

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF LAKE ELSINORE, CALIFORNIA, AMENDING
TITLE 17, CHAPTER 17.156, OF THE LAKE ELSINORE MUNICIPAL CODE
REGARDING REGULATION OF MEDICAL CANNABIS DISPENSARIES AND
CULTIVATION**

Whereas, Chapter 17.156 (Medical Cannabis Dispensaries) of the Lake Elsinore Municipal Code (LEMC) sets forth the prohibition of medical Cannabis Dispensaries within the City; and,

Whereas, pursuant to Title 14 of the California Code of Regulations, Section 15061(b) (3), the City of Lake Elsinore (City) has determined that it can be seen with certainty that there is no possibility that adoption of Municipal Code Amendment No. 2017-01 may have a significant effect on the environment; and therefore the zoning code amendment is exempt from CEQA; and,

Whereas, on XXXX XX, XXXX, at a duly noticed Public Hearing the Planning Commission (Commission) has considered evidence presented by the Community Development Department and other interested parties with respect to this item; and made its recommendation in favor of Municipal Code Amendment No. 2017-01 by adopting Planning Commission Resolution No. 2017-XX recommending to the City Council (Council) approval of Municipal Code Amendment No. 2017-01; and,

Whereas, on XXXX XX, XXXX, at a duly noticed Public Hearing, the Council has considered the recommendation of the Commission as well as evidence presented by the Community Development Department and other interested parties with respect to this item.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES ORDAIN
AS FOLLOWS:**

Section 1. The Council has reviewed and analyzed the proposed zone changes pursuant to the California Planning and Zoning Laws (Cal. Gov. Code §65000 *et seq.*), the Lake Elsinore General Plan (GP) and the LEMC and finds and determines that the proposed zone changes are consistent with the requirements of California Planning and Zoning Law and with the goals and policies of the GP and the LEMC.

Section 2. The Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Therefore, no environmental assessment is required or necessary.

Section 3. That in accordance with the State Planning and Zoning Law, the Council hereby makes the following findings for the approval of Municipal Code Amendment No. 2017-01:

1. The proposed zoning code amendments will not be: a) detrimental to the health, safety, comfort or general welfare of the persons residing or working within the neighborhood of the proposed amendment or within the City, or b) injurious to the property or improvements in the neighborhood or within the City.

The proposed zoning code amendments have been analyzed relative to their potential to have detrimental effects and it has been determined that the proposed amendments have no negative impact upon the public's health, safety, comfort and general welfare because the amendments will provide additional regulation of medical Cannabis within the City.

2. The proposed zoning code amendments are consistent with the Goals, Policies and Implementation Programs of the GP and the development standards established with the LEMC.

The proposed zoning code amendments do not create new zoning districts, remove existing zoning districts or otherwise modify land use requirements. The proposed zoning code amendments do not affect the density or intensity of uses and will not interfere with the implementation of the goals, policies and implementation programs of the GP.

Section 4. Chapter 17.156 of the LEMC Regulation of Medical Cannabis Dispensaries is hereby amended to read as follows:

Chapter 17.156 CANNABIS USES

Sections:

17.156.010	Purpose and Intent
17.156.020	Interpretation and Applicability
17.156.030	Definitions
17.156.040	Cannabis Dispensaries
17.156.050	Cannabis Distribution
17.156.060	Cannabis Cultivation
17.156.070	Cannabis Manufacturing
17.156.080	Cannabis Testing Laboratory
17.156.080	Enforcement

17.156.010 Purpose and intent.

The purpose and intent of this chapter is to regulate the dispensing, cultivation, processing, manufacturing, testing and distribution of medical Cannabis in a manner that protects the public health, safety and welfare of the City and mitigates the costs to the community of the oversight of these activities.

Nothing in this chapter shall be construed to: allow persons to engage in conduct that endangers others or causes a public nuisance; or allow any activity relating to the cultivation, manufacturing, testing, distribution or consumption of Cannabis that is otherwise illegal under California State law.

