STAFF REPORT

TO: PARLIER CITY COUNCIL

FROM: Sam Escobar, City Manager

DATE: November 15, 2017

SUBJECT: Second Reading – Ordinance 2017- Relating to Marijuana and Cannabis by: (1) Adding Commercial Cannabis Operations and Indoor Cultivation to the Definition of Permitted Uses in the M-1 Zone District, Sections 18.28.010 and 18.28.020, Subject to Specified Limitations; (2) Repealing the City's Existing Regulations Relating to Marijuana Set Forth in Sections 18.04.347 and 18.32.420; and (3) Adding Chapter 18.55 (Section 18.55.010, *et seq.*) Setting Forth the Regulatory Framework for Commercial Cannabis Operations and Personal Use Cultivation (Medical and Recreational/Adult Use)

Background:

During August 2017, the City Council held two workshops to solicit public input regarding whether to permit and regulate a commercial medical marijuana cultivation operation in the City of Parlier. One business that is interested in investing in such an operation in the City (Genezen, LLC) made presentations at the workshops regarding its proposal to purchase two former redevelopment, Successor Agency properties in the City, on which to build indoor, mixed-light cannabis cultivation operations, and to manufacture and distribute medical cannabis only from those facilities to dispensaries permitted in other jurisdictions. Genezen represented that to make the investment worthwhile, it would need to purchase those properties and to be permitted by the City to develop the parcels and to operate the facilities no later than December 31, 2017.

Following the public input, Council directed the City Manager to work with the City Attorney, the City Planner and the City Engineer to prepare any and all documents necessary to: (1) amend the City of Parlier Municipal Code to allow the permitting of such an operation; (2) establish a permitting and regulatory process that addresses the Council's concerns regarding the security and public health and safety of such operations; (3) secure the necessary approvals for the sale and disposition of the Successor Agency properties; (4) ensure that the City is properly compensated for the permitting and regulatory oversight of such operations; and (5) develop and submit to the voters at the next general election a general sales and use tax on medical cannabis cultivation operations in the City.

On November 8, 2017, the Council convened a special meeting to introduce the draft cannabis ordinance, conduct the first reading, take public testimony, and consider changes based on the record. Two issues in particular required the Council's determination: First, whether to include daycare centers and youth centers in the 1000-foot buffer zones that are currently proposed to protect schools in section 18.55.070, subdivision (C)(12) of the ordinance; and second, to establish the structure and amount of the Revenue Raising Fee set forth in section 18.55.070, subdivision (P)(3)(b) of the proposed ordinance. To that end, the Council decided to include daycare centers and youth centers in section 18.55.070, subdivision (C)(12), and established the following Revenue Raising Fee:

Section 18.55.070, subdivision (P)(3)(b): *Amount of Fee and Terms of Payment.* The Revenue Raising Fee shall be as follows:

i. An annual fee of ten dollars ($10.00) per square foot for the first 5,000 square feet, which shall be the minimum annual fee for all Commercial Cannabis Operations; seven dollars ($7.00) per square foot for the next 5,001 to 20,000 square feet; five dollars ($5.00) per square foot for the next 20,001 to 40,000 square feet; and two dollars ($2.00) per square foot for all remaining space utilized in connection with each Commercial Cannabis Operation. The square footage calculation shall be determined by including all portions of the Premises under the control of the Business Owner and deducting therefrom driveways, sidewalks, landscaping, vacant unused space, areas used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the Commercial Cannabis Operation (such as a janitorial closet). The total under-canopy square footage shall be included in the square footage calculation.

ii. In the alternative to subdivision (b)(i) above, the Revenue Raising Fee shall equal three percent (3%) of gross receipts of the Commercial Cannabis Operation, if that amount is greater than the fee calculated using the formula set forth in subdivision (b)(i).

In addition, to accomplish all tasks necessary to complete the Commercial Cannabis Operations regulatory structure by December 31, 2017, the schedule that was proposed is modified as follows:

Medical Cannabis Permitting, Regulatory and Taxing Schedule	
Task	**Projected Completion Date**
Draft Permitting and Regulatory Ordinance (First Reading)	Nov. 8, 2017
Successor Agency Meeting to Consider Terms of Parcel Sales	Nov. 8, 2017
Draft Permitting and Regulatory Ordinance (Second Reading and Adoption)	Nov. 15, 2017
Publication of Adopted Ordinance	Nov. 30, 2017
Disposition and Development Agreement Approval	Dec. 7, 2017
Successor Agency Meeting to Approve Parcel Sales	Dec. 7, 2017
Resolution Setting Regulatory License Fee	Dec. 7. 2017
Oversight Board Approval of Proposed Parcel Sales	Dec. 8, 2017
Public Notice – Public Hearing on Regulatory Permit (Genezen)	Dec. 8, 2017
Escrow Opens on Parcel Sales (Successor Agency)	Dec. 11, 2017
Ordinance Becomes Effective	Dec. 15, 2017
Regulatory Permit Available for Issuance	Dec. 15, 2017
Public Hearing – Regulatory Permit (Genezen)	Dec. 21, 2017

Closing on Parcel Sales (Successor Agency)	Dec. 29, 2017
Council Approves Cannabis Tax Measure (No Later Than)	Aug. 2, 2018
Cannabis Tax Measure Submitted for Publication (No Later Than)	Aug. 10, 2018
General Election Cannabis Tax Measure	Nov. 6, 2018

Second Reading:

In light of the lack of opposition to the proposed ordinance on first reading, Council may waive the second reading regarding amending the Municipal Code to: (1) add commercial cannabis operations and indoor cultivation to the definition of permitted uses in the M-1 zone district, sections 18.28.010 and 18.28.020, subject to specified limitations; (2) repeal the city's existing regulations relating to marijuana set forth in sections 18.04.347 and 18.32.420; and (3) add chapter 18.55 (section 18.55.010, *et seq.*) setting forth the regulatory framework for commercial cannabis operations and personal use cultivation (medical and recreational/adult use).

Subject/Discussion:

The Municipal Code currently prohibits all marijuana operations in the City. Since passage of that prohibition, California voters passed Proposition 64 allowing for the adult, recreational use of marijuana in a personal residence and clarifying the law regarding the cultivation and use of medical cannabis. Following the passage of Proposition 64 on November 8, 2016, the State legislature has passed two additional bills (SB 94 and AB 133) reconciling and clarifying Proposition 64 and the State licensing regulations related to commercial cannabis operations. The State intends to begin issuing licenses for commercial cannabis operations beginning January 2, 2018.

In light of these legal and regulatory changes, it is important for the City of Parlier to consider and to update its current ordinance, at least with respect to the personal, adult use of marijuana. In addition, following the public workshops on the topic of whether to permit and regulate a medical cannabis cultivation project in the City, the City would need to amend the Municipal Code to allow such an operation within its jurisdiction. As such, the City Attorney in consultation with the City Manager, the City Planner and the City Engineer has drafted and prepared a proposed ordinance to amend the Municipal Code for these purposes.

