

ORDINANCE NO. 2018-14

AN ORDINANCE OF THE PEOPLE OF THE CITY OF JURUPA VALLEY, CALIFORNIA, ADDING CHAPTER 11.45 ("EXEMPTED COMMERCIAL CANNABIS ACTIVITY") TO TITLE 11 ("PEACE, MORALS, AND SAFETY") TO THE JURUPA VALLEY MUNICIPAL CODE

THE PEOPLE OF THE CITY OF JURUPA VALLEY DO ORDAIN AS FOLLOWS:

Section 1. Enactment. The People of the City of Jurupa Valley do hereby enact and ordain that Chapter 11.45 ("Exempted Commercial Cannabis Activity") is added to Title 11 ("Peace Morals, and Safety") of the Jurupa Valley Municipal Code to read as follows:

Chapter 11.45 – EXEMPTED COMMERCIAL CANNABIS ACTIVITY

Sections:

11.45.010 – Findings and Purpose.

11.45.020 – Definitions.

11.45.030 – Operating Standards.

11.25.040 – Priority Application.

11.25.050 – Non-priority Application.

11.25.060 – Exempted Commercial Cannabis Activity Status.

11.25.070 – Transfer of Exempted Status; Change of Location and Exemption Classification.

11.25.080 – Enforcement.

11.25.090 – Findings and Purpose.

11.25.010 – Findings and Purpose.

(a) The purpose of this ordinance is to give meaning and effect to state commercial cannabis laws, provide a limited exemption from enforcement of the City's prohibition on commercial cannabis activity, as set forth in City of Jurupa Valley Ordinance No. 2016-13 (and as may be set forth in successor ordinances, including those enacted by way of a ballot measure that enact a ban/total regulatory exclusion on commercial cannabis activity), to make exempted commercial cannabis activity a permitted and taxable use, to advance local control, to restrict the location and operation of exempted commercial cannabis activity, and to impose civil and criminal enforcement for violation of these local requirements.

(b) Given that every aspect of commercial cannabis activity is pervasively regulated by the state, and participation in the same will always be exclusive to a relatively small, limited number of commercial cannabis licensees, the potential negative impacts on the City from exempted commercial cannabis activity due to hazardous emissions, commercial traffic, and socioeconomic conditions are negligible compared to similar uses conducted within the context of more common and less pervasively regulated industries. Thus, exempted commercial cannabis

activity conducted in accordance with this ordinance shall be exempt from all logistic and other similar supply-chain locational restrictions not imposed by this ordinance.

(c) There are many reasons why an ordinance to affirmatively permit commercial cannabis the City, as opposed to providing a limited exemption from enforcement, would have been problematic at the time of the drafting of this ordinance. As of the date of submission of this ordinance, the City had not adopted a codified municipal code, it had not updated its zoning map since 2011, it had recently adopted its first General Plan, it was in the initial stages of changing its zoning designations in accordance with its newly adopted General Plan, and it had signaled a likelihood of making significant amendments to its General Plan in the near future. Further, cannabis was federally illegal, and the City's land use, business, and safety regulations prevented the establishment and operation of businesses that did not comply with the Federal Controlled Substances Act, including state licensed cannabis businesses. What is more, the City provided a limited exemption from enforcement for the personal cultivation of cannabis, which a municipality could not ban pursuant to state law. All of this militated against locally regulating commercial cannabis activity by way of a more traditional municipal permitting and zoning scheme, and it is within the context of this extraordinary situation that the limited exemption set forth this ordinance must be interpreted.

11.45.020 - Definitions.

(a) For purposes of this Chapter, all definitions, other than the definitions explicitly set forth herein this Chapter, shall have the same meaning as the definitions set forth in California's Medicinal and Adult-Use Cannabis Regulation and Safety Act, as set forth in Division 10 of the Business and Professions Code, Section 26000, et seq., as of its initial effective date.

