

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANAHEIM, CALIFORNIA ADDING CHAPTER 4.110 TO TITLE 4 OF THE ANAHEIM MUNICIPAL CODE REGULATING CANNABIS DISTRIBUTION, MANUFACTURING, CULTIVATION, RETAIL SALE, DELIVERIES, AND TESTING LABORATORIES, AND REPEALING CHAPTERS 4.20, 4.21, AND 4.100 OF THE MUNICIPAL CODE (TO TAKE EFFECT ONLY UPON PASSAGE OF A CANNABIS TAX MEASURE AT THE NOVEMBER 3, 2020 GENERAL MUNICIPAL ELECTION)

WHEREAS, on October 9, 2015, Governor Brown signed three Bills into law (AB 266, AB 243, and SB 643), which collectively are known as the Medical Marijuana Regulation and Safety Act (“MMRSA”) and which established a comprehensive state licensing scheme for commercial uses related to medicinal Cannabis; and

WHEREAS, in November 2016, the voters passed Proposition 64 or the Adult Use of Marijuana Act (“AUMA”), which established a similar state licensing scheme for adult use (i.e., non-medicinal) marijuana facilities; and

WHEREAS, after the passage of the AUMA, the Legislature adopted and the Governor signed into law SB 94, which is known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (the “MAUCRSA”); and

WHEREAS, the MAUCRSA effectively consolidates the regulatory scheme provided for by the MMRSA (relating to medicinal marijuana) with the regulatory scheme provided for by the AUMA (relating to non-medicinal marijuana) to provide for one licensing structure for all Cannabis related uses; and

WHEREAS, under the MAUCRSA, cities retain their ability to regulate medicinal and adult use commercial Cannabis related uses; and

WHEREAS, the City Council desires to allow certain Cannabis related uses in limited areas within the City subject to the requirements of this Chapter and implementation of a tax, which are intended to mitigate potential negative impacts, prevent Cannabis from reaching minors or the illicit market, preserve public health and safety, protect the environment, and promote diverse economic and employment opportunities.

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF ANAHEIM DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitations are true and correct and made a part of this Ordinance.

SECTION 2. This Ordinance shall only take effect and become operative if the electors of the City of Anaheim approve a City Council-sponsored tax measure for Commercial Cannabis Activities at the November 3, 2020 general municipal election. If the voters pass such a ballot measure, following certification by the City Council pursuant to the California Elections Code, Chapters 4.20, 4.21, and 4.100 of the Anaheim Municipal Code will be, and by this instrument hereby are, repealed and replaced in their entirety with Chapter 4.110, as follows:

Chapter 4.110 COMMERCIAL CANNABIS FACILITIES

- 4.110.010. Purpose and Intent.**
- 4.110.020. Fees and Taxes.**
- 4.110.030. Commercial Cannabis Authorization and Restrictions.**
- 4.110.040. Definitions.**
- 4.110.050. Procedures.**
- 4.110.060. Number and Location of Cannabis Facility Permits.**
- 4.110.070. Operational Standards.**
- 4.110.080. Regulations and Inspection.**
- 4.110.090. Fees Deemed Debt to City of Anaheim.**
- 4.110.100. Permit Holder, Owners, Operators Responsible for Violations.**
- 4.110.110. Violations Declared a Public Nuisance.**
- 4.110.120. Each Violation a Separate Offense.**
- 4.110.130. Criminal Penalties.**
- 4.110.140. Remedies Cumulative and Not Exclusive.**

4.110.010. PURPOSE AND INTENT.

It is the purpose and intent of this Chapter 4.110 to implement State Law, which includes, but is not limited to, the provisions of the Medicinal Adult-Use Cannabis Recreation and Safety Act, Business and Professions Code §§ 26000, *et seq.*, as it may be augmented and amended from time to time (hereinafter, "MAUCRSA"), while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter 4.110 to regulate the indoor cultivation, retail sale, delivery, manufacturing, processing, testing, and distribution of Cannabis and Cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Anaheim, and which is consistent with the rules and regulations imposed by State Law. Nothing in this Chapter 4.110 is intended to authorize the possession, use, sale, or provision of Cannabis for purposes which violate State Law. In addition, nothing in this Chapter 4.110 is intended to allow persons to engage in conduct that endangers others or constitutes a public nuisance. The requirements of this Chapter 4.110 are in

addition to any other permits, licenses or approvals required to conduct business in Anaheim or under State, County, or other law. Nothing in this Chapter shall be interpreted to allow Commercial Cannabis Uses other than those that strictly comply with the provisions contained herein. Operation of a Commercial Cannabis Facility without obtaining a Permit and complying with State Law and all of the provisions of this Chapter is strictly prohibited.

4.110.020. FEES AND TAXES.

All Commercial Cannabis Facilities shall pay all applicable fees and taxes, which shall include one (1) or more of the following:

(a) Commercial Cannabis Facility Permit Application Fees. Applicants shall submit a non-refundable fee to cover the cost of processing an application or amended application for a Commercial Cannabis Facility Permit, which fee shall be established by the City Council by resolution.

(b) Commercial Cannabis Facility Permit Renewal Fees. Applicants for renewal permits shall submit a non-refundable fee to cover the cost of processing an application or amended application for annual renewal of the Commercial Cannabis Facility Permit, which fee shall be established by the City Council by resolution.