The draft ordinance provides that personal-use and commercial-medical cultivation are allowed, provided they occur entirely within a secure, locked, and fully enclosed structure, including a top. The intent of this provision is to avoid public knowledge of marijuana operations. These protections are important to ensure that any problems associated with cultivation, including offensive odors, trespassing, theft, or violent encounters between growers and persons attempting to steal plants, do not occur in the City.

The proposed ordinance requires that personal-use cultivation must occur entirely within a private residence, an attached garage, or in an accessory building if the property is detached, single-family residential. For garages and accessory buildings, the structure must be secure,

locked, with a ceiling roof or top, be entirely opaque, and have a monitored security system, including the following:

- Lighting shall not exceed a total of 1200 watts.
- The use of gas products (CO2, butane, etc.) for medical marijuana cultivation or processing is prohibited.
- The cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the residence, or property line for detached, single-family residential, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence and cultivating the marijuana.
- Any chemicals used for cultivation shall be stored outside of the habitable areas of the residence and outside of public view from neighboring properties and public rights of way.
- From a public right of way or an adjacent property, there shall be no exterior evidence of medical marijuana cultivation occurring on the site.

In addition, for residential cultivation, each qualified patient or person with a medical marijuana identification card shall post a copy of the physician recommendation or identification card in a conspicuous place in the cultivation area. For rental properties, regardless of personal- or medical-use cultivation, a copy of the owner's written authorization to cultivate cannabis shall be posted in the same manner.

Regarding commercial, medical cannabis cultivation, the following requirements will be imposed:

- The operation will be required to secure a Regulatory Permit that allows ongoing monitoring of the business and financial operations to protect the public health, safety and welfare, and to ensure that the proper permitting fees are paid.
- Each employee and independent contractor involved in the cultivation, distribution and transportation of the commercial cannabis will have to apply for and be issued an Employee Permit allowing for an extensive criminal background check prior to working in the Commercial Cannabis Operation.
- The operation will not post signage on the exterior of the premises that suggests Commercial Cannabis Operations are occurring in the premises.
- No cannabis or alcoholic beverages will be allowed to be consumed on the premises.
- The retail sales of cannabis on the premises are expressly prohibited and there shall be no public access to the property.
- Special air filtration systems will be required to control odors emanating from the business operations.
- Both the building construction and a state-of-the-art security system will be required to

ensure security of the premises.

Recommendation:

That the City Council waive the second reading of Ordinance No. 2017-03 and approve it.

Fiscal Impact:

Costs associated with drafting and finalizing (1) the text for land-use changes to accommodate the commercial cultivation/manufacturing of medical marijuana, (2) the parcel Disposition and Development Agreement, (3) reviewing and issuing the regulatory permit, and (4) developing and submitting the general-revenue sales and use tax proposal to the voters will be reimbursed by the applicant. There is no significant adverse impact on the City in going forward with finalizing the text for land use changes and the other activities described.

Alternatives:

None at this time.

Attachments:

Ordinance No. 2017-03

[00539244]

ORDINANCE NO. 2017-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARLIER RELATING TO MARIJUANA AND CANNABIS BY: (1) ADDING COMMERCIAL CANNABIS OPERATIONS AND INDOOR CULTIVATION TO THE DEFINITION OF PERMITTED USES IN THE M-1 ZONE DISTRICT, SECTIONS 18.28.010 AND 18.28.020, SUBJECT TO SPECIFIED LIMITATIONS; (2) REPEALING THE CITY'S EXISTING REGULATIONS RELATING TO MARIJUANA SET FORTH IN SECTIONS 18.04.347 AND 18.32.420; AND (3) ADDING CHAPTER 18.55 (SECTION 18.55.010, ET SEQ.) SETTING FORTH THE REGULATORY FRAMEWORK FOR COMMERCIAL CANNABIS OPERATIONS AND PERSONAL USE CULTIVATION (MEDICAL AND RECREATIONAL/ADULT USE)

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

SECTION 1. FINDINGS.

1. State Law Findings.

a. In 1996, with the adoption of Proposition 215, the California voters approved the "Compassionate Use Act" (Health and Safety Code Section 11362.5) to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances.

b. In 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act and provide additional statutory guidance regarding medical marijuana use. These statutes are codified at Health and Safety Code § 11362.7, *et seq*., and allow cities and counties to adopt supplemental rules and regulations.

c. On October 9, 2015, almost 20 years after passage of the Compassionate Use Act, the Governor signed the "Medical Marijuana Regulation and Safety Act" ("MMRSA"), comprised of California legislative bills AB 243, AB 266, and SB 643. MMRSA created a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis, all subject to local control. One of the purposes of MMRSA was to ensure uniformity among jurisdictions that wished to allow commercial marijuana operations.

d. On June 27, 2016, the Governor signed SB 837, effective immediately, changing the terms in MMRSA from "medical marijuana" or "marijuana" to "medical cannabis" or "cannabis," and making other technical changes (now called "MCRSA"). SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis.

e. On November 8, 2016, the California voters approved the "Adult Use of Marijuana Act" ("AUMA"). The purpose of AUMA is to establish a comprehensive system to

legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of non-medical marijuana, including marijuana products. Adults, age 21 and older, are allowed to possess marijuana and grow certain amounts at home for personal use.

f. On June 27, 2017, the Governor signed SB 94, effective immediately, to consolidate and reconcile MCRSA and AUMA into a single regulatory system. SB 94 repealed MCRSA and created the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA").

g. On September 16, 2017, the Governor signed AB 133, effective immediately, making changes to MAUCRSA.

h. State regulatory agencies are currently working on emergency and permanent regulations to implement MAUCRSA so that the State licenses may be issued beginning January 1, 2018.

2. City of Parlier Marijuana Regulatory History.

a. In 2009, the City of Parlier adopted an express ban on medical marijuana dispensaries, as reflected in Sections 18.04.347 and 18.32.420 of the Municipal Code. The City also prohibited marijuana cultivation except as allowed through State-authorized collectives and cooperatives.

b. At the time the City adopted the dispensary ban and cultivation limitation, the issue of other commercial marijuana operations, such as manufacturing, testing and distribution, were not considered an area of concern in need of regulation. Now, with the adoption of MCRSA, AUMA, and MAUCRSA, these other commercial marijuana operations are imminent.

c. Since adoption of MCRSA and AUMA, there have been numerous inquiries from individuals and entities, both from within and outside the City of Parlier, about what is permissible in the City of Parlier. Clear guidance is required in the City's Municipal Code so there is no ambiguity.

d. The City of Parlier has identified a number of health, safety, and welfare concerns associated with marijuana activities, which have been exemplified throughout Fresno County, the region, and the State as evidenced by numerous area agency police reports and news articles and stories. The numerous health, safety, and welfare concerns associated with unregulated marijuana operations include, among others, home drug labs, offensive odors, trespassing, theft, violent encounters between growers and persons attempting to steal plants, fire hazards, problems associated with mold, fungus, and pests, and environmental contamination.

e. Under MCRSA, AUMA, and now MAUCRSA, the City retains its police powers and land-use authority to regulate or ban marijuana activities, including commercial cannabis operations, cultivation, distribution and consumption for the health, safety, and welfare of the citizens of the City of Parlier.

f. To the extent the City is required to allow the personal-use cultivation of medical and adult use marijuana, and to the extent the City desires to allow limited commercial cannabis operations, the City finds that, in the absence of a formal regulatory framework, the adverse impacts frequently associated with these activities will occur, resulting in an unregulated and potentially significant negative impact upon the environment and upon the public health, safety, and welfare of the community.

