wall between the cultivation facility and any adjacent business; and c) all ventilation systems used to control the environment for the plants that describes how such systems operate with the systems preventing any odor from leaving the property. Such plan shall also include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process.

b. A plan for ventilation of the medical marijuana business that described the ventilation systems that will be used to prevent any odor of medical marijuana off the property of the business.

c. A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that would have authority over the business if it was not a medical marijuana dispensary, that will be used or kept at the medical marijuana dispensary, the location of such materials, and how such materials will be stored.

d. A statement of the amount of the projected daily average and peak electric load anticipated to be used by the medical marijuana dispensary and certification from the landlord and utility provider that the property is equipped to provide the required electric load, or necessary upgrades that will be performed prior to final inspection of the property.

3. Inspection. An inspection of the proposed medical marijuana dispensary by the City shall be required prior to the issuance of a permit. Such inspection shall occur after the property is ready for operation, but prior to the stocking of the business with any medical marijuana, and prior to the opening of the dispensary to any members. The inspection shall be to verify that the business facilities are constructed and can be operated in accordance with the application submitted and the applicable requirements of this Code and any other applicable law, rule, or regulations.

4. Investigation. For purposes of this Section, the investigation of the City is not complete until the Planning Manager or his or her designee has: 1) determined the application is complete, 2) determined the proposed medical marijuana dispensary is able to operate in compliance with all applicable laws, 3) conducted an inspection of the business, and 4) obtained all other information the Planning Manager determines necessary to find that the proposed medical marijuana dispensary would satisfy all required conditions stated in this Section.

5. Approval requirements. The Planning Manager or his or her designee will deny an application that does not meet the requirements of this Section or any other applicable law, rule, or regulation or that contains any false or incomplete information.

G. Term of permit; renewals; expiration of permit.

1. Term of permit. A permit issued pursuant to this Section shall be valid for three (3) years.

2. Renewal of permit and renewal application requirements.

a. Any Permittee wishing to renew its permit shall apply for renewal of the medical marijuana dispensary permit at least forty-five days before the expiration of the permit. If the Permittee fails to timely apply for permit renewal, but applies prior to the expiration date of the permit, the City may process the renewal application provided the Permittee submits a late filing fee of \$5,000 at the time of submittal of the renewal application. The City shall not accept renewal applications after the expiration of the permit, but instead shall require the applicant to file a new permit application.

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b. The renewal permit fee shall be nonrefundable and shall accompany the renewal application.

c. In the event there has been a change to any of the plans identified in the permit application which were submitted to an approved by the City with the application or an earlier renewal, the renewal application shall include specifics of the changes or proposed changes in any of such plans.

d. In the event any employee, business manager, financier, agent or person having an interest as described in the disclosures made to the City pursuant to this Section, has been charged with violation of any law since such disclosure, the renewal application shall include the name of the violator, the date of the violation, the court and case number where the violation was filed and the disposition of the violation with the renewal application.

e. The renewal application shall include verification that the business has a valid state seller's permit in good standing.

f. The renewal application shall include a summary report for the previous twelve months showing the amount of marijuana purchased, the amount of marijuana sold, the forms in which marijuana was sold, and the number of patients and the number of primary caregivers who received marijuana.

3. Nonpayment of tax. In the event a medical marijuana business that has been open and operating and submitting monthly taxes to the City ceases providing such taxes to the City for a period of two months or longer, the permit shall be deemed to have expired and a new permit shall be required prior to reopening at the property.

H. Assignment of Permit Prohibited.

The assignment of or attempt to assign any medical marijuana dispensary permit issued pursuant to this Section is unlawful and any such assignment or attempt to assign a permit shall render the permit null and void.

I. Location of Medical Marijuana Dispensaries.

1. Fixed location required. It shall be unlawful to operate a medical marijuana dispensary or to grow marijuana outside of an enclosed building. All permits issued pursuant to this Section shall be issued for a specific fixed location within an enclosed building.