(c) Business License Taxes. A Commercial Cannabis Facility shall at all times maintain a current and valid City of Anaheim business license and shall pay all business license taxes, deposits, charges, fees, deficiencies, penalties, interest, and other associated assessments as may be required by the Anaheim Municipal Code or other City rule or regulation.

(d) Commercial Cannabis Operating Agreement Fees. Prior to commencing operations, a Commercial Cannabis Facility shall enter into an agreement with the City that includes the payment of fees and other charges to compensate the City for impacts on City services.

(e) Cannabis-specific gross receipts, excise taxes, or other municipal tax approved by the voters of the City of Anaheim.

(f) All required state taxes, including sales and use taxes, business/franchise or income taxes, payroll taxes, etc.

(g) All required federal taxes.

(h) All required transfer taxes and/or fees.

4.110.030. COMMERCIAL CANNABIS AUTHORIZATION AND RESTRICTIONS.

.010 Minimum Standards Applicable to Commercial Cannabis Activity.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the MAUCRSA, and any subsequent state legislation and/or regulations regarding the MAUCRSA, the City of Anaheim is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of Commercial Cannabis Activities. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Anaheim to all Commercial Cannabis Activity.

.020 Unauthorized Commercial Cannabis Activities Prohibited.

Except as specifically authorized in this Chapter, the commercial cultivation, dispensing, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Bus. & Prof. Code section 26090(e)), of Cannabis or Cannabis products is expressly prohibited in the City of Anaheim.

.030 Compliance with Laws.

Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state or local law with respect to the operation of a Commercial Cannabis Facility. It shall be the responsibility of the owner(s) and/or operator(s) of a Commercial Cannabis Facility to ensure that the Facility is, at all times, operating in a manner compliant with all applicable federal, state and local laws, as they may be augmented or amended from time to time, including for as long as applicable, the Compassionate Use Act ("Prop. 215"), the Medical Cannabis Program Act ("MMPA"), the 2008 Attorney General Guidelines for the Security and Non-Diversion of Cannabis for Medical Purposes ("AG Guidelines"), the Medical Marijuana Regulation and Safety Act ("MMRSA"), the Adult Use of Marijuana Act ("AUMA" or "Prop. 64"), the MAUCRSA, and any subsequently enacted state law or regulatory, licensing, or certification requirement (collectively "State Law"), as well as any specific, additional operating procedures or requirements which may be imposed as conditions of approval of a Commercial Cannabis Facility Permit.

4.110.040. DEFINITIONS.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. 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. The definitions of terms below shall be consistent with the definitions contained in the MAUCRSA. Any term used in this Chapter that is not defined below shall have the same meaning contained in the MAUCRSA.

.010 “Applicant” shall mean a person or entity applying for a Commercial Cannabis Facility Permit. In the context of an annual renewal, Applicant shall mean a person or entity applying to renew a Permit.

.020 “Cannabis” shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” shall have the same meaning as set forth in Business & Professions Code § 26001 (f), as it may be amended from time to time, and additionally means “marijuana” as defined by Section 11018 of the Health and Safety Code. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination., “Cannabis” also does not mean “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

.030 “Certificate of Accreditation” shall mean a document issued by an accreditation body that attests to a laboratory’s competence to carry out specific testing analysis and is required for issuance of a state license pursuant to 16 Cal. Code Regs. § 5702.

.040 “City” shall mean the City of Anaheim.

.050 “City Cannabis Regulations” shall mean and refer to the regulations issued by the City Manager relating to the application for or renewal of a Commercial Cannabis Facility Permit and/or the oversight and operation of Commercial Cannabis Facilities in the City.

.060 “City Manager” shall mean the City Manager of the City of Anaheim or his or her designee.

.070 “Commercial Cannabis Activity” shall have the same meaning as set forth in Business and Professions Code § 26001, as it may be amended from time to time. Commercial Cannabis Activity includes the cultivation, possession, manufacture, distribution, transportation, processing, storing, laboratory testing, packaging, labeling, delivery or sale of Cannabis and Cannabis products, whether or not carried out for gain or profit.

.080 “Commercial Cannabis Facility” shall mean a business that has obtained a Commercial Cannabis Facility Permit from the City of Anaheim in order to conduct a Commercial Cannabis Activity, and which is subject to the regulations set forth in State Law and this Chapter.

.090 “Commercial Cannabis Facility Permit” or “Permit” shall mean a regulatory permit issued by the City to a person pursuant to this chapter, authorizing that person to operate a Commercial Cannabis Facility in the City, and which is required before any Commercial Cannabis Activity may be conducted in the City. The initial permit and annual renewal of a Commercial Cannabis Facility Permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this chapter and any regulations adopted by the City governing the Commercial Cannabis Activity at issue.

.100 “Commercial Cannabis Operating Agreement” shall mean an agreement entered into by and between the City and a Commercial Cannabis Facility governing the operation of the Facility which shall, among other things, specify terms for local hiring and sourcing, community benefits, public safety, public outreach and education, community services, and payment of fees and other charges to compensate the City for impacts on City services.

.110 “Cultivation” or “Cultivator” shall mean a Licensee engaged in activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.

.120 “Cultivation – Indoor” shall mean the Cultivation of Cannabis inside a permanent enclosed building or structure.

.130 “Cultivation – Outdoor” shall mean the Cultivation of Cannabis outside a permanent enclosed building or structure.