3. Existing Zoning Findings.

A review of the existing zoning ordinance revealed that the list of permitted uses in the M-1 zone also needs to be clarified to include indoor cultivation of crops other than cannabis and to reorganize the list alphabetically for ease and convenience of use and understanding. This ordinance will accomplish those ministerial changes as well.

SECTION 2. AMENDMENTS TO ZONING.

Sections 18.28.010 and 18.28.020, of Chapter 28 (M-1 District—Manufacturing), of Title 18 (Zoning), are hereby amended to read as follows:

18.28.010 - Intent.

The M-1 manufacturing district has been created for uses which include manufacturing, fabrication, assembly, processing of material, and ***specified, limited commercial agricultural operations***.

18.28.020 - Uses permitted—Generally.

The following uses shall be permitted, provided that no uses shall be carried on in a manner that is, in the opinion of the Planning Commission, objectionable from the standpoint of odor, dust, smoke, gas, noise or vibration. All uses shall be subject to the property development standards in Sections 18.28.060 through 18.28.190:

Animal hospital and shelter;

Automotive painting;

Automotive reconditioning;

Bulk oil storage and supply;

Butane gas storage;

Carpenter or cabinet shop;

Carpet and rug cleaning plant;

City, county or state maintenance and equipment yards;

Cleaning and dyeing plant;

Commercial cannabis operations subject to the provisions of Chapter 18.55.

Concrete, sand and gravel storage and mixing;

Electric motor;

Farm equipment sales repair and storage;

Feed and fuel yard;

Freight yard;

Grain storage and shipping;

Heavy farm equipment sales and repair;

Ice and cold storage plant;

Ice manufacturing;

Indoor cultivation of crops other than cannabis;

Lumber yard, outside storage and warehouses;

Machinery shop (no punch press over twenty ton or drop hammer);

Machinery rental;

Packing of fruit and vegetables;

Packing sheds;

Petroleum bulk plant;

Printing, lithographing, publishing;

Public utility buildings and uses;

Repair garage;

Retail lumber yard including warehousing;

Service station;

Sheet metal shop;

Storage yards and building materials;

Storage yards for contractors;

Tire retreading, recapping, rebuilding;

Truck terminal and repair;

Upholstering;

Welding and machine works;

Wholesaling and warehousing.

SECTION 3. REPEAL OF EXISTING MEDICAL MARIJUANA DISPENSARY DEFINITION.

Section 18.04.347, of Chapter 18.04 (Definitions), of Title 18 (Zoning) pertaining to medical marijuana dispensary is hereby repealed.

SECTION 4. REPEAL OF EXISTING MARIJUANA REGULATIONS.

Section 18.32.420, of Chapter 18.32 (General Conditions), of Title 18 (Zoning) pertaining to prohibited marijuana uses is hereby repealed.

SECTION 5. ADDITION OF CANNABIS CHAPTER.

Chapter 18.55, and Sections 18.55.010, *et seq*., are hereby added to Title 18 (Zoning), to read as follows:

Chapter 18.55 – CANNABIS CONTROL ORDINANCE

18.55.010 - Findings and purpose.

It is the purpose and intent of this chapter to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating the cultivation, processing, extraction, manufacturing, testing, distribution, transportation, sale, and consumption of marijuana, whether for medical purposes or recreational or adult use as currently allowed under State law.

18.55.020 - Definitions.

For purposes of this chapter, these words and phrases shall be defined as follows:

"Act" means the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), including implementing regulations, as the Act and implementing regulations may be amended from time to time. Definitions in this section referencing provisions of the Act shall also include amendments to the Act.

"Applicant" means a person who is required to file an application for a permit under this chapter.

"Business Owner" means the owner(s) of the Cannabis Operations. "Owner" means any of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
(2) The chief executive officer of a nonprofit or other entity.
(3) A member of the board of directors of a nonprofit.
(4) An individual who will be participating in the direction, control, or management of the entity or person applying for a license.

"Cannabis" or "marijuana" shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (f). "Cannabis" and "marijuana" may be used interchangeably, but shall have the same meaning.

"Cannabis dispensary" or "dispensary" means any facility or location, whether fixed or mobile, and any building or structure, where cannabis is made available to, distributed by, or distributed to more than two persons for sale or barter.

"Cannabis products" 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.

"City" means the City of Parlier.

"Collective or cooperative cultivation" means an association within California of qualified patients, persons with valid identification cards, and designated primary care givers to cultivate marijuana for medical purposes as may have been allowed under the Compassionate Use Act, the "Medical Marijuana Program Act," or the California "Medical Cannabis Regulation and Safety Act" adopted on October 9, 2015 with legislative bills AB 243, AB 266, and SB 643.

"Commercial Cannabis Operation" means any commercial cannabis activity, and all facilities and equipment that support that activity, as set forth in California Business and Professions Code section 26001, subdivision (k) and allowed under the Act, and as the Act and implementing regulations may be amended from time to time.

"Commercial Cannabis Regulatory Permit" or "Regulatory Permit" means the permit required under this chapter to operate a Commercial Cannabis Operation.

"Cultivate" or "cultivation" shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (l) and shall also include the storage of one or more marijuana plants or any part thereof in any location.

"Delivery" shall have the meaning set forth in California Business and Professions Code section 26001, subdivision (p) and shall also include any technological platform that enables persons to arrange or facilitate the transfer of cannabis.

"Employee Permit" means the permit required under this chapter for every employee or independent contractor working at a Commercial Cannabis Operation or involved in transportation/Delivery related services for a Commercial Cannabis Operation, other than solely as a vender or a certificated common carrier.

"Medical marijuana" or "medical marijuana use" means the use of cannabis for the purposes set forth in California Health and Safety Code sections 11362.5 and 11362.7, *et seq.*

"Operator" means the Business Owner and any other person designated by the Business Owner as responsible for the day-to-day Cannabis Operations.

"Ordinance" means the ordinance enacting this chapter, and including the terms of this section, which may be commonly referred to as the City's "Cannabis Control Ordinance."

"Police Chief" means the Police Chief of the City of Parlier or his or her designee.

"Premises" or "Site" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the Applicant or permittee where the Commercial Cannabis Operation will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

"Premises Owner" means the fee owner(s) of the Premises where Cannabis Operations are occurring.

"Primary caregiver" shall have the same definition as set forth in California Health and Safety Code sections 11362.5 and 11362.7, *et seq.*

"Property owner" is the title holder of real property within the City of Parlier.

"Qualified patient" shall have the same definition as set forth in California Health and Safety Code sections 11362.5 and 11362.7, *et seq.*

"Recreational marijuana," "recreational marijuana use," or "adult use marijuana" means all uses of cannabis not included within the definition of medical marijuana use.