(b) "Act" means California's Medicinal and Adult-Use Cannabis Regulation and Safety Act, as set forth in Division 10 of the Business and Professions Code, Section 26000, et seq., and/or any later enacted state law or regulation governing commercial cannabis activity.

(c) "Applicant" means person and/or owner applying for exempted commercial cannabis activity status pursuant to this Chapter.

(d) "Application" means application for exempted commercial cannabis activity status, including priority, non-priority, and amended versions of the same.

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

(f) "Cannabis goods" means cannabis and products containing cannabis. (g) "City" means the City of Jurupa Valley, California.

(h) "Code" means Jurupa Valley Municipal Code or other words to the same effect.

(i) "Commercial cannabis activity" means any cannabis-related activity that requires a state license pursuant to the Act.

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

(k) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(l) "Exempted commercial cannabis activity" means commercial cannabis activity conducted by any exemption holder in full compliance with each of the requirements and limitations set forth in this Chapter.

(m) "Exempted commercial cannabis activity status" means the status conferred to an applicant that has been provided with written notice from the City Clerk indicating that his/her/its application pursuant to this Chapter has been deemed complete, and is thus eligible to engage in commercial cannabis activity upon the exemption holder's exempted premises in a manner that comports with, and is limited to, the exemption type(s) set forth in the exemption holder's completed application, so long as such exempted commercial cannabis activity fully complies with each of the requirements and limitations set forth in this Chapter.

(n) "Exemption type" means the type of exempted commercial cannabis activity that will be or is conducted by an exemption holder pursuant to this Chapter, which shall include all of the following: (i) Type 1(cultivation) for all indoor/mixed light commercial cannabis cultivation, including any microbusiness that engages in the same; (ii) Type 2, (manufacturer) for all commercial cannabis activity related to and associated with manufacturing of cannabis goods, including any microbusiness that engages in the same; (iii) Type 3, (retail sales) for all cannabis retail sales, including any microbusiness that engages in the same; (iv) Type 4, (testing laboratory) for all laboratory testing of cannabis goods; and (v) Type 5 (distributor) for all commercial cannabis distribution, including any microbusiness that engages in the same.

(o) "Exemption holder" means any person who has been provided written notice from the City Clerk indicating that his/her/its application for exempted commercial cannabis activity status has been deemed complete.

(p) "Exempted lot" means the designated parcel of land, which has been assigned a unique Assessor's Parcel Number, specified in the application that is owned, leased, or otherwise held under the control of the applicant, where the exempted commercial cannabis activity will be or is conducted.

(q) "Exempted premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the

applicant, where the exempted commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one exemption holder.

(r) "Exempted retail sales premises" means the designated structure or structures and land specified in the completed application that is owned, leased, or otherwise held under the control of the applicant, where the exempted commercial cannabis activity involving retail sales will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one exemption holder.

(s) "License" means a state license issued under the Act, and includes both A-licenses and M-licenses, as well as testing laboratory licenses, as described in the Act.

(t) "Licensee" means a person holding a license under the Act.

(u) "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

(v) "Naked eye," also called bare eye or unaided eye, means the practice of engaging in visual perception unaided by a magnifying or light-collecting optical instrument, such as a telescope or binoculars.

(w) "Owner" means any of the following: (i) a person with an aggregate ownership interest of twenty percent or more in the person applying for exempted commercial cannabis activity status, unless the interest is solely a security, lien, or encumbrance; (ii) the chief executive officer of a nonprofit or other entity; (iii) a member of the board of directors of a nonprofit; and (iv) an individual who will be participating in the direction, control, or management of the person applying for exempted commercial cannabis activity status.

(x) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(y) "Retail cannabis sales" means the sale of cannabis, or cannabis goods, to consumers other than a person holding a valid state license under the Act.