.140 “Delivery” shall mean the commercial transfer of Cannabis or Cannabis products to a customer located at a physical address. “Delivery” also includes the use by a Retailer of any technology platform used to transfer or sell Cannabis other than at the Retail Facility.

.150 “Distribution or Distributor” shall mean a Licensee that engages in the procurement, sale, and transport of Cannabis and Cannabis products between other Licensees.

.160 “Hearing Officer” shall have the meaning set forth in Section 1.12.110 of this Code.

.170 “Labor Peace Agreement” shall mean a written agreement as defined by California Business and Professions Code § 26001(x) between an

Owner and a bona fide labor organization that, at a minimum, prohibits labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the Owner's business and contains an agreement by the Owner not to disrupt efforts by the bona fide labor organizer to communicate with, and attempt to organize and represent the Owner's employees.

.180 "License" or "State License" shall mean a state license issued pursuant to California Business & Professions Code Section 26050, and all other applicable state laws, required for operating a cannabis business or engaging in commercial cannabis activity in the City.

.190 "Licensee" shall mean an individual or entity that has obtained a State License.

.200 "Manufacture or Manufacturer" shall mean a Licensee that engages in the production, preparation, propagation, or compounding of Cannabis or Cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages Cannabis or Cannabis products or labels or relabels their containers.

.210 "Owner" shall have the same meaning as set forth in Business and Professions Code section 26001(a1), as it may be amended from time to time, and shall generally mean an individual or entity with at least a twenty percent (20%) ownership interest in a business engaged in Commercial Cannabis Activity.

.220 "Permittee" shall mean an individual or entity that has obtained a Commercial Cannabis Facility Permit.

.230 "Person" shall have the meaning set forth in Section 1.01.240 of this Code.

.240 "Retail," "Retailer" or "Retail Facility" shall mean a licensed premises where Cannabis, Cannabis products, or devices for the use of Cannabis or Cannabis products are offered, either individually or in any combination for retail sale, including an establishment that Delivers Cannabis or Cannabis products as part of a retail sale.

.250 "Sale" "Sell" and "to sell" shall mean and include any sale, exchange, or barter. It shall also mean any transaction whereby, for any consideration, title to cannabis or cannabis products are transferred from one person to another and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same, but does not include the return of cannabis or cannabis products to the licensee from whom the cannabis or cannabis product, was purchased.

.260 “State” shall mean the State of California or any departments or divisions thereof.

.270 “State Law” shall have the meaning set forth in Section 4.110.030 of this Chapter.

.280 “Testing Laboratory” shall mean a laboratory, facility, or entity in the State that offers or performs tests of Cannabis or Cannabis products and that is both: (1) accredited by an accrediting body that is independent from all other persons involved in Commercial Cannabis Activity in the State; and (2) licensed by the Bureau of Cannabis Control or other state agency.

4.110.050. PROCEDURES.

.010 Commercial Cannabis Facility Permit Required.

No person shall engage in Commercial Cannabis Activity in Anaheim unless: (1) the person has obtained a valid Commercial Cannabis Facility Permit issued by the City of Anaheim; (2) the person has obtained a valid Cannabis License issued by the State of California; and (3) the Facility is operated in compliance with all applicable State and local laws and regulations pertaining to its Commercial Cannabis Activity, including but not limited to the provisions of this Chapter and the City’s Cannabis Regulations. Any person who is an employee or who otherwise works within a Commercial Cannabis Facility must be legally authorized to do so under applicable State Law.

.020 Commercial Cannabis Operating Agreement Required.

Prior to commencing operations, an Applicant for a Commercial Cannabis Facility Permit shall be required to enter into a Commercial Cannabis Operating Agreement with the City setting forth the terms and conditions under which the Commercial Cannabis Facility will operate that are in addition to the requirements of this Chapter, including, but not limited to, terms for local hiring and sourcing, community benefits, public safety (including both police and fire services), public outreach and education, community services, payment of fees and other charges as mutually agreed, and such other terms and conditions as will protect and promote the public health, safety and welfare.

.030 Application Process and Requirements.

.0301 The City Manager is authorized to prepare and promulgate Commercial Cannabis Facility Permit application form(s), and to modify those forms as the need arises. Any individual or entity that seeks to operate a Commercial Cannabis Facility shall submit an application on a form prepared by the City Manager together with a non-refundable processing fee.

.0302 Commercial Cannabis Facility Permit application requirements, processes and procedures shall be set forth in the City's Cannabis Regulations. Failure to disclose information fully and accurately in an application form may lead to denial or revocation of, or failure to renew, a Permit.

.0303 Within ten (10) calendar days of any change in the information provided in a Commercial Cannabis Facility Permit application form or any change in status of compliance with the provisions of this Chapter, an Applicant shall file an updated application form for review along with an application amendment fee.

.0304 Applications shall be reviewed by the City Manager in accordance with the standards and criteria set forth in the City's Cannabis Regulations. Such review shall incorporate a merit-based scoring or ranking system that takes into account prior successful experience operating a commercial Cannabis business, the similarity and location of any prior Cannabis business, ownership or control of the site upon which the business is to operate, the Applicant's operational and security plan for the Commercial Cannabis Facility, and the Applicant's proposed community, charitable and local hire programs. At the completion of the application process, Applicants shall be ranked from the most points to the least points in each Commercial Cannabis Activity category. The City Manager shall award Commercial Cannabis Facility Permits to the top Applicant(s) for each Commercial Cannabis Activity category, up to the maximum number of Permits allowed in this Chapter.