"Responsible Party" shall mean the Business Owner, Operator, manager(s), and any employee having significant control over the Commercial Cannabis Operations.

18.55.030 - Regulations applicable to the cultivation of medical marijuana.

To the extent that the City is required to allow the cultivation of medical marijuana under State law and, except as provided for in this Ordinance, the rules set forth herein shall apply.

A. *Personal-use cultivation.* An individual qualified patient or person with an identification card shall be allowed to cultivate medical marijuana within his/her private residence, or an attached garage. For owner-occupied residences, cultivation shall be allowed in an accessory building on the same property. A primary caregiver shall only cultivate medical marijuana at the residence of a qualified patient or person with an identification card for whom he/she is the primary caregiver. Medical marijuana cultivation for personal use shall be subject to the following requirements:

1. *Area.* The medical marijuana cultivation area shall not exceed thirty-two (32) square feet measured by the canopy and not exceed ten feet (10') in height per residence. This limit applies regardless of the number of qualified patients or persons with an identification card residing in the residence. The cultivation area shall be a single, contiguous designated area.

2. *Lighting.* Medical marijuana cultivation lighting shall not exceed a total of 1200 watts.

3. *Building Code Requirements.* Any alterations or additions to the residence, including garages and accessory buildings, shall be subject to applicable building and fire codes, including plumbing and electrical, and all applicable zoning codes, including lot coverage, set back, height requirements, and parking requirements.

4. *Gas products.* The use of gas products (carbon dioxide, butane, etc.) for medical marijuana cultivation or processing is prohibited.

5. *Evidence of cultivation.* No evidence of medical marijuana cultivation shall be visible from a public right-of-way or from adjacent property.

6. *Residence.* The qualified patient or person with an identification card shall reside in the residence where the medical marijuana cultivation occurs.

7. *Cultivation elsewhere in City.* The qualified patient or person with an identification card shall not participate in marijuana cultivation in any other location within the City of Parlier.

8. *Incidental use.* The residence shall maintain kitchen, bathrooms, and at least one bedroom for their intended uses. Such rooms shall not be used primarily for marijuana cultivation.

9. *Ventilation.* The medical marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from the cultivation are not detectable beyond the residence, or beyond the property line for detached single-family residences, and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the

residence. This shall include, at a minimum, a system meeting the requirements of the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation, or § 402.3 Mechanical Ventilation, or its equivalent(s).

10. *Storage of chemicals*. Any chemicals used for medical marijuana cultivation shall be stored outside of the habitable areas of the residence and outside of public view from neighboring properties and public rights-of-way.

11. *Nuisance*. The medical marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, nor shall it be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.

12. *Property owner authorization*. For rental properties, the lessee shall obtain written authorization from the property owner or property-management company to cultivate personal-use or medical marijuana. Such written authorization shall be maintained on the premises at all times and presented at the request of the City.

13. *Additional requirements for garages and accessory buildings*. The following additional requirements shall apply for personal-use cultivation that occurs in a garage or accessory building: (a) The garage or accessory building shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque; (b) the garage or building shall include a burglar alarm monitored by an alarm company or private security company; and (c) the garage or building, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door.

14. *Posting of physician recommendation or identification card; posting of owner permission*. A copy of a qualified patient physician recommendation or identification card shall be posted in a conspicuous place in the cultivation area for each patient residing in the residence who is cultivating medical marijuana. For rental properties, a copy of the owner's written authorization to cultivate medical marijuana shall be posted in the same manner.

B. *Collective or cooperative cultivation*. The collective or cooperative cultivation of medical marijuana is prohibited in the City of Parlier.

18.55.040 - Regulations applicable to the cultivation of recreational or adult use marijuana.

To the extent that the City is required to allow the cultivation of recreational or adult use marijuana under State law, and except as provided for in Section 18.55.070, the rules set forth herein shall apply.

1. *State law limits*. The cultivation of recreational or adult use marijuana shall be subject to the limits set forth in any applicable State law. At the time of adoption of this chapter, applicable State law limits the cultivation of recreational or adult use marijuana to six (6) plants per residence.

2. *Compliance with medical marijuana personal-use cultivation rules*. All persons lawfully allowed to cultivate recreational or adult use marijuana under State law shall be subject to the same rules, requirements, and limitations applicable to the personal-use cultivation of medical marijuana set forth in Section 18.55.030.

18.55.050 - Regulations applicable to Commercial Cannabis Operations, Dispensaries, and Deliveries.

A. *Commercial Cannabis Operations*. Except as provided for in Sections 18.55.060 and 18.55.070, Commercial Cannabis Operations as defined in section 18.55.020 are prohibited within the City of Parlier.

B. *Dispensaries*. Cannabis Dispensaries as defined in Section 18.55.020 are prohibited within the City of Parlier.

C. *Deliveries*. The Delivery of cannabis as defined in Section 18.55.020, except as among permitted Commercial Cannabis Operations, is prohibited within the City of Parlier, regardless of whether the Delivery is initiated within or outside of the City of Parlier, and regardless of whether a technology platform is used for Delivery by the Commercial Cannabis Operation.

18.55.060 – Exceptions to Dispensary ban for certain healthcare facilities.

The following facilities providing medical marijuana to patients are not subject to the provisions of Section 18.55.050, provided they are in strict compliance with Health and Safety Code sections 11362.5 and 11362.7, *et seq*., and all other State and local laws pertaining the uses, including zoning, permitting, and licensing requirements:

- A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code.
- A healthcare facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.
- A residential-care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the Health and Safety Code.
- A residential-care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the Health and Safety Code.
- A residential hospice, or a home-health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the Health and Safety Code.

18.55.070. – Limited Commercial Cannabis Operations pursuant to Regulatory Permit.

Notwithstanding the prohibition on Commercial Cannabis Operations set forth in Section 18.55.050, and the limitations upon the cultivation of cannabis set forth in Sections 18.55.030 and 18.55.040, Commercial Cannabis Operations may be allowed as set forth in this Section.

A. *Purpose.* The purpose of this Section is to allow limited commercial cannabis operations in the City of Parlier as may be permitted under the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA" or "Act") and to adopt local regulations applicable to those operations.

B. *Permitted Uses.* Business Owners meeting the requirements of this section shall be eligible to apply for a Regulatory Permit to conduct the following Commercial Cannabis Operations, as may be approved by the City Council at its discretion:

- Cultivation.
- Processing.
- Extraction.
- Manufacturing.
- Testing.
- Distribution.
- Transportation.

(1) The Regulatory Permit issued pursuant to this Section shall specify whether the Commercial Cannabis Operation shall be limited to Medical Cannabis.

(2) The Regulatory Permit issued pursuant to this Section shall specify the precise Commercial Cannabis Operation, by clear description and, when appropriate, shall reference the license type specified in the Act for which a State license is being sought.

(3) The Commercial Cannabis Operation shall at all times be in compliance with this Section as it may be amended from time to time or repealed and replaced by another section governing Commercial Cannabis Operations.