17.156.020 Interpretation and applicability.

Operation of Cannabis facilities within the City shall be permitted upon the application and approval of both a City-issued Conditional Use Permit pertaining to the location of the facility in accordance with the criteria and procedures set forth in this Ordinance and the City's Municipal Code, upon application and subject to such additional regulations as may be promulgated pursuant to this chapter.

- A. The cultivation, processing, and distribution of Cannabis in the City is controlled by the provisions of this chapter.
- B. Nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution otherwise afforded by California law.
- C. Nothing in this chapter is intended, nor shall it be construed, to preclude a landlord from limiting or prohibiting Cannabis cultivation, consumption, processing, and distribution or other related activities by tenants.
- D. Nothing in this chapter is intended, nor shall it be construed, to exempt any Cannabis-related activity from any applicable local or State construction, environmental, electrical, plumbing, land use, labor or employment laws or any other building or land use standards or permitting requirements.
- E. Nothing in this chapter is intended, nor shall it be construed, to make legal any sale, cultivation, transportation, manufacture, or other use of Cannabis that is otherwise prohibited or non-compliant under California law, as amended from time to time.
- F. All medical Cannabis dispensaries and medical Cannabis cultivation, distribution, and manufacturing facilities within City limits shall be subject to the provisions of this chapter, regardless of whether the use existed or occurred prior to adoption of this chapter.

17.156.030 Definitions.

When used in this chapter, the following words shall have the meanings ascribed to them in this section. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision. Words and phrases not specifically defined in this chapter shall have the meanings ascribed to them by the following sources:

- A. The CUA of 1996 (California Health and Safety Code Section 11362.5), and as may be amended from time to time;
- B. The MMPA (California Health and Safety Code Sections 11362.7 through 11362.83);
- C. The MMRSA (California Business and Professions Code Sections 19300 through 19355) as may be amended from time to time;
- D. The AMUA (Proposition 64, The Adult Use of Cannabis Act).

"Gross Proceeds" means the value proceeding or accruing from the sale of tangible property and/or for other services rendered, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

"Indoor" means any location within the city that is within a fully enclosed, occupied (as defined in this section) dwelling, dwelling unit or housing unit.

“Cannabis” has the same meaning as in California Health, Safety Code Section 11018 and Proposition 64, Cannabis Legalization as may be amended from time to time. For the purpose of this chapter, “Cannabis” does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

“Cannabis Business Permit” means a specific permit required for any commercial operation of any Cannabis oriented business subject to the approval of a Conditional Use Permit.

“Cannabis Cultivation” means the planting, growing, harvesting, drying or processing of any Cannabis plants or any part thereof, for medical use consistent with the Compassionate Use Act (California Health and Safety Code Section 11362.5), and the Medical Cannabis Program Act (California Health and Safety Code Section 11362.7 et seq.), and Proposition 64, Cannabis Legalization.

“Cannabis Dispensary” means any facility or location where medical Cannabis or recreational Cannabis is made available to or distributed by or distributed to one (1) or more individuals operating in strict accordance with the CUA, the MMPA, the MMRSA, and the AMUA as may be amended from time to time, and subject to the provisions of this chapter and the City’s Municipal Code.

“Cannabis Distribution Facility” means any facility or location, the primary function of which is the procurement, sale, and/or transport of medical Cannabis and/or medical Cannabis products between entities operating in strict accordance with the CUA, the MMPA, the MMRSA, and the AMUA as may be amended from time to time, and subject to the provisions of this chapter and the City’s Municipal Code.

“Cannabis Manufacturing Facility” means a facility where the production of medical Cannabis or recreational Cannabis concentrate, and/or the preparation, propagation, or compounding of manufactured medical Cannabis, either directly or indirectly or by extraction methods or independently by means of chemical synthesis, or the packaging or repackaging of medical Cannabis or medical Cannabis products, or the labeling or relabeling of its containers, occurs, provided the facility holds a valid Conditional Use Permit, and a development agreement if applicable, all issued in accordance with this chapter and the City’s Municipal Code, and operating in strict accordance with the CUA, the MMPA, the MMRSA, and the AMUA as may be amended from time to time, and subject to the provisions of this chapter and the City’s Municipal Code.

“Parcel” means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (California Government Code Section 66410 et seq.).