.040 City Manager Authority to Approve or Deny Permit.

The City Manager shall either deny, approve, or conditionally approve an application for a Commercial Cannabis Facility Permit. The City Manager's decision shall be final. The City Manager shall provide the Applicant with written notice of his/her decision.

.0401 If an application is denied, a new application may not be filed for one (1) year from the date of the denial.

.0402 If a Commercial Cannabis Facility Permit is approved or conditionally approved, it shall only be valid for a term of twelve (12) months from the date it is issued, and shall expire at the end of the twelve (12) month period unless it is renewed as provided in this Chapter. A Commercial Cannabis Facility Permit does not confer any property interest, entitlement or vested right and shall not run with the land. Permits issued pursuant to this Chapter are not transferable to any other individual, entity, premises or location, except as set forth in this Chapter.

.0403 The City Manager retains full authority to deny an application and/or reduce points awarded for a Commercial Cannabis Facility Permit in the event that he/she determines any of the following:

(a) The Applicant has not provided the information required on the application form.

(b) The Applicant has falsified or made misrepresentations in the application.

(c) The Applicant has previously failed to comply with any of the requirements set forth in this Chapter.

(d) The Applicant has failed to comply with State Law and/or remit taxes as required by the Revenue and Taxation Code or the Anaheim Municipal Code.

(e) The Applicant has denied the City or the State access to the licensed premises.

(f) The Applicant has previously operated an illegal Cannabis dispensary or business.

(g) The approval could result in harm to the public health, safety, or welfare.

.050. Amendment to Cannabis Facility Permit.

No Commercial Cannabis Facility Permit shall be amended without the prior written approval of the City.

.060 Renewal Process and Requirements.

.0601 An application for renewal of a Commercial Cannabis Facility Permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current Permit on an application renewal form prepared by the City Manager. The City's Cannabis Regulations shall set forth the renewal application process, including the applicable deadlines and renewal requirements. The renewal application shall generally request or require confirmation of information required for new applications, and may be subject to the same site inspection and City staff approvals required for new applications.

.0602 The Applicant shall pay a fee in an amount to be set by the City Council to offset the cost of processing a renewal application, together with any costs incurred by the City to administer the program created under this Chapter. The City Council shall establish the renewal fee by resolution.

.0603 An application for renewal of a Commercial Cannabis Facility Permit may be denied for any of the following reasons:

(a) The application was filed less than sixty (60) days before expiration of the Permit.

(b) The Commercial Cannabis Facility Permit or State License has been suspended or revoked at the time of the application.

(c) The Commercial Cannabis Facility has not been in regular and continuous operation in the ninety (90) days prior to the renewal application.

(d) The Commercial Cannabis Facility or its Owners have failed to conform to the requirements of this Chapter, the City's Cannabis Regulations, its Commercial Cannabis Operating Agreement, or State Law.

(e) The Commercial Cannabis Facility or its Owners have failed to pay applicable state or local taxes.

(f) The Applicant has failed or is unable to renew its State License.

(g) Any of the reasons set forth in Section 4.110.050.040.0403.

.0604 The City Manager is authorized to make all decisions concerning the renewal of a Commercial Cannabis Facility Permit. In determining whether to renew a Permit, the City Manager is authorized to impose additional conditions on the Permit, if deemed necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare.

.0605 The City Manager's decision to approve, conditionally approve, or deny an application to renew a Commercial Cannabis Facility Permit may be appealed as provided in this Chapter.

.0606 If a renewal application for a Commercial Cannabis Facility is denied, a person may file an application for a new Permit for that Facility pursuant to this Chapter no sooner than one (1) year from the date of the denial.

.070 Revocation, Modification and Suspension Requirements.

.0701 Commercial Cannabis Facility Permits may be suspended, revoked or modified by the City Manager based upon any of the following:

(a) A violation of any State or local law, rule, regulation requirement and/or standard, including but not limited to the provisions of

this Chapter, the City's Cannabis Regulations, the Commercial Cannabis Operating Agreement, or the City's Municipal Code.

(b) A failure to remit taxes as required by the California Revenue and Taxation Code or the Anaheim Municipal Code.

(c) A determination that the Applicant falsified or misrepresented information on its Commercial Cannabis Facility Permit application or renewal application.

(d) An unauthorized transfer of ownership or change of location of a Commercial Cannabis Facility.

.0702 Suspension of a State License shall immediately suspend the ability of a Commercial Cannabis Facility to operate within the City. The City may, in its sole and absolute discretion, reinstate the Commercial Cannabis Facility's Permit if the State reinstates or reissues the State License. Should the State revoke or terminate the License of a Commercial Cannabis Facility, such revocation or termination shall automatically revoke or terminate the Commercial Cannabis Facility Permit and the ability of a Commercial Cannabis Facility to operate within the City of Anaheim. Upon notification by the State, a Permittee shall notify the City immediately in writing of State proceedings to revoke or suspend a State License. If a Permittee fails to do so, the City Manager may impose a daily fine not to exceed one thousand dollars (\$1,000) for each day notification is delayed.