(4) Dispensaries are expressly prohibited as set forth in Section 18.55.50.

(5) The City Council retains the discretion to deny a Regulatory Permit or limit a Regulatory Permit to specified Commercial Cannabis Operations.

C. *Minimum Operational Requirements and Restrictions.* The following operational requirements and restrictions shall apply to all Commercial Cannabis Operations:

(1) *The Act and Other State Laws.* The Commercial Cannabis Operations shall at all times be in compliance with the Act and the implementing regulations, as they may be amended from time to time, as well as all State license(s) required under the Act, and any other applicable State law. The Operator shall obtain all licenses required under the Act prior to opening for business.

(2) *Register of Employees*. The Operator shall maintain a current register of the names of persons required to have Employee Permits. The register shall be made available to the Police Chief at all times immediately upon request.

(3) *Signage*. There shall be no signage or markings on the Premises or off-site that in any way evidences that Commercial Cannabis Operations are occurring on the property. Interior building signage is permissible provided the signage is not visible outside of the building.

(4) *Cannabis Consumption*. No cannabis or cannabis product shall be smoked, ingested or otherwise consumed on the Premises. Prominent signage of this prohibition shall be displayed throughout the facility.

(5) *Alcoholic Beverages*. No Commercial Cannabis Operation shall hold or maintain a retail license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol for personal consumption shall not be provided, stored, kept, located, sold, dispensed, or used on the Premises.

(6) *Transportation*. Transportation shall only be conducted as permitted by State law.

(7) *Deliveries*. There shall be no deliveries of cannabis or cannabis-containing products from the Premises, except to another State or local licensed or permitted cannabis business.

(8) *Non-Commercial Cannabis Activity*. No non-commercial or Recreational Marijuana activity shall occur on the Premises.

(9) R*etail Sales*. The retail sale of cannabis is expressly prohibited.

(10) *Public Access*. There shall be no public access to the Premises.

(11) *Minors*. It shall be unlawful for any Operator to employ any person who is not at least twenty-one (21) years of age.

(12) *Distance Separation from Schools, Daycare Centers and Youth Centers*. A Commercial Cannabis Operation shall not be located within 1000 feet from any existing school, daycare center or youth center as defined by State law, nor from a proposed school site as identified in the General Plan. Measurements shall be from property boundary to property boundary. For purposes of this section, "school" means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

(13) *Hours of Operation*. Commercial Cannabis Operations shall be allowed to operate per the requirements of the underlying zone district and subject to the City's noise and nuisance ordinances.

(14) *Building and Related Codes*. The Cannabis Operation shall be subject to the following requirements:

a. The Premises in which the Commercial Cannabis Operations occur shall comply with all applicable local, State, and federal laws, rules, and regulations including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the Building Official of the City. The Operator shall obtain all required building permits and comply with all applicable City standards.

b. The Responsible Party shall ensure that the Premises has sufficient electrical load for the Commercial Cannabis Operations.

c. To the extent permitted by the Act, butane and other flammable materials are permitted to be used for extraction and processing provided the Operator complies with all applicable fire and building codes, and any other laws and regulations relating to the use of those products, to ensure the safety of that operation. The Fresno County Fire Protection District, or other qualified agency retained by the City, shall inspect and approve the Premises for use of the products prior to City's issuance of a certificate of occupancy, or otherwise prior to opening for business, to ensure compliance with this requirement. Such inspection shall be at the Business Owner's expense.

e. The Operator shall comply with all laws and regulations pertaining to use of commercial kitchen facilities for the Commercial Cannabis Operations.

f. The Operator shall comply with all environmental laws and regulations pertaining to the Commercial Cannabis Operations, including the storage, use and disposal of water and pesticides, and shall otherwise use best practices to avoid environmental harm.

(15) *Odor control*. Business Owner shall provide an odor-absorbing ventilation and exhaust system, so that odor generated inside the facility that is distinctive to its Commercial Cannabis Operations is not detected outside the Premises, outside the building housing the Commercial Cannabis Operations, or anywhere on adjacent property or public rights-of-way. Accordingly, Business Owner must install and maintain the following equipment or any other equipment which the City's Building Official determines has the same or better effectiveness:

a. An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally; or

b. An air system that creates negative air pressure between the cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.

(16) *Consumable Products*. Commercial Cannabis Operations that manufacture products in the form of food or other comestibles shall obtain and maintain all appropriate approvals from the State and County Departments of Public Health for the provision of food or other comestibles, unless otherwise governed by the Act and licensed by the State.

(17) *Secure Building*. All Commercial Cannabis Operations shall occur entirely inside of a building that shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. Notwithstanding the foregoing, the roof may be of solid non-opaque material, provided other security measures exist to ensure that the Commercial Cannabis Operation cannot be seen, heard or smelled beyond the property line. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures (including, without limitation, commercial greenhouse structures). The precise building construction parameters and materials to be used shall be identified and provided with the application to the City prior to construction.

(18) *Premises Security*. The following security conditions shall apply:

a. Alarm System (including perimeter, fire and panic).

b. Remote monitoring of alarm systems.

c. Perimeter lighting systems (motion sensor) for after-hours security.

d. Perimeter security and lighting as approved by the Police Chief.

e. Use of drive gates with card key access or similar to access the facility.

f. Entrance areas to be locked at all times, and under the control of a designated Responsible Party.

g. Use of access-control systems to limit access to grow and processing areas.

h. Exterior and interior camera systems approved by the Police Chief. The camera systems shall meet the minimum requirements of the Act, include interior monitoring of all access points to the site from the interior, and be of a minimum five (5) mega-pixel resolution.

i. All security systems at the site are attached to an uninterruptable power supply providing 24-hour power.

j. 24-hour security patrols by a recognized security company licensed by the California Department of Consumer Affairs or otherwise acceptable to the Police Chief. All current contact information regarding the security company shall be provided to the Police Chief.

k. Parlier Police Department or Department designee shall have access to all security systems.

l. Internet Protocol ("IP") access for remote monitoring of security cameras by the Parlier Police Department or a department designee upon request.

m. Any and all video or audio tape recordings made for security purposes shall be marked with the date and time made and shall be kept, in an unaltered state, for a period of at least thirty (30) days and must be made available to the Parlier Police Department or Department designee for duplication upon demand. In addition, upon request by the Parlier Police Department, the Responsible Party shall duplicate the records for the Parlier Police Department or the department designee.

n. Hardened bullet-resistant windows for exterior windows as part of any new or existing construction.

o. Accounting software systems need to be in place to provide audit trails of both product and cash, where applicable.

p. Electronic track-and-trace systems for cannabis products as required by the Act and State regulations.

q. The City may inspect the Premises and audit the records of the Commercial Cannabis Operations for compliance on a quarterly basis.

r. Security protocols and equipment need to be in place to protect computer information.

s. The foregoing Premises Security requirements shall be approved by the Police Chief prior to commencing operations. The Police Chief may supplement these security requirements once operations begin, subject to review by the City Council if requested by the Business Owner.