“Occupied” means currently, presently, and lawfully utilized in accordance with an issued Certificate of Occupancy.

“Outdoor” means any location within the city that is not within a fully enclosed, occupied (as defined in this section) dwelling, dwelling unit or housing unit.

“School” means any educational facility which primarily provides educational services to individuals under the age of 18.

17.156.040 Cannabis Dispensaries Prohibited.

A. Permitted Locations. Medical Cannabis dispensaries shall only be located in the M-2 General Manufacturing zone district.

B. Cannabis Dispensaries shall be permitted as an accessory use to either a Cannabis Cultivation Facility or Cannabis manufacturing facility. In no case shall either the gross floor area of the dispensary exceed 25% of the total area of the business or 50% of gross proceeds of the business.

C. Conditional Use Permit. Dispensaries shall only be permitted when either a Cannabis cultivation facility or Cannabis manufacturing facility has obtained a valid City issued Conditional Use Permit.

D. Cannabis Business Permit. Dispensaries shall only be permitted when either a Cannabis cultivation facility or Cannabis manufacturing facility has obtained a valid City issued Cannabis Business Permit.

E. The licensee shall submit to the City a financial report on a yearly basis detailing the gross proceeds of the business.

F. Storage. A medical cannabis dispensary shall have adequate locked storage on the dispensary property, identified and approved as a part of the security plan, for after-hours storage of medical cannabis. Medical cannabis shall be stored at the dispensary property in secured rooms that are completely enclosed or in a safe that is bolted to the floor.

G. Site Security. Each laboratory site security plan approved by the Sheriff's Department must include the following:

1. Security surveillance cameras. Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the laboratory site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the laboratory site. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

2. Security video recording and retention. Video from the security surveillance cameras must be recording at all times (24 hours a day, seven days a week) and the recording shall be maintained for at least 30 days. The video recordings shall be made available to the city upon request.

3. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.

H. Cannabis Business Permit. The dispensary permittee shall display its current valid cannabis business permit issued in accordance with this article inside the lobby or waiting area of the main entrance to the laboratory site. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the laboratory site.

I. Signs. The following signs in measurements of not less than 8 by 10 inches shall be clearly and legibly posted in a conspicuous location inside the cannabis dispensary where they will be visible to members and customers in the normal course of a transaction, stating:

1. "Smoking, ingesting or consuming cannabis on this property or within 20 feet of the dispensary is prohibited."
2. "Juveniles are prohibited from entering this property unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian."
3. "Neither the City of Lake Elsinore, nor any other governmental agency has tested or inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location."
4. "The sale of cannabis and the diversion of cannabis for non-medical purposes are violations of state law."
5. Signs on the medical cannabis dispensary building shall not obstruct the entrance or windows of the dispensary.

I. Dispensary Site Restricted.

1. All entrances into a cannabis dispensary's building shall be locked from the exterior at all times with entry controlled by dispensary personnel.
2. No cannabis dispensary permittee shall allow anyone in the dispensary building, except for qualified patients, primary caregivers, persons with identification cards, managers, staff, and other persons with bona fide purposes for being in the dispensary, such as contractors, inspectors, and cannabis transporters.
3. A manager must be on the cannabis dispensary site at all times that, any other person, except for security guards, is on the site.
4. While on the cannabis dispensary site, managers and staff of the medical cannabis dispensary permittee must wear their city-issued cannabis dispensary identification badge at all times.