(z) "Rubidoux-Village Commercial" shall have the same meaning as Rubidoux-Overlay Commercial, Rubidoux-Center Commercial, Rubidoux Commercial, or other similar words to the same effect, which are later ascribed to the R-VC (Rubidoux-Village Commercial) zone designation based on the City Council's stated desire to remove the word "Village" from the City's official land use and zoning nomenclature.

(aa) "Testing laboratory" means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis goods.

11.45.030 - Operating Standards.

In addition to all of the applicable requirements of the Act, exempted commercial cannabis activity conducted within the City shall be conducted in accordance with all of the following local requirements:

(a) All signage upon the exempted premises shall be limited to one wall sign in compliance with this Code, shall not be externally or internally illuminated, and shall not reference or otherwise depict narcotics, narcotic paraphernalia, cannabis, cannabis products, and/or cannabis paraphernalia.

(b) Not more than two hundred dollars in cash reserves may be stored overnight at the exempted premises.

(c) An applicant shall provide the name and phone number of an on-site staff person to the City Clerk for notification if there are operational problems at the exempted premises.

(d) In order to avoid excessive concentration of commercial cannabis activity in the City, no exempted lot shall be located within a 1,000-foot radius of three (3) or more exempted lots. The distance specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the lot on which a proposed exempted premises is to be located to the closest property line of each of the three (3) nearest lots on which exempted premises are located, without regard to intervening structures.

(e) In order to avoid excessive concentration of retail-related commercial cannabis activity in the City, the number of exempted retail sales premises within the City shall be limited to one (1) per fifteen thousand (15,000) City residents. This number shall increase with each additional fifteen thousand City residents, such that for thirty thousand (30,000) City residents the number of exempted retail sales premises would be limited to two (2), for forty-five thousand (45,000) City residents the number would be limited to three (3) exempted retail sales premises, and so on.

The population figures to be used shall be those most recently estimated and officially published by the California Department of Finance for cities, counties and the state.

(f) Prior to commencement of commercial cannabis activity, but not prior to the City Clerk processing an application for exempted commercial cannabis activity status and/or issuing a notice of completion of the same, an exemption holder shall apply for and obtain all necessary state commercial cannabis licenses, City permits, City licenses, City certificates, and/or City approvals that are ordinarily required to be obtained prior to engaging in a lawful, permitted use at the location of the exemption holder's exempted lot. The City shall not use an exemption holder's involvement with exempted commercial cannabis activity as a basis for denial of any right, privilege, license, and/or approval of any kind whatsoever.

(g) Outdoor cannabis cultivation shall remain absolutely prohibited in all zone districts of the City.

(h) All cannabis cultivation shall be enclosed in a secure structure in a manner that prevents cannabis from being identified by the naked eye from any public right-of-way.

(i) An exemption holder shall at all times be in good standing with his/her/its City tax and fee payment obligations, including any City taxes and/or fees relating to commercial cannabis activity.

(j) Exempted premises shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12 that is in existence at the time the application for exempted commercial cannabis activity is filed with the City Clerk. The distance specified in this Subsection shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code, or its successor statutes, unless otherwise provided by law. There shall be no local radius restrictions related to day care centers or youth centers.

(k) No person under the age of twenty-one (21) shall be permitted entry upon any exempted premises where cannabis is present.

(l) Exempted commercial cannabis activity shall only be conducted upon an exempted lot that is located in one or more of the following zone districts of the City: C-1/C-P (General Commercial); M-SC (Manufacturing - Service Commercial); B-P (Business Park); or R-VC (Rubidoux-Village Commercial).

(m) Type 3 (retail sales) shall be the only exemption type allowed in the C-1/C-P (General Commercial) and R-VC (Rubidoux-Village Commercial) zone districts of the City.

(n) Commercial cannabis activity that does not strictly conform to the exemption holder's application that was deemed complete by the City Clerk, including the location of the exempted premises and the exemption types(s) set forth therein, shall remain absolutely prohibited in all zone districts of the City.

11.45.040 - Priority Application.