.0703 The City Manager's determination to suspend, modify, or revoke a Commercial Cannabis Facility Permit shall be effective immediately upon written notice from the City, and shall not be stayed in the event an appeal is filed.

.0704 The City Manager's determination to suspend, modify or revoke a Commercial Cannabis Facility Permit may be appealed as provided in this Chapter.

.080 Transfer of Commercial Cannabis Facility or Permit.

.0801 No Owner or Permittee shall transfer his/her/it's ownership or control of a Commercial Cannabis Facility or any rights acquired under a Commercial Cannabis Facility Permit, to another person without written notification to the City. Such notification shall be provided a minimum of ninety (90) days before the proposed transfer and shall be accompanied by the information required in the City's Cannabis Regulations, which shall be similar to the information required of Applicants for new Permits. The City Manager shall have ninety (90) days from receipt of the required information to make a determination on the transfer request, which time shall not begin to run until a completed transfer

application packet is submitted to the City. The City Manager may approve, deny, or conditionally approve the transfer request.

.0802 A Commercial Cannabis Facility may change the form of business entity that owns the Commercial Cannabis Facility or holds its Commercial Cannabis Facility Permit, provided that the membership of the new business entity is substantially similar to original Permit holder business entity (at least ninety-five percent (95%) of the membership is identical). The Permittee is required to notify the City Manager in writing of the proposed change thirty (30) days prior to the effective date of the proposed change. A change in the form of the business entity that occurs without prior notification to the City shall result in the immediate suspension of the Commercial Cannabis Facility Permit, shall be null and void, and may constitute grounds for Permit revocation.

.0803 Any transfer of a Commercial Cannabis Facility Permit, or change in the ownership, business structure, or operational control of a Commercial Cannabis Facility, either directly or indirectly, in violation of this section shall be null and void and is grounds for suspension or revocation of the Permit.

.0804 No transfer shall occur pursuant to this Section for two years from the date a Permit was first issued to an Owner or operator of a Commercial Cannabis Facility.

.0805 Any transfer that occurs pursuant to this Section shall be subject to a transfer fee that is established by the City Council by resolution.

.090 Relocation of Commercial Cannabis Facility.

.0901 Neither a Commercial Cannabis Facility nor its Permit shall be transferred or relocated from one premises to another without the City Manager's prior written consent, which must be requested a minimum of ninety (90) days before the proposed relocation. The request will be processed in accordance with the City's Cannabis Regulations and the City Manager may require the Permittee to submit additional application materials for the new location. A Permittee shall not operate from a new location unless and until it applies for and receives written approval from the City Manager, who has discretion to approve, conditionally approve, or deny the request.

.0902 A transfer or relocation of a Commercial Cannabis Facility or its Permit from one premises to another in violation of this section shall be null and void and is grounds for suspension or revocation of the Permit.

.0903 No transfer shall occur pursuant to this Section for two years from the date a Permit was first issued to an Owner or operator of a Commercial Cannabis Facility.

.0904 Any transfer or relocation that occurs pursuant to this Section shall be subject to a transfer fee that is established by the City Council by resolution.

.100 Appeal Hearing and Procedure.

.1001 Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager, the appeal shall be conducted as prescribed in this Chapter.

.1002 Within ten (10) calendar days after the date of a decision of the City Manager to revoke suspend or not to renew a Commercial Cannabis Facility Permit, a Permittee may appeal such action by filing a written appeal with the City Clerk setting forth the reasons for contesting the decision.

.1003 At the time of filing, the appellant shall pay the designated appeal fee established by resolution of the City Council.

.1004 Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City's Hearing Officer. The Hearing Officer shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.

.1005 The appeal shall be held within a reasonable time after the date the appeal is filed. The City shall notify the appellant of the time and location of the hearing at least ten (10) days prior to the date of the hearing.

.1006 At the hearing, the appellant may present any information it deems relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.

.1007 At the conclusion of the hearing the Hearing Officer may affirm, reverse or modify the decision appealed. The decision of the Hearing Officer shall be final.

4.110.060. NUMBER AND LOCATION OF CANNABIS FACILITY PERMITS.

.010 Maximum Number of Commercial Cannabis Facility Permits.

The City Manager shall be authorized to issue the following number of Commercial Cannabis Facility Permits for each type of Commercial Cannabis Activity:

.0101 *Retail*: Twenty (20) total Commercial Cannabis Facility Permits for retail/delivery may be issued. No more than three (3) Retail Permits shall be issued to the same Owner(s).

.0102 *Indoor Cultivation*: Twenty (20) total Commercial Cannabis Facility Permits may be issued for Indoor Cultivation. No more than three (3) Indoor Cultivation Permits shall be issued to the same Owner(s). A Commercial Cannabis Facility Permit for Indoor Cannabis Cultivation shall not authorize any individual to engage in any Outdoor Cannabis Cultivation.

.0103 *Manufacturing*: Twenty (20) total Commercial Cannabis Facility Permits may be issued for Cannabis Manufacturing. No more than three (3) Manufacturing Permits shall be issued to the same Owner(s).

.0104 *Distribution*: Twenty (20) total Commercial Cannabis Facility Permits may be issued for Cannabis Distribution. No more than three (3) Distribution Permits shall be issued to the same Owner(s).

.0105 *Testing Laboratories*: There shall be no limit on the number of Commercial Cannabis Facility Permits issued for Cannabis Testing Laboratories. No more than three (3) Testing Laboratory Permits shall be issued to the same Owner(s).