(19) *Deliveries of Supplies and Transportation of Product.* The following rules apply to the Deliveries and transportation:

a. Deliveries of supplies to the Premises shall only occur as provided for in diagram and floor plans on file with the City as part of the application process. Delivery vehicles shall not have any markings indicating that deliveries are being made to a Cannabis Operation.

b. The transportation of cannabis samples and/or products to and from the Premises shall be in unmarked vehicles with no indication that the vehicles are transporting cannabis samples and/or products. The Responsible Party shall stagger

transportation times, vary routes from the facility, and take other security measures as requested by the Police Chief.

(20) *Premises Maintenance.* The Business Owner, Operator, and all Responsible Parties shall continually maintain the Premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety, and general welfare of employees, patrons, surrounding properties, and the general public. The Premises or Commercial Cannabis Operation shall not be maintained in a manner that causes a public or private nuisance.

(21) *Location of Uses.* The Commercial Cannabis Operation permitted by this section shall only be allowed in the locations designated on the diagram and floor plans of the Premises submitted with the application for a Regulatory Permit. The Commercial Cannabis Operation shall not operate at any location other than as stated in the Regulatory Permit.

D. *Commercial Cannabis Operation Regulatory Permit.* No person or entity shall operate a Commercial Cannabis Operation within the City of Parlier without first obtaining a Commercial Cannabis Regulatory Permit from the City. The Regulatory Permit shall be site-specific and shall specifically identify the commercial cannabis activity that will be allowed at that site. No commercial cannabis activity will be allowed unless specifically identified in the Regulatory Permit. The issuance of a Regulatory Permit shall be at the discretion of the City Council.

E. *Applications for Regulatory Permits and Responsible Party Designation.*

(1) *Application.* Applicants for Regulatory Permits shall file their applications with the Police Chief and shall include the information set forth herein. The Police Chief may request such additional information he or she deems necessary to determine who the Applicant is and what activity may be permitted. The Applicant shall certify under penalty of perjury that all of the information contained in the application is true and correct. The application shall contain the following items for the Business Owner, Operator, all Responsible Parties known at the time (if different than the Business Owner), and any other party designated below:

a. The full name, present address, and telephone number.

b. Date of birth.

c. Tax identification number.

d. The address to which notices relating to the application are to be mailed.

e. Previous addresses for the five (5) years immediately preceding the submission of the application.

f. His or her height, weight, and color of eyes and hair.

g. Photographs for identification purposes (photographs shall be taken by the Police Department).

h. All business, occupation, or employment for the five (5) years immediately preceding the submission of the application.

i. The Commercial Cannabis Operation business history, including whether the Business Owner and Responsible Parties, while previously operating in this or another city, county or state, has had a cannabis-related license revoked or suspended, the reason therefore, and the business, activity or occupation subsequent to such suspension or revocation.

j. Complete property ownership and lease details, where applicable. If the Business Owner is not the Premises Owner, the application must be accompanied with a notarized acknowledgment from the Premises Owner that Commercial Cannabis Operations are authorized to occur on the Premises.

k. A descriptive business plan for the Commercial Cannabis Operation, including a detailed list of all Commercial Cannabis Operations proposed to occur on the Premises.

l. A diagram and floor plan of the entire Premises, denoting all the use of areas proposed for Commercial Cannabis Operations, including, but not limited to, cultivation, processing, manufacturing, testing, transportation, deliveries, and storage. The diagram and floor plan need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the Premises to an accuracy of plus or minus six (6) inches.

m. The name or names of the Operator. The Operator shall designate one or more Responsible Parties, one of which shall at all times be available as a point of contact for the City, 24 hours per day. The contact information of the Operator and Responsible Parties shall be provided to the Police Chief and updated within twenty-four (24) hours of any changes.

n. The proposed security arrangements for ensuring the safety of persons and to protect the Premises from theft.

o. An accurate straight-line drawing prepared within thirty (30) days prior to the application depicting the building and the portion thereof to be occupied by the Cannabis Operation and the property line of any school as set forth in the Operational Requirements.

p. Authorization for the City and its agents and employees to seek verification of the information submitted.

(2) *Improper or Incomplete Application.* If the applicant has completed the application improperly, or if the application is incomplete, the Police Chief shall, within thirty (30) days of receipt of the original application, notify the applicant of such fact.

(3) *Changes in Information*. Except as otherwise provided, the information required by this subsection (E) shall be updated with the Police Chief upon any change within ten (10) calendar days.

(4) *Other Permits or Licenses*. The fact that an Applicant possesses other types of State or City permits or licenses does not exempt the Applicant from the requirement of obtaining a Regulatory Permit.

F. *Employee Permits*.

(1) *Permit Required*. Every employee or independent contractor working at a Commercial Cannabis Operation or involved in transportation/Delivery related services for a Commercial Cannabis Operation, except for venders and certificated common carriers, shall obtain an Employee Permit. It shall be the duty of the Operator to ensure that Employee Permits are obtained from the Police Department prior to the employee or independent contractor commencing work. Persons who are listed as a Business Owner on a Regulatory Permit shall not be required to obtain an Employee Permit, if such person also serves as an employee or contractor. All Responsible Parties, except the Business Owner, shall be required to obtain an Employee Permit.

(2) *Application*. Each employee and independent contractor shall be required to provide the following information under penalty of perjury, so the Police Department can perform a background check:

a. Name, current residence address, and telephone number.

b. Date of birth.

c. Tax identification number.

d. His or her height, weight, and color of eyes and hair.

e. Photographs for identification purposes (photographs shall be taken by the Police Department).

f. Fingerprinted by the Police Department.

g. Such other identification and information as deemed necessary by the Police Chief and pertinent to the Employee Permit.

h. Authorization for the City and its agents and employees to seek verification of the information contained within the application.

i. The name of the Business Owner holding the Regulatory Permit and the Operator for which such person is proposed to work.

G. *Application Fees.*

Every application for a Regulatory Permit, Employee Permit, or Employee Permit renewal shall be accompanied by a nonrefundable fee, as established by resolution of the City Council. This fee shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks, and the general review and processing of the application.

As an alternative to the Regulatory Permit fee, the City and Applicant may enter into a specific Project Processing Costs Agreement.

H. *Investigation and Action on Application.*

(1) Upon the filing of a properly-completed application and the payment of the fee, the Police Chief shall conduct an investigation of the application, including a background check of the Applicant and all employees and independent contractors. All Applicants for a Regulatory Permit and Employee Permit shall be required to submit to a fingerprint-based criminal history records check conducted by the Parlier Police Department.

(2) For Regulatory Permits, after the background checks and investigation are complete, and in no case later than one hundred twenty (120) days after receipt of a properly completed application, the Police Chief shall issue a recommendation that the City Council approve or deny a Regulatory Permit in accordance with the provisions of this section. The recommendation for approval shall include conditions the Police Chief deems reasonable under the circumstances to protect the public health, safety, and welfare of the community. The recommendation shall be forwarded to the City Council for action following any required noticing and public hearings, and may be processed concurrently with any other development application(s) necessary for the Commercial Cannabis Operation.