2. Zoning requirements.

a. All medical marijuana dispensaries shall be located only in the ML and MH industrial zones.

b. No medical marijuana dispensary may be located within:

- (1) a 1,000 foot radius of a "school", as defined under Health and Safety Code 11362.768 (h);
 - (2) a 500 foot radius of a public park, public library, or licensed child care facility;
 - (3) a 1,000 foot radius of another registered medical marijuana dispensary; and
 - (4) a 1,000 foot radius of the boundary of any residential zone.
- c. The distances outlined above shall be construed as the horizontal distance measured in a straight line from the property line of the school, public park, public library, licensed child care facility, residential zone, or other medical marijuana dispensaries, to the closest property line of the medical marijuana dispensary in question.

J. Operating Requirements.

1. Hours of operation. A medical marijuana dispensary shall be closed to the public, and no sale or other distribution of marijuana shall occur upon the property, between the hours of seven (7) o'clock p.m. and eight (8) o'clock a.m.
2. On-site cultivation allowed. A maximum area of 500 square feet may be used for on-site cultivation of medical marijuana.
3. Restriction on access. No person, other than a qualified patient, licensee, employee, or a contractor shall be allowed access to the medical marijuana dispensary.
4. On-site use prohibited. No marijuana shall be smoked, eaten, or otherwise consumed or ingested within the medical marijuana business or on the premises.
5. Business conducted within building. Any and all cultivation, production, distribution, possession, storage, display, sales, or other distribution of marijuana on-site shall occur only indoors within a Building of a medical marijuana business and shall not be visible from the exterior of the business.
6. Display of permits required. The name and contact information for the owner or owners and any business manager of the medical marijuana dispensary, the medical marijuana dispensary permit issued pursuant to this Section, and the sales tax seller's permit shall be conspicuously posted in the business.
7. Owner or business manager required on property. No medical marijuana business shall be managed by any person other than a Permittee or business manager listed on the application for the permit or a renewal thereof. At least one such Permittee or business manager shall be on the Premises and responsible for all activities within the medical marijuana dispensary during all times when the medical marijuana dispensary is open.
8. Ventilation required. A medical marijuana dispensary shall be ventilated so that the odor of marijuana cannot be detected at the exterior of the medical marijuana business or any adjoining use or property.

9. Limitations on inventory. The medical marijuana dispensary shall not maintain any more marijuana within the property than is permitted under applicable state law. The medical marijuana dispensary shall maintain current records evidencing the status and number of patients for whom they cultivate or dispense medical marijuana.

10. Limitations on cash storage. A medical marijuana dispensary shall ensure, each day the business is open for operation, that cash receipts are transported away from the premises once each day prior to 8 p.m. At the end of each day there shall be no more than \$1,000 in cash kept or stored on the Premises.

11. Reporting requirements. A medical marijuana dispensary shall report to the Planning Manager or his or her designee each of the following: 1) change of business manager, financier, or primary caregiver in the permit application at least thirty days before the change, provided that any new business manager must comply with all requirements of this ordinance; 2) sales and taxable transactions and file sales and use tax reports to the City monthly; and 3) reports of all criminal activity at the medical marijuana dispensary shall be reported to the Los Angeles County Sheriff's Department within twelve hours of occurrence.

12. Litter. Outdoor trash receptacles shall be available near the entrances to and exits from the establishment. The premises shall be continuously maintained in a safe, clean and orderly condition with twice daily litter pick-up within 100 feet of the dispensary.

13. Advertisement. A medical marijuana dispensary may not advertise in a manner that is inconsistent with the medicinal use of medical marijuana. A medical marijuana dispensary may not advertise in a manner that is misleading, deceptive, false, or is designed to appeal to minors. Advertisement that promotes medical marijuana for recreational or any use other than for medicinal purposes shall be a violation of this Section.

Except as otherwise provided in this paragraph, it shall be unlawful for any person permitted under this Section or any other person to advertise any medical marijuana or medical marijuana-infused product anywhere in the city where the advertisement is in plain view of or in a place open to the general public, including advertising utilizing any of the following media: illuminated signs, signs incorporating green crosses or other marijuana related symbol, any billboard or other outdoor general advertising device as defined by the zoning regulations of the City; any sign mounted on a vehicle; any hand-held or other portable sign; or any handbill, leaflet or flier directly handed to any person in a public place, left upon a motor vehicle, or posted upon any public or private property. The prohibition set forth in this paragraph shall not apply to:

a. Any sign located on the same lot as a medical marijuana dispensary which exists solely for the purpose of identifying the location of the medical marijuana dispensary and which otherwise complies with this Section and any other applicable city laws and regulations.

b. Any advertisement contained within a newspaper, magazine, or other periodical of general circulation within the City or on the Internet.