.020. Location and Separation Requirements.

.0201 A Commercial Cannabis Facility that meets the Separation Requirements identified in Table 1 (Permitted Zones and Separation Requirements) and has secured a valid Cannabis Facility Permit and Operating Agreement pursuant to this Chapter may locate on any parcel that is designated by the General Plan for Industrial land use and is located within the Industrial (I) Zone or Development Areas 1 and 2 of the Anaheim Canyon Specific Plan No. 2015-01 (SP2015-01) Zone.

.0202 No Commercial Cannabis Facility shall be located within six hundred (600) feet of any school (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12), or any licensed commercial day care center, youth center, park or public library.

.0203 Outdoor Cultivation is expressly prohibited in the City.

.0204 Cannabis Retailers are prohibited in the Anaheim Resort Specific Plan Area and the Disneyland Resort Specific Plan Area.

.0205 Cannabis Deliveries within the City of Anaheim are prohibited, unless the Delivery originated from a Retailer located in Anaheim that has obtained a valid Commercial Cannabis Delivery Permit, or the Delivery originated from a

Retailer located outside of Anaheim that has obtained a business license from the City of Anaheim.

.0206 Table 1 (Permitted Zones and Separation Requirements) identifies the permitted zones and separation requirements for Commercial Cannabis Facilities based on permit-type and State license-types.

Table 1 Permitted Zones and Separation Requirements Commercial Cannabis Facilities			
Permit Type	State License Type	Zone	Separation Requirements
Cultivation – Indoor	Type 1A; Type 3A; Type 4; Type 5A	Industrial (I) Zone; Anaheim Canyon Specific Plan, Development Areas 1 and 2	Minimum of 600 feet from schools, licensed day care centers, youth centers, parks, and libraries, as measured from the nearest property lines
Cultivation – Outdoor	Type 1 and 1B; Type 2 SF; Type 3 and 3B; Type 4; Type 5 and 5B	Prohibited	N/A
Delivery – Non Anaheim Retailer	Type 9; Type 10 and 10A	N/A	N/A
Delivery – Anaheim Retailer	Type 9; Type 10 and 10A	Industrial (I) Zone; Anaheim Canyon Specific Plan, Development Areas 1 and 2	Minimum of 600 feet from schools, licensed day care centers, youth centers, parks, and libraries, as measured from the nearest property lines
Distribution	Type 11; Type 12	Industrial(I) Zone; Anaheim Canyon Specific Plan, Development Areas 1 and 2	Minimum of 600 feet from schools, day care centers, youth centers, parks, and libraries, as measured from the nearest property

			lines
Manufacturing	Type 6; Type 7	Industrial (I) Zone; Anaheim Canyon Specific Plan, Development Areas 1 and 2	Minimum of 600 feet from schools, day care centers, youth centers, parks, and libraries, as measured from the nearest property lines
Retailer	Type 9; Type 10 and 10A	Industrial (I) Zone; Anaheim Canyon Specific Plan, Development Areas 1 and 2	Minimum of 600 feet from schools, day care centers, youth centers, parks, and libraries as measured from the nearest property lines
Testing Laboratory	Type 8	Industrial (I) Zone; Anaheim Canyon Specific Plan, Development Areas 1 and 2	Minimum of 600 feet from schools, day care centers, youth centers, parks, and libraries, as measured from the nearest property lines

4.110.070. OPERATIONAL STANDARDS.

.010 Pre-Operational Requirements.

Prior to commencing operations, and as a precondition for commencing such operations, a Commercial Cannabis Facility and its Owners and operators shall:

.0101 Obtain any and all required land use entitlements and approvals and comply with any California Environmental Quality Act requirements related thereto.

.0102 Be subject to a mandatory building inspection and obtain all required permits and approvals that would otherwise be required for any business of the same size and intensity operating in the Industrial Zone. This includes but is not limited to obtaining any required building permit(s), certificates of occupancy, Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

.0103 Enter into a Commercial Cannabis Operating Agreement with the City setting forth the terms and conditions under which the Commercial Cannabis Facility will operate that are in addition to the requirements of this Chapter, including, but not limited to, providing for public safety, public outreach and education, community services and benefits, payment of fees and other charges as mutually agreed, and such other terms and conditions as will protect and promote the public health, safety and welfare.

.0104 Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Anaheim, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance or failure to issue a Commercial Cannabis Facility Permit, the City's decision to approve or its refusal to approve the operation of the Commercial Cannabis Facility, the process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the Commercial Cannabis Facility or any of its officers, employees or agents.

.0105 Obtain and consistently maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate by the City Attorney.

.0106 Obtain a Commercial Cannabis Facility Permit and pay all fees and charges required by the City or any other local or State agency for the operation of a Commercial Cannabis Facility.

.0107 Comply with all State and local laws and regulations, including but not limited to the requirements of this Chapter, the City's Cannabis Regulations, the requirements of the Commercial Cannabis Permit, and State law.

.0108 Obtain a valid State License allowing for the operation of a Commercial Cannabis Facility.

.0109 Apply for and obtain a City of Anaheim business license.

.020 Operational Standards Applicable to All Cannabis Facilities.