5. Any person other than managers or staff shall be escorted by a manager at all times while in the medical cannabis dispensary building.
- J. Juveniles Prohibited. No juvenile shall be on the dispensary site or operate a cannabis testing laboratory in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
- K. Delivery Prohibited. A cannabis dispensary shall not provide any form of delivery service. All distribution of cannabis must be conducted within the enclosed building areas of the dispensary property.
- L. Cannabis Consumption Prohibited. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 20 feet of, the laboratory site.
- M. Alcohol Prohibited. No medical cannabis dispensary or manager shall cause or permit the sale, distribution, or consumption of alcoholic beverages on the dispensary property; hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages; or operate a business on or adjacent to the dispensary property that sells alcoholic beverages. No alcoholic beverages shall be allowed or stored on the dispensary property.
- N. Criminal History. No cannabis dispensary permittee or manager of a dispensary shall operate a dispensary if he or she has been convicted of a felony, or is currently on parole or probation for the sale or distribution of a controlled substance. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Notwithstanding the above, a person may not be denied the ability to obtain a permit or operate a dispensary solely on the basis that the person has been convicted of a felony if the person has obtained a certificate of rehabilitation (expungement of felony record) under California law or similar federal statute or state law under which the expungement was granted.
- O. Hours of Operation. The maximum hours of operation for a medical cannabis dispensary shall be daily from 7:00 a.m. to 9:00 p.m. unless the city manager imposes more restrictive hours as a condition of the permit.

17.156.050 Cannabis Distribution

- A. Permitted Locations. Cannabis distribution shall only be located in the M-2 General Manufacturing zone district.
- B. Limitation of Use. Cannabis distribution shall be permitted as an accessory use to either a Cannabis Cultivation Facility or Cannabis manufacturing facility. In no case shall either the gross floor area of the dispensary exceed 25% of the total area of the business or 50% of gross proceeds of the business.

C. Conditional Use Permit. Cannabis distribution shall only be permitted when either a Cannabis cultivation facility or Cannabis manufacturing facility has obtained a valid City issued Conditional Use Permit.

D. Cannabis Business Permit. Cannabis distribution shall only be permitted when either a Cannabis cultivation facility or Cannabis manufacturing facility has obtained a valid City issued Cannabis Business Permit.

D. Yearly Reporting. The licensee shall submit to the City a financial report on a yearly basis detailing the gross proceeds of the business.

17.156.060 Cannabis Cultivation.

A. No person owning, renting, leasing, occupying or having charge or possession of any parcel shall cause or allow such parcel to be used for the outdoor cultivation of any Cannabis plant.

B. Cannabis Cultivation shall be limited to interior areas. No person owning, renting, leasing, occupying, or having charge or possession of any parcel shall cause or allow indoor cultivation of Cannabis on such parcel to be visible from any street, sidewalk, or other place freely accessible by the public.

C. Permitted Locations. Medical Cannabis cultivation facilities involving the cultivation of mature flowering medical Cannabis plants shall only be located in the M-2 General Manufacturing zone district in the City.

D. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited.

E. Permits. Cannabis cultivation facilities shall obtain a City-issued Conditional Use Permit prior to the establishment of the use.

F. Cannabis Business Permit. Dispensaries shall obtain a valid City issued Cannabis Business Permit.

G. The licensee shall submit to the City a financial report on a yearly basis detailing the gross proceeds of the business.

H. Cultivation Site Buildings. A cultivation site shall comply with the following requirements:

1. Entrances. All entrances into the buildings on the cultivation site shall be locked at all times with entry controlled by the cannabis cultivation permittee's managers and staff.

2. Main entrance and lobby. The cultivation site shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed in the cultivation areas.

3. Cultivation area. All cultivation areas in any building on the cultivation site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis cultivation permittee.

4. Transport area. Each building with a cultivation area shall have an area designed for the secure transfer of cannabis from the cultivation area to a vehicle for transportation.

5. Storage area. Each building with a cultivation area shall have adequate storage space for cannabis that has completed the cultivation process or is otherwise not being cultivated. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis cultivation permittee.

I. Compliance with Building, Fire Code and Permitting Requirements. Any person(s) cultivating Cannabis with the use of grow lights, fans, ventilation devices or any other electrical or mechanical equipment shall comply with all applicable building and fire code requirements adopted by the City of Lake Elsinore, and shall obtain all permits required for such installation.

J. Cultivation Site Security. Each cultivation site security plan approved by the city manager must include the following:

1. Security surveillance cameras. Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the cultivation site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the cultivation site. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.

2. Security video recording and retention. Video from the security surveillance cameras must be recording at all times (24 hours a day, seven days a week) and the recording shall be maintained for at least 30 days. The video recordings shall be made available to the city upon request.

3. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.