- c. Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana dispensary or a medical marijuana-infused products manufacturer.

No medical marijuana dispensary shall distribute or allow the distribution of any marijuana without charge within a marijuana dispensary or any place open to the public for the purpose of promotion or advertising.

No medical marijuana dispensary shall distribute or allow the distribution of any coupon or similar writing, electronically or on paper, which purports to allow the bearer to exchange the same for any marijuana product, either free or at a discount.

14. Response to City inquiry required. The owner, business manager, or legal representative of the owner or business manager is required to respond by phone or email within twenty-four hours of contact by a city official concerning their medical marijuana business at the phone number or email address provided to the City as the contact for the business. Each twenty-four (24) hour period during which an owner or business manager, or legal representative of the owner or business manager, does not respond to the city official shall be considered a separate violation.

15. Additional requirements for production of medical marijuana. No medical marijuana dispensary may produce or distribute concentrated cannabis as that term is defined in Health & Safety Code Section 11006.5. No medical marijuana business may use metals, butane, propane or other flammable product, or produce flammable vapors to process marijuana, except that this Section shall not prohibit the production of otherwise legal edible marijuana products.

16. Packaging at medical marijuana business. All dispensed medical marijuana must be packaged in a manner which clearly shows the name of the dispensary providing the medical marijuana, name of the patient receiving the medical marijuana, date the marijuana is dispensed, amount of marijuana dispensed, and amount paid by the patient to obtain the marijuana.

17. No medical marijuana business shall operate for profit. Cash and in-kind contributions, reimbursements, and any other form of compensation provided by patients toward the medical marijuana business' actual expense to grow, cultivate, and provide medical marijuana shall be allowed provided that they are in strict compliance with State Law. All such cash and in-kind amounts and items shall be fully documented in accordance with subsection K of this Section.

K. Right of Entry; Records to be Maintained.

1. Records to be maintained. Each dispensary shall keep a complete set of books of account, invoices, copies of orders and sales to show fully the business transactions of the dispensary. The records of the business shall clearly track medical marijuana product inventory purchase and/or grown and sales and disposal thereof to clearly track revenue from sales of any medical marijuana from other paraphernalia or services offered by the medical marijuana dispensary. Such records shall be maintained for a minimum of seven (7) years. All such records shall be open at all times during business hours for the inspection and examination of the

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City or its duly authorized representatives. The City may require any Permittee to furnish such information as it considers necessary for the proper administration of this Section.

2. Audits. The City may require an audit of the books of account and records of a medical marijuana dispensary on such occasions as it may consider necessary. Such audit may be made by an auditor selected by the City Manager that shall likewise have access to all books and records of the medical marijuana dispensary. The expense of any audit determined necessary by the City shall be paid by the medical marijuana dispensary.

3. Consent to Inspection. Application for a medical marijuana dispensary permit pursuant to this Section constitutes consent by the Applicant, and all owners, managers and employee of the medical marijuana dispensary to permit the City's official and Los Angeles County Sheriff's Department to conduct routine inspections of the medical marijuana business to ensure compliance with this Section or any other applicable law, rule or regulation.

4. Reporting of source, quantity and sales. The records to be maintained by each medical marijuana business shall include the source and quantity of any marijuana distributed, produced or possessed within the property. Such reports shall include, without limitation, for both cultivation, acquisitions from wholesalers and transactions to patients or caregivers, the following:

- a. Name and address of grower and seller;
- b. Date, weight, type of marijuana and dollar amount or other consideration of transaction; and
- c. For wholesale transactions, the state and City, if any, sales and use tax license number of the seller.