While engaged in Commercial Cannabis Activities, all Commercial Cannabis Facilities shall comply with the following operational requirements:

.0201 Conform with the City's general plan, any applicable specific plans, master plans, and design requirements.

.0202 Comply with all applicable zoning and related development standards.

.0203 Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.

.0204 Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.

.0205 Maintain sufficient security measures to deter and prevent the unauthorized entrance into areas containing Cannabis or Cannabis products, and to deter and prevent the theft of Cannabis or Cannabis products at the Commercial Cannabis Facility, consistent with State Law.

.0206 Cooperate with the City if it makes a request, upon reasonable notice to the Commercial Cannabis Facility, to inspect or audit the effectiveness of any security plan or of any other requirement of this Section.

.0207 Prohibit the consumption or sampling of Cannabis by any employee, visitor, customer, operator or vendor on the premises of the Commercial Cannabis Facility.

.0208 Refrain from displaying Cannabis products or graphics depicting Cannabis or Cannabis products so as to be visible from the exterior of any property issued a Commercial Cannabis Facility Permit, or on any of the vehicles owned or used as part of the Commercial Cannabis Facility.

.0209 Refrain from displaying any signage, packaging, or other display that is "attractive" to minors as defined by State Law, as well as from any outdoor storage or display of Cannabis or Cannabis products.

.0210 Provide the City with the name, telephone number of an on-site employee or Owner to whom emergency notice can be provided at any hour of the day.

.0211 Prohibit any person under the age of twenty-one (21) years old from entering upon the Commercial Cannabis Facility premises or being employed by the Commercial Cannabis Facility.

.0212 Prohibit the sale, dispensing, or consumption of alcoholic beverages or tobacco products on or about the premises of the Commercial Cannabis Facility.

.0213 Ensure that the Commercial Cannabis Facility is monitored at all times by web-based closed circuit television for security purposes and maintain

and provide the City with access to those recordings as provided in the City's Cannabis Regulations.

.0214 If the Commercial Cannabis Facility employs two (2) or more employees (computed as "full time" non-supervisory employee equivalent positions where an employee full time equivalent works 1700 hours per year), enter into a Labor Peace Agreement and provide City with evidence of such Labor Peace Agreement within ninety (90) days following the date when the number of employees exceed two (2) full time positions.

.0215 Comply with the City's Commercial Cannabis Regulations and any Commercial Cannabis Facility operational requirements or regulations as are determined by the City Manager to be necessary to protect the public health, safety and welfare.

.030 Additional Operational Standards Applicable to Cannabis Retailers.

.0301 Cannabis Retailers shall only operate between the hours of 8:00 a.m. and 10:00 p.m.

.0302 Cannabis Retailers shall not operate as or with a drive-in or drive-thru at which Cannabis goods are sold to persons within or about a motor vehicle.

.0303 All structures included as part of the permitted Commercial Cannabis Facility shall be permanently affixed to land by a method that would normally cause the structure to ordinarily remain affixed for an indefinite period of time.

.0304 Commercial Cannabis Retailers shall provide at least one (1) private security guard during all hours of operation who is licensed and possesses a valid Department of Consumer Affairs "security guard card."

.0305 No non-Cannabis food or concessions shall be sold or distributed at the Premises.

.0306 Shipments of Cannabis goods may only be accepted during regular business hours.

.0307 A permitted Commercial Cannabis Retail Facility shall have twelve (12) months after Permit issuance by the City of Anaheim to commence operations.

.040 Additional Operational Standards Applicable to Cannabis Retail Deliveries.

.0401 Commercial Cannabis Retail Deliveries may be made only from a Commercial Cannabis Retail Facility permitted by the City in compliance with this Chapter and State Law. Deliveries from Cannabis Retailers located outside the City of Anaheim are prohibited, unless the Retailer obtains an Anaheim Business License.

.0402 Cannabis goods shall only be delivered to a residential dwelling, or to a commercial building or structure being lawfully used for lodging or temporary dwelling purposes (e.g., hotels or motels) if such Delivery is expressly permitted by the owner of the building or structure. Deliveries shall not be made to, or through the use of, any kiosk or temporary building or structure, nor for purposes of re-sale of the Cannabis product that is delivered.

.0403 All employees who deliver Cannabis shall have valid identification and a copy of the Commercial Cannabis Retail Facility Permit and State License at all times while making Deliveries.

.0404 During Delivery, the Delivery employee shall maintain a physical or electronic copy of the Delivery request and shall make it available upon request by the licensing authority and law enforcement officers. The Delivery request documentation shall comply with State Law.

.0405 A Commercial Cannabis Retail Facility shall maintain a list of all Deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by State Law.

.050 Additional Operational Standards Applicable to Cannabis Manufacturers.

.0501 Any manufacturing that will be conducted by a commercial Cannabis Manufacturer shall be included on the Commercial Cannabis Facility Permit application. No additional manufacturing activity shall be conducted without notifying the City Manager, after which a determination will be made if the new activity may commence with or without modification to the Commercial Cannabis Facility Permit or if a new Commercial Cannabis Facility Permit is required.

.0502 At all times, the commercial Cannabis manufacturing facility shall comply with all State regulations for Cannabis manufacturing. Signage shall be posted regarding the type(s) of chemicals being used at the manufacturing facility.

.0503 Commercial Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

.0504 Extraction equipment and extraction process utilizing hydrocarbon solvents shall be located in a room or area dedicated to extraction.