K. Display of Cannabis Cultivation Permit. The cannabis cultivation permittee shall display its current valid cannabis cultivation permit issued in accordance with this article inside the lobby or waiting area of the main entrance to the cultivation site. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the cultivation site.

L. Signs. A cannabis cultivation permittee shall post in the lobby of the cultivation site signs that state the following:

1. "This site is not open to the public."
2. "Retail sales of any goods and services is prohibited."
3. "Juveniles are prohibited from entering this site."

4. "Smoking, ingesting, or consuming cannabis on or within 20 feet of this site is prohibited."

Each sign described in subsection A must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the cultivation site.

M. Cultivation Site Restricted.

1. No cannabis cultivation permittee shall open their cultivation site to the public.
2. No cannabis cultivation permittee shall allow anyone on the cultivation site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters.
3. A manager must be on the cultivation site at all times that any other person, except for security guards, is on the site.
4. While on the cultivation site, managers and staff of the cannabis cultivation permittee must wear their cannabis cultivation identification badge, issued by the city, at all times.
5. Any person other than managers or staff who are on the cultivation site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.

G. The Cannabis cultivation shall not be upon any premises located within one thousand (1,000) feet of any school, community center, or park.

N. Juveniles Prohibited. No juvenile shall be on the cultivation site or operate a cannabis cultivation business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.

O. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cultivation site.

P. Cannabis Consumption Prohibited. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 20 feet of, the cultivation site.

Q. Alcohol Prohibited. No person shall possess, consume, or store any alcoholic beverage on the cultivation site.

R. There shall be a limited exemption from enforcement for violations of this ordinance by primary caregivers and qualified patients for small amounts of Cannabis cultivation for their own medical use in all residential zone classifications when all of the following conditions and standards are complied with:

1. The premises shall contain a legally permitted single-family dwelling.
2. Cultivation of no more than twelve (12) Cannabis plants ~~per qualified patient~~. In the event a qualified patient has a primary caregiver cultivating Cannabis plants for the qualified patient, only one primary caregiver may cultivate no more than twelve (12)

Cannabis plants for that qualified patient at any one time. In no circumstances shall a qualified patient have multiple primary caregivers cultivating Cannabis plants for the qualified patient at the same time.

3. Two (2) qualified patient limit to aggregate Cannabis plant count for a maximum total of twenty-four (24) Cannabis plants per premises.

4. At least one qualified patient or one primary caregiver must live on the premises.

5. All Cannabis plants must be reasonably secured to prevent access by minors or theft, to a standard satisfactory to the enforcement officer.

6. All Cannabis cultivation outside of any building must be fully enclosed by an opaque fence at least six feet in height. The fence must be adequately secure to prevent unauthorized entry. Bushes, hedgerows, plastic sheeting, tarps, or cloth material shall not constitute an adequate fence under this subsection. Premises larger than five (5) acres are exempt from this fencing provision so long as all other standards and conditions of subsection a. of this section are complied with and any barriers used are otherwise consistent with the Municipal Code.

7. Each building or outdoor area in which the Cannabis plants are cultivated shall be set back at least ten (10) feet from all boundaries of the premises. Such setback distance shall be measured in a straight line from the building in which the Cannabis plants are cultivated, or, if the Cannabis plants are cultivated in an outdoor area, from the fence required by subsection 6 to the boundary line of the premises.

8. The designated Cannabis cultivation area must not be visible from any public right-of-way.

9. If the person cultivating Cannabis plants on any premises is not the owner of the premises, such person shall submit a letter from the owner(s) consenting to the Cannabis cultivation on the parcel. This letter shall be examined by the enforcement officer, and shall then be returned to the submitter. The County shall prescribe forms for such letters.

10. Parolees or probationers shall not live on the premises unless the parolees or probationers have received confirmation from the court that he is allowed to use medical Cannabis while on parole or probation pursuant to Health & Safety Code section 11362.795 which shall be subject to verification by the enforcement officer.

11. Qualified patients for whom the Cannabis plants are being cultivated shall have valid Medical Cannabis Identification Cards issued by the Riverside County Department of Public Health. Any primary caregiver cultivating Cannabis plants for a qualified patient shall have a copy of the qualified patient's valid Medical Cannabis Identification Card issued by the Riverside County Department of Public Health which shall be kept on the premises.