(3) For Employee Permits, after the background checks and investigation are complete, and in no case later than thirty (30) days after receipt of a properly-completed application, the Police Chief shall either approve or deny an Employee Permit. At the discretion of the Police Chief, Employee Permits may be conditionally approved pending the background investigation.

I. *Term of Permits and Renewals.*

Employee Permits issued under this Section shall expire one (1) year following the date of issuance. Applications for renewal shall be made at least forty-five (45) days prior to the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in this section. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed.

J. *Grounds for Denial of Regulatory Permit.*

The City Council may in its sole discretion deny a Regulatory Permit or limit a Regulatory Permit to specified uses. When considering whether to deny or limit a Regulatory Permit, the Council shall consider the following:

(1) Whether the business or conduct of the business at a particular location is prohibited by any local or State law, statute, rule, or regulation.

(2) Whether the Business Owner or Operator has been issued a local or State permit related to Commercial Cannabis Operations at any other location in California, or another state; whether that permit was suspended or revoked; and whether the Business Owner or Operator has had disciplinary action relating to the permit.

(3) Whether the Business Owner or Operator has knowingly made a false statement of material fact or has knowingly omitted a material fact in the application.

(4) Whether the Business Owner or Operator, or any Responsible Person, has been:

a. Convicted of a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code;

b. Convicted of a serious felony, as specified in subdivision (c) of Section 1192.7 of the Penal Code;

c. Convicted of a felony involving fraud, deceit, or embezzlement.

d. Convicted of a felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;

e. Convicted of a felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code;

f. Subject to fines, penalties, or otherwise sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code;

g. Sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three (3) years immediately preceding the date the application is filed with the City.

A conviction for any controlled substance felony subsequent to permitting shall be grounds for revocation of a Regulatory Permit or denial of the renewal of a Regulatory Permit.

A "conviction" within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of nolo contendre.

(5) Whether the Business Owner or Operator has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(6) Whether the Business Owner or Operator is under eighteen (18) years of age, or any older other age set by the State.

(7) Whether the Cannabis Operation complies with the zoning ordinance or development standards of the City of Parlier.

(8) Whether the required business license fee, annual regulatory fee, Revenue Raising Fee, or other City fees and/or taxes have been paid.

(9) Such other grounds the Council determines are reasonable.

K. *Grounds for Denial of Employee Permit.* The grounds for denial of an Employee Permit shall be one or more of the following:

(1) The Applicant has been issued a local or State permit related to Commercial Cannabis Operations at any other location in California, or another state, and that permit was suspended or revoked, or the Applicant has had disciplinary action relating to the permit.

(2) The Applicant has been:

a. Convicted of a violent felony, as specified in subdivision (c) of Section 667.5 of the Penal Code;

b. Convicted of a serious felony, as specified in subdivision (c) of Section 1192.7 of the Penal Code;

c. Convicted of a felony involving fraud, deceit, or embezzlement.

d. Convicted of a felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;

e. Convicted of a felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code;

f. Subject to fines, penalties, or otherwise sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code;

g. Sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three (3) years immediately preceding the date the application is filed with the City.

(3) The Applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(4) The Applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocation of a permit.

(5) An Applicant is under eighteen (18) years of age, or any older age set by the State.

L. *Notice of Decision and Final Action.*

(1) *Regulatory Permit.* Action on the Regulatory Permit shall be as follows:

a. The Police Chief shall cause a written notice of his or her recommendation on the issuance or denial of a Regulatory Permit, and the date and time when the City Council will consider action on the Regulatory Permit, to be personally delivered or mailed to the Applicant by certified U.S. mail, postage prepaid.

b. Following a public hearing, the Council may grant the Regulatory Permit, limit the Regulatory Permit to specified uses, or deny the issuance of the Regulatory Permit for any of the grounds specified in this Section. In granting a Regulatory Permit, the Council may impose such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community. The decision of the Council shall be final, subject to judicial review below.

(2) *Employee Permit.* Action on the Employee Permit shall be as follows: The Police Chief shall cause a written notice of his or her determination on the issuance or denial of an Employee Permit to be personally delivered or mailed to the Applicant by certified U.S. mail, postage prepaid. The Police Chief's decision on an Employee permit shall be final.

M. *Suspension and Revocation of Regulatory Permit or Employee Permit.*

(1) *Regulatory Permit.* The City Council may suspend or revoke the Regulatory Permit of a Commercial Cannabis Operation when any of the following occur:

a. The Commercial Cannabis Operation is conducted in violation of any provision of this Section, the Act, or any other applicable law.

b. The Commercial Cannabis Operation is conducted in such a manner as to create a risk of danger to the public health or safety.

c. A failure to pay the Regulatory Fee, the Revenue Raising Fee, or all City taxes as required.

d. A failure to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside

of or outside the Premises, traffic control problems, or obstruction of the operation of another business.

e. A failure to comply with the terms and conditions of the Regulatory Permit or any conditional use permit issued in connection therewith.

f. Any act which would be considered grounds for denial of the Regulatory Permit in the first instance.

(2) *Employee Permit.* The Police Chief may suspend or revoke an Employee Permit when the permittee or the employee has committed any one or more of the following acts:

a. Any act which would be considered a ground for denial of the permit in the first instance.

b. Violates any provision of this Section, the Act, or any other applicable law relating to the Cannabis Operation.

c. Violates or fails to comply with the terms and conditions of the Employee Permit.

(3) *Procedures for Revoking Regulatory Permits.* For Regulatory Permits, the procedures for revoking conditional use permits shall be utilized, except that the matter shall be heard by the City Council in the first instance.

(4) *Procedures for Revoking Employee Permits.* Prior to suspension or revocation of an Employee Permit, the Police Chief shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid to the last known address. Any permittee aggrieved by the decision of the Police Chief to suspend or revoke an Employee Permit shall have no appeal rights and the Police Chief's decision shall be final, subject to judicial review as set forth in this section.

(5) *Immediate Suspension.* The Police Chief may immediately suspend or revoke a Regulatory Permit or an Employee Permit without notice or a hearing, subject to the appeal rights set forth herein, under the following circumstances:

a. The Business Owner, Operator or Responsible Party is convicted of a public offense in any court for the violation of any law which relates to the Cannabis Operation, or in the case of an Employee Permit, the employee is convicted of a public offense in any court for the violation of any law which relates to the permit.

b. The Police Chief determines that immediate suspension is necessary to protect the public health, safety, and welfare of the community. The Police Chief shall articulate

the grounds for the immediate suspension in writing and the suspension shall only be for as long as necessary to address the circumstances which led to the immediate suspension.

N. *Effect of Denial or Revocation.* When the City Council shall have denied or revoked a Regulatory Permit, or the Police Chief shall have denied or revoked an Employee Permit, no new application for a Regulatory Permit or an Employee Permit shall be accepted and no Regulatory Permit or Employee Permit shall be issued to such person or to any corporation in which he or she shall have any beneficial interest for a period of one (1) year after the action denying or revoking the Regulatory Permit or Employee Permit.