L. Security Plan Requirements

A security plan shall be required for each medical marijuana dispensary. All components of the security plan shall be in good working order twenty-four hours per day. The security plan must include, at minimum, the following security measures:

1. Video cameras. A medical marijuana dispensary shall install and maintain a video surveillance system that monitors no less than the front and rear of the premises of the medical marijuana dispensary, and all points of ingress and egress at the dispensary. The surveillance system shall: 1) capture a full view of the public right of ways and any parking lot under the control of the medical marijuana dispensary and 2) record and maintain video for a minimum of thirty days and be accessible via the internet by the Los Angeles County Sheriff's Department.

2. Safe for product and cash storage. The medical marijuana dispensary shall install and use a safe for storage of any processed marijuana and cash on the property when the business is closed to the public. The safe shall be incorporated into the building structure or securely attached to the structure. For medical marijuana-infused products that must be kept refrigerated or frozen,

the dispensary shall lock the refrigerated container or freezer in place of use of a safe so long as the container is affixed to the building structure.

3. Alarm system. The medical marijuana dispensary shall install and use a fire and burglar alarm system that is monitored by a company that is staffed twenty-four hours a day, seven days a week. The security plan submitted to the City shall identify the company monitoring the burglar alarm, including contact information, and the City shall be updated within seventy-two (72) hours of any change of the burglar alarm monitoring company.

M. Medical Marijuana Infused Products and Labeling Requirements.

1. Labeling and packaging requirements. All medical marijuana sold or otherwise distributed by the Permittee shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana and specifies the amount of marijuana in the product, that the marijuana is intended for medical use solely by the patient to whom it is sold, and that any resale or redistribution of the medical marijuana to a third person is prohibited. In addition, the label shall be in print large enough to be readable and shall include the following statement:

WARNING: THIS PRODUCT CONTAINS MARIJUANA. THIS PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR EFFICACY. THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE INGESTION OR USE OF THIS PRODUCT.

2. Medical marijuana infused products. The production of any medical marijuana infused product shall be at a medical marijuana infused product manufacturer that meets all applicable state and local health regulations related to the production, preparation, labeling, and sale of prepared food items.

3. The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

N. Compliance With Other Applicable Laws and Regulations

1. Except as may be provided in this Section, or rules adopted pursuant to this Section or interpretations by the City, any more stringent law or regulation adopted by the State of California governing the cultivation, production, possession or distribution of marijuana for medical use shall also apply to medical marijuana dispensaries in the City and shall be deemed additional requirements under this Section.

2. Revocation of permit upon applicable state or federal prohibition. If the State of California prohibits the cultivation, production, possession or other distribution of marijuana through a medical marijuana dispensary, or if court of competent jurisdiction determines that the federal governments prohibition of the cultivation, production, possession or other distribution of marijuana through medical marijuana dispensary supersedes state law, any permit issued pursuant to this Section shall be deemed to be immediately revoked by operation of law, with no ground for appeal or other redress on behalf of the Permittee.

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3. Revocable privilege. A permit issued pursuant to this Section is a revocable privilege, and no applicant or holder of such license shall be deemed to have acquired any property interest therein.

O. Prohibited Acts.

It shall be unlawful to:

1. Cultivate, distribute, possess, or produce marijuana in plain view of, or in a place open to the general public.
2. Smoke use or ingest on the property of the medical marijuana dispensary marijuana, alcoholic beverages, or a controlled substance.
3. Loiter on or around the Premises.
4. Possess or operate a medical marijuana dispensary in violation of this Section.
5. Distribute medical marijuana without a permit issued pursuant to this Section.
6. Operate any type of marijuana delivery-by-vehicle service, or for a medical marijuana dispensary to provide marijuana to a patient at any location other than on the Premises of the medical marijuana dispensary.
7. Permit any other person to violate any provision of this Section or any condition of an approval granted pursuant to this Section or any law, rule or regulation applicable to the use of medical marijuana or the operation of the medical marijuana dispensary.
8. Initiate or renew any lease of one's property to a medical marijuana dispensary that has marijuana on the property without a permit from the City issued pursuant to this Section.