.0505 All commercial Cannabis manufacturing facilities shall comply with any and all applicable safety guidelines adopted by the Orange County Fire Authority, the State of California, and/or the City of Anaheim for Cannabis plant processing and extraction.

.060 Additional Operational Standards Applicable to Cannabis Distributors.

.0601 A Distributor shall ensure that Cannabis goods are stored in compliance with applicable State Laws and regulations in conformity with all applicable Track and Trace systems required by the State.

.0602 Employee breakrooms, eating areas, changing facilities, locker rooms and bathrooms shall be completely separated from areas where Cannabis is stored.

.070 Additional Operational Standards Applicable to Cannabis Cultivators.

.0701 There shall be no exterior evidence of Cannabis Cultivation from a public right-of-way.

.0702 The Building Official may impose additional specific requirements to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

.0703 Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board is required.

.0704 All commercial Cannabis Cultivation facilities shall comply with any and all applicable safety guidelines adopted by the Orange County Fire Authority, the State of California, and/or the City of Anaheim for Cannabis carbon dioxide enrichment systems.

.0705 Commercial Cannabis Cultivation facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

.080 Additional Operational Standards Applicable to Cannabis Testing Laboratories.

A licensed Cannabis Testing Laboratory and/or its Owners or employees may not hold an interest in any other Cannabis business except another Testing Laboratory business.

.090 Co-location.

Co-location of different Commercial Cannabis Activities or Permittees on one (1) site or parcel shall occur only if authorized by State Law, the Anaheim Municipal Code, and the City's Commercial Cannabis Regulations. All co-located Permittees and/or Cannabis Facilities must have separately metered utilities.

4.110.080. REGULATIONS AND INSPECTION.

.010 Commercial Cannabis Regulations.

The City Manager is authorized to establish City Cannabis Regulations governing the Commercial Cannabis Permit application and renewal criteria and processes, the regulation and oversight of Commercial Cannabis Facilities, the operational requirements imposed on such Facilities, and any other subject determined to be necessary to carry out the purposes of this Chapter. Compliance with the City's Commercial Cannabis Regulations is required to engage in Commercial Cannabis Activity, and failure to do so is grounds for revocation, suspension or non-renewal of a Commercial Cannabis Facility Permit, as well as the other penalties set forth in this Chapter.

.020 Inspection.

The City Manager is charged with enforcing the provisions of this Chapter and may enter the location of a Commercial Cannabis Facility at any time, without notice, and inspect the location of any Commercial Cannabis Facility as well as any records required to be maintained pursuant to this Chapter or under applicable provisions of State Law.

4.110.090. FEES DEEMED DEBT TO CITY OF ANAHEIM.

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

4.110.100. PERMIT HOLDER, OWNERS, OPERATORS RESPONSIBLE FOR VIOLATIONS.

The person to whom a Permit is issued pursuant to this Chapter, as well as each and every Owner and operator of a Commercial Cannabis Facility, shall be responsible for all violations of this Chapter, State Law, the Anaheim Municipal

Code and/or of the City's Cannabis Regulations by the Facility, whether committed by the Permittee or any employee or agent of the Permittee.

4.110.110. VIOLATIONS DECLARED A PUBLIC NUISANCE.

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

4.110.120. EACH VIOLATION A SEPARATE OFFENSE.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Anaheim Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, with any Permit issued pursuant to this Chapter being deemed null and void, and the City entitled to disgorgement or payment of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the Commercial Cannabis Facility Owner, operator or persons related to, or associated with, the Commercial Cannabis Facility. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager or the Chief of Police or his/her designee(s), may take immediate action to temporarily suspend a Commercial Cannabis Facility Permit issued by the City, and close down the Commercial Cannabis Facility pending a hearing before the City Hearing Officer.

4.110.130. CRIMINAL PENALTIES.

Each and every violation of the provisions of this Chapter may, in the discretion of the City Attorney, be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

4.110.140. REMEDIES CUMULATIVE AND NOT EXCLUSIVE.

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

SECTION 3: In adopting this Ordinance, the City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to sections 15004, 15060(c)(2), and 15060(c)(3), of Title 14 of the California Code of Regulations ("CEQA Guidelines"), because it will not result in a direct or reasonably

foreseeable indirect physical change in the environment, because there is no possibility that it may have a significant effect on the environment, and because it is not a project, as defined in section 15378 of the CEQA guidelines. Furthermore, pursuant to California Business & Professions Code Section 26055(h) and Sections 15061(b)(3) 15300.2(c), 15301, 15303, and 15332 of the CEQA Guidelines, there are no unusual circumstances in respect to the proposed Ordinance for which Staff would anticipate a significant effect on the environment and, therefore, the proposed Ordinance is categorically exempt from the provisions of CEQA.

SECTION 4: If any section, subsection, subdivision, sentence, clause, phrase, 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 the Ordinance. The City 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 thereof be declared invalid or unconstitutional.

SECTION 5: The Mayor shall sign and the Clerk shall attest to the passage of this Ordinance. The Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption. This Ordinance shall take effect and become operative as provided in Section 2 of this Ordinance.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ____ day of _____, 2020, and thereafter passed and adopted at a regular meeting of said City Council held on the ____ day of _____, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By:

MAYOR OF THE CITY OF ANAHEIM

ATTEST:

CITY CLERK OF THE CITY OF ANAHEIM