O. *Abandonment.* A Regulatory Permit shall be deemed abandoned if Commercial Cannabis Operations cease for a period of more than ninety (90) consecutive days. Before restarting operations, a new Regulatory Permit shall be secured. The 90-day period shall be tolled during periods of force majeure, which shall be defined as follows: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the "public enemy"; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; or any other causes beyond the reasonable control of the permittee.

P. *Fees and Taxes.* All Commercial Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following.

(1) *Business License Fee.* The Business Owner shall at all times maintain a current and valid business certificate and pay all business taxes required by Title 5, Chapter 5.04, of the Parlier Municipal Code pertaining to Business Licensing.

(2) *Regulatory License Fee.* The Business Owner shall pay an annual regulatory license fee ("Regulatory Fee") to cover the costs of anticipated enforcement relating to the Cannabis Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.

(3) *Revenue Raising Fee.* An annual revenue raising fee ("Revenue Raising Fee") for the privilege of having the right to operate in the City.

a. *Revenue Raising Fee Finding.* The City Council specifically finds that it is approving this Ordinance allowing Commercial Cannabis Operations to operate in the City with the express understanding that the business will pay the Revenue Raising Fee to the City as set forth herein, and that without the Revenue Raising Fee, the City Council would not have adopted this Ordinance allowing Commercial Cannabis Operations to operate in the City. By opening a Commercial Cannabis Operation in the City, the Premise Owner, Business Owner, Operator, and all Responsible Parties agree that, if the Revenue Raising

Fee is challenged by any one of them or a third party and set aside, the business must cease operation.

b. *Amount of Fee and Terms of Payment.* The Revenue Raising Fee shall be as follows:

i. An annual fee of ten dollars ($10.00) per square foot for the first 5,000 square feet, which shall be the minimum annual fee for all Commercial Cannabis Operations; seven dollars ($7.00) per square foot for the next 5,001 to 20,000 square feet; five dollars ($5.00) per square foot for the next 20,001 to 40,000 square feet; and two dollars ($2.00) per square foot for all remaining space utilized in connection with each Commercial Cannabis Operation. The square footage calculation shall be determined by including all portions of the Premises under the control of the Business Owner and deducting therefrom driveways, sidewalks, landscaping, vacant unused space, areas used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the Commercial Cannabis Operation (such as a janitorial closet). The total under-canopy square footage shall be included in the square footage calculation.

ii. In the alternative to subdivision (b)(i) above, the Revenue Raising Fee shall equal three percent (3%) of gross receipts of the Commercial Cannabis Operation, if that amount is greater than the fee calculated using the formula set forth in subdivision (b)(i).

c. If more than one Commercial Cannabis Operation operates on the Premises, whether within a single building or multiple buildings, each Regulatory Permit holder shall be responsible for paying the Revenue Raising Fee. The Revenue Raising Fee shall be payable in advance, in not less than quarterly installments, with the first quarterly payment due prior to issuance of a certificate of occupancy. The first payment shall not be prorated, and in no event shall the first payment be less that the equivalent of one full quarterly payment. All quarterly payments shall be received by the City before the end of the quarter.

d. *Alternative Voter-Approved Tax.* If the voters of the City approve a tax on Commercial Cannabis Operations, the Business Owner shall pay that tax in lieu of the Revenue Raising Fee, once the City begins to collect the tax revenue.

Q. *Recordkeeping.* The Responsible Party shall make and maintain complete, accurate, and legible records of the permitted Commercial Cannabis Operations evidencing compliance with the requirements of this section. Those records shall be maintained for a minimum of five (5) years.

R. *Inspection*. Commercial Cannabis Operations shall be open for inspection by any City law enforcement officer, City code enforcement officer, or City financial auditor or their designees at any time the Commercial Cannabis Operation is operating, at any other time upon responding to a call for service related to the property where the Commercial Cannabis Operations is occurring, or otherwise upon reasonable notice. Recordings made by security cameras at any Cannabis Operation shall be made immediately available to the Police Chief upon verbal request. No search warrant or subpoena shall be needed to view the recorded materials.

S. *Indemnification*. In authorizing Commercial Cannabis Operations under this section, the City makes no guarantees or promises as to the lawfulness of the approved activity under State or federal law, and the Business Owner, Operator and all Responsible Parties are obligated to comply with all applicable laws and regulations. To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to the adoption of this Ordinance or the operation of any Commercial Cannabis Operation approved pursuant to this Ordinance, or under State or federal law. The Business Owner, Operator and all Responsible Parties shall defend, hold harmless, release, and indemnify the City, its agents, officers, and employees, from any liability associated with the approved use or adverse determinations made by the State or federal government. An adverse determination could include cessation of operations.

The Business Owner agrees to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to Commercial Cannabis Operations operating under the authority of this Ordinance. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the permittee of its obligation hereunder.

If requested by the City Attorney, the Business Owner shall execute an agreement memorializing the requirements of this subsection.

18.55.080 - Regulations Applicable to the Consumption of Marijuana.

No person shall smoke, ingest, or otherwise consume marijuana or marijuana products, whether recreational or medical, in the City of Parlier, unless such smoking, ingesting or consumption occurs entirely within a private residence. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings, unless those buildings are at all times fully enclosed during the consumption.

Medical marijuana may also be consumed within a clinic, healthcare facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health and Safety Code.

All consumption shall be done in a manner so as to not cause a nuisance to nearby residents with noxious odors or other adverse health and safety impacts.

18.55.090 - Penalties and Enforcement.

The following remedies shall apply for violations of this Chapter:

A. Violations for conduct that is not otherwise considered lawful under State law, shall be considered misdemeanors and are punishable in accordance with Chapter 1.16 of the Municipal Code. Each and every day, or portion thereof, that a violation exists is a separate offense.

Should a court of competent jurisdiction subsequently determine that the criminal penalty provision renders this Chapter unlawful, the City intends that the misdemeanor provision be severable from the remaining penalty provisions and the City will only pursue non-criminal remedies for violations of this Chapter.

B. The City may also pursue all applicable civil and administrative remedies, including but not limited to injunctive relief and administrative citations.

(1) Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the City of Parlier Municipal Code.

(2) The violation of any provision of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

C. Any person who violates the provisions of this Chapter may be subject to an administrative fine of up to one thousand dollars ($1000.00) for each violation and for each day the violation continues to persist.

18.55.100 - Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this Chapter, or of the Regulatory Permit issued pursuant to this Chapter, or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter or of any Regulatory Permit issued pursuant hereto.

18.55.110 - Judicial Review.

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the Superior Court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final, as provided in California Code of Civil Procedure Section 1994.6, which shall apply for such actions.

SECTION 6: EFFECTIVE DATE.

The foregoing Ordinance No. 17-___ was introduced at a regular meeting of the City Council of the City of Parlier on the _____ day of _____, 2017, and was passed and

adopted at a regular meeting of the City Council on the _____ day of _____, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED:

_____
Mayor Alma Beltran
City of Parlier

ATTEST:

_____
City Clerk
City of Parlier

J:\wdocs\01909\034\ORD\00535081.DOCX