12. The address for the premises must be posted and plainly visible from the public right-of-way.

13. The Cannabis cultivation shall not be within a multi-dwelling building.

14. The Cannabis cultivation shall not be upon any premises located within one thousand (1,000) feet of any school, community center, or park.

15. The Cannabis cultivation shall not be upon any premises containing a child care center, church, or youth-oriented facility.

S. There shall be a limited exemption from enforcement for violations of this ordinance by authorized persons for small amounts of Cannabis cultivation for their own recreational use in all residential zone classifications when all of the following conditions and standards are complied with:

1. The premises shall contain a legally permitted single-family dwelling.

2. Cultivation of no more than six (6) Cannabis plants per dwelling.

3. All Cannabis plants must be reasonably secured to prevent access by minors or theft, to a standard satisfactory to the enforcement officer.

4. All Cannabis cultivation outside of any building must be fully enclosed by an opaque fence at least six feet in height. The fence must be adequately secure to prevent unauthorized entry. Bushes, hedgerows, plastic sheeting, tarps, or cloth material shall not constitute an adequate fence under this subsection. Premises larger than five (5) acres are exempt from this fencing provision so long as all other standards and conditions of subsection a. of this section are complied with and any barriers used are otherwise consistent with the Municipal Code.

5. Each building or outdoor area in which the Cannabis plants are cultivated shall be set back at least ten (10) feet from all boundaries of the premises. Such setback distance shall be measured in a straight line from the building in which the Cannabis plants are cultivated, or, if the Cannabis plants are cultivated in an outdoor area, from the fence required by subsection 6 to the boundary line of the premises.

6. The designated Cannabis cultivation area must not be visible from any public right-of-way.

7. If the person cultivating Cannabis plants on any premises is not the owner of the premises, such person shall submit a letter from the owner(s) consenting to the Cannabis cultivation on the parcel. This letter shall be examined by the enforcement officer, and shall then be returned to the submitter. The County shall prescribe forms for such letters.

8. Parolees or probationers shall not live on the premises unless the parolees or probationers have received confirmation from the court that he is allowed to use medical Cannabis while on parole or probation pursuant to Health & Safety Code section 11362.795 which shall be subject to verification by the enforcement officer.

9. The address for the premises must be posted and plainly visible from the public right-of-way.

10. The Cannabis cultivation shall not be within a multi-dwelling building.

11. The Cannabis cultivation shall not be upon any premises located within one thousand (1,000) feet of any school, community center, or park.

12. The Cannabis cultivation shall not be upon any premises containing a child care center, church, or youth-oriented facility.

17.156.070 Cannabis Manufacturing

A. Permitted Locations. Cannabis manufacturing facilities shall only be located in the M-2 General Manufacturing zoning district, subject to the regulations set forth in this chapter and any additional regulations as may be promulgated hereunder by an ordinance or resolution of the City Council or otherwise pursuant to this chapter.

B. Permits. Cannabis manufacturing facilities shall obtain a City-issued Conditional Use Permit.

D. Cannabis Business Permit. Dispensaries shall only be permitted when either a Cannabis cultivation facility or Cannabis manufacturing facility has obtained a valid City issued Cannabis Business Permit.

D. The licensee shall submit to the City a financial report on a yearly basis detailing the gross proceeds of the business.

C. Interior Only. Cannabis manufacturing shall be conducted only in the interior of fully enclosed structures, facilities, buildings, or other fully enclosed spaces consistent with the purpose and intent of this chapter. No Cannabis manufacturing shall be visible from any public right-of-way.

D. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited

E. Operational Requirements.

1. Manufacturers are limited to certain equipment, methods, solvents, gases and mediums when creating medical Cannabis extracts.

2. Manufacturing Facilities with a state license of a Type-6 (non-volatile) or a Type 7 (volatile) classification may be allowed to operate under this Chapter.

3. All equipment, systems and manufacturing processes must meet or exceed all applicable state and federal requirements and regulations regarding air, water, health and safety, and handling, processing and storage of hazardous materials, solvents, gases and waste. No manufacturing facility shall commence operations or be issued any form of certificate of occupancy without first obtaining all required fire, environmental, health and safety, planning, and building certificates, permits and approvals required under the City's Municipal Code and all other applicable county, state and federal regulations.

4. Manufacturers shall not use any Class I or Class II solvents, as those terms are defined in Federal Drug Administration Guidance, Table I, published in the Federal Register on December 24, 1997 (62 FR 67377), for extraction.

5. Manufacturers shall not use butanes, ethanol, carbon dioxide, propane, heptane or other solvents exhibiting low to minimal potential human health-related toxicity for extraction, or other methods approved by the State. All solvents used must be of at least ninety-nine percent purity.

6. All extraction manufacturing using hydrocarbons shall be conducted with a professionally certified closed loop extraction system conforming to current American Society of Mechanical Engineers ("ASME") standards and ratings for pressure vessels and shall be operated in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

7. All extraction manufacturing using CO₂ shall be conducted in a professionally certified CO₂ based extraction system conforming to current ASME standards and ratings for pressure vessels with a pressure rating at all points being at or above 600 pounds per square inch, and shall be operated in an environment with proper ventilation.

8. All other methods of extraction shall be conducted in an environment appropriate to the solvent being used, with consideration to proper ventilation and ignition source controls.

9. All equipment, systems and manufacturing processes must meet or exceed all applicable state and federal requirements and regulations regarding air, water, health and safety, and handling, processing and storage of hazardous materials, solvents, gases and waste. No manufacturing facility shall commence operations or be issued any form of certificate of occupancy without first obtaining all required fire, environmental, health and safety, planning, and building certificates, permits and approvals required under City's Municipal Code and all other applicable county, state and federal regulations.

10. Manufacturers may use heat, screens, presses, steam distillation, ice water, and other methods of extraction without employing solvents or gases to create kief, hashish, bubble hash, or vegetable oils or fats derived from natural sources, and other extracts.

11. Manufacturers using extract to create ingestible products shall only use food-grade ingredients.

F. PhD Chemist. As a condition of obtaining a City-issued medical Cannabis regulatory permit and Conditional Use Permit, a licensee of a manufacturing facility desiring to operate under this chapter shall first verify that the licensee employs or contracts with a person who has a PhD in chemical sciences who shall supervise the design, installation and operation of the facility's systems and manufacturing processes. Such person shall inspect the premises on a quarterly basis and provide such inspection report to the City. The licensee shall submit to the City a written statement that he or she certifies under penalty of perjury that the name of the employee/contractor is true and correct. The employee/contractor shall also submit a written statement that he or she certifies under penalty of perjury his or her educational qualifications and verifying that the supervisor is employed or contracted to supervise the design, installation and operation of the facility's systems and manufacturing processes.

G. State Regulations. In the event the State of California implements health and safety regulations applicable to medical Cannabis manufacturing facilities, upon implementation of such State regulations, all medical Cannabis manufacturing facilities operators shall immediately

implement the State regulations. Should there be a conflict between the provisions of this chapter and the State regulations, the State regulations shall control.

F. Site Security. Each laboratory site security plan approved by the Sheriff's Department must include the following:

1. Security surveillance cameras. Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the laboratory site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the laboratory site. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
2. Security video recording and retention. Video from the security surveillance cameras must be recording at all times (24 hours a day, seven days a week) and the recording shall be maintained for at least 30 days. The video recordings shall be made available to the city upon request.
3. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.

G. Cannabis Business Permit. The cannabis testing laboratory permittee shall display its current valid cannabis business permit issued in accordance with this article inside the lobby or waiting area of the main entrance to the laboratory site. The permit shall be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the laboratory site.

H. Signs. A cannabis testing laboratory permittee shall post in the lobby of the laboratory site signs that state the following:

1. "This site is not open to the public."
2. "Retail sales of any goods and services is prohibited."
3. "Juveniles are prohibited from entering this site."
4. "Smoking, ingesting, or consuming cannabis on or within 20 feet of this site is prohibited."

Each sign described in subsection A must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the laboratory site.

I. Laboratory Site Restricted.

1. No cannabis testing laboratory permittee shall open their laboratory site to the public.

2. No cannabis testing laboratory permittee shall allow anyone on the laboratory site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters.
 3. A manager must be on the laboratory site at all times that any other person, except for security guards, is on the site.
 4. While on the laboratory site, managers and staff of the cannabis testing laboratory permittee must wear their cannabis testing identification badge, issued by the city, at all times.
 5. Any person other than managers or staff who are on the laboratory site must sign in, wear a visitor badge, and be escorted on the site by a manager at all times.
- J. Juveniles Prohibited. No juvenile shall be on the laboratory site or operate a cannabis testing laboratory in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
- K. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis testing laboratory site.
- L. Cannabis Consumption Prohibited. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 20 feet of, the laboratory site.
- M. Alcohol Prohibited. No person shall possess, consume, or store any alcoholic beverage on the laboratory site.

17.156.080 Cannabis Testing Laboratory

- A. Permitted Locations. Cannabis Testing Laboratories shall only be located in the M-2 General Manufacturing zoning district, subject to the regulations set forth in this chapter and any additional regulations as may be promulgated hereunder by an ordinance or resolution of the City Council or otherwise pursuant to this chapter.
- B. Permits. Cannabis Testing Laboratories shall obtain a City-issued Conditional Use Permit. Cannabis Business Permit. Cannabis Testing Laboratories shall obtain a Cannabis Business Permit.
- D. Yearly Reporting. The licensee shall submit to the City a financial report on a yearly basis detailing the gross proceeds of the business.
- C. Interior Only. Cannabis manufacturing shall be conducted only in the interior of fully enclosed structures, facilities, buildings, or other fully enclosed spaces consistent with the purpose and intent of this chapter. No Cannabis manufacturing shall be visible from any public right-of-way.
- E. Operational Requirements. A cannabis testing laboratory site shall comply with the following requirements:

1. Entrances. All entrances into the buildings on the laboratory site shall be locked at all times with entry controlled by the cannabis testing laboratory permittee's managers and staff.
2. Main entrance and lobby. The laboratory site shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed in the testing areas.
3. Testing area. All testing areas in any building on the laboratory site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee.
4. Transport area. Each building with a testing area shall have an area designed for the secure transfer of cannabis from a vehicle to the testing area.
5. Storage area. Each building with a testing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee.

F. Site Security. Each laboratory site security plan approved by the Sheriff's Department must include the following:

1. Security surveillance cameras. Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the laboratory site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the laboratory site. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
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4. "Smoking, ingesting, or consuming cannabis on or within 20 feet of this site is prohibited."

Each sign described in subsection A must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the laboratory site.

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M. Alcohol Prohibited. No person shall possess, consume, or store any alcoholic beverage on the laboratory site.

17.156.090 Enforcement.

Violations of this chapter shall be considered a public nuisance, and may be enforced according to the procedures set forth in Chapter 8.18 and by the enforcement remedies conferred upon the City by Civil Code Section 3494, Code of Civil Procedure Section 731, Government Code Section 38773, or other lawful authority. Nothing in this provision is intended to impair any viable legal defense to a person using or in possession of medical Cannabis pursuant to the CUA, the MMPA, the MMRSA, and the AMUA as may be amended from time to time.

Section 5. If any section, subsection, sentence, clause, phase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions might subsequently be declared invalid or unconstitutional.

Section 6. This Ordinance shall take effect thirty (30) days after the date of its final passage. The City Clerk shall certify as to adoption of this Ordinance and cause this Ordinance to be published and posted in the manner required by law.

INTRODUCED at a regular meeting of the City Council of the City of Lake Elsinore, California, on the ____ day of _____, 2017, and **ADOPTED** at a regular meeting of the City Council of the City of Lake Elsinore, California, on the ____ day of _____, 2017.

Mayor Robert Magee
City of Lake Elsinore City Council

Attest:

Susan Domen, MMC, City Clerk

APPROVED AS TO FORM:

Barbara Zeid Leibold, City Attorney