P. Suspension or Revocation of Permit.

1. A permit issued pursuant to this Section may be suspended or revoked by the Planning Manager at any time upon finding the permit was obtained by misrepresentation or fraud, or upon any violation of this Section. The Planning Manager shall provide Notice to the owner listed on the application by certified mail.
2. The Permittee or owner may, within 15 days after notice thereof is received, file an appeal with the City Clerk from any revocation decision of the Planning Manager. Any such appeal shall be in writing and shall specify the name and address of the Permittee or owner, the matter being appealed, and a statement of the grounds of appeal.
3. The City Clerk shall notify the Planning Manager of the appeal, who shall thereupon transmit to the City Clerk a copy of the factual data in the file of the Planning Manager. Upon receipt of the factual data, the matter shall be scheduled for a hearing before a hearing officer.

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4. Whenever a hearing is required by this Section, notice of the hearing is to be given to the appellant not less than five (5) days before such hearing either by registered or certified mail, postage prepaid, return receipt requested, addressed to the appellant or other interested person at the address stated in the notice of appeal or as filed with or known to the City Clerk.

5. At the time of the hearing, the hearing officer shall hear and consider any relevant and material evidence and reports. In such hearing, the appellant shall be given an opportunity to appear either personally or by counsel and to be heard and to call witnesses on his behalf. The hearing officer may place any witness, including the appellant, under oath. The hearing may be continued from time to time as determined necessary by the hearing officer or upon the request of the appellant upon good cause being shown therefor, in the sound discretion of the hearing officer.

6. At the close of the hearing or at any time within thirty (30) days thereafter, the hearing officer shall determine from the facts produced at the hearing and from any other facts in its possession and presented at such hearing, whether to grant or deny the appeal. The hearing officer may make his or her order conditional upon the appellant doing or not doing any act, either personally or through his servants or agents, which the hearing officer deems for the public good.

7. Unless the hearing officer announces his or her decision at the close of the hearing, he or she shall, within thirty (30) days thereafter, cause notice of its decision to be given. Such notice may be given by depositing such notice in the United States Mail in a sealed envelope, first class registered or certified mail, postage prepaid, return receipt requested, addressed to the appellant at said address or to such other address of the appellant as may be filed with or known to the City Clerk. Service by mail shall be deemed to have been completed at the time of the deposit in a facility of the United States Post Office Department in the City.

Q. Violation of this Section.

1. Any person violating any provision of this Section or knowingly or intentionally misrepresenting any material fact in procuring a permit pursuant to this Section shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.

2. It shall be unlawful for any person or entity to own, manage, conduct, or operate any medical marijuana dispensary or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary in the City of Carson if that dispensary does not have a valid license issued by the Finance Department.

3. Any violation of any provision of this Code is declared a nuisance per se, and may be abated by means of a restraining order, injunction or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City shall be entitled to the costs of investigation and attorney fees for prosecuting the provisions of this Section. The City may seek injunctive relief to enjoin violations of, or to compel compliance with, the provisions of this Code or seek any other relief or remedy available at law or equity.

4. Violations of this Code are deemed continuing violations and each day that a violation continues is deemed to be a new and separate offense and subject to a maximum civil penalty of \$1,000 for each and every offense.

5. Any violation of the terms and conditions of the medical marijuana dispensary permit, of this Section, or of applicable local or state regulations and laws shall be grounds for permit suspension or revocation.

R. Statewide Regulation.

This ordinance, and the provisions herein, shall be read consistent with any statewide regulation of medical marijuana in the event such regulation is promulgated by the state legislature or by voter approval. In the event statewide regulation is passed pursuant to the decriminalization or legalization, for recreational use, of marijuana, this ordinance shall govern the conduct of those business allowed to distribute marijuana under such provisions.

Section 4. This ordinance shall take effect upon the effective date of a tax on medical marijuana dispensaries duly approved by the voters of the City of Carson.

Section 5. This project is exempt from the requirements of the California Environmental Quality Act ("CEQA") because the ordinance is not a "project" as that term is defined in CEQA Guidelines Section 15378 and because there is no possibility that the ordinance may have a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3).

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this section, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this section, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 7. The City Clerk shall cause this ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance.

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PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this _____ day of _____, 2014.

Mayor Jim Dear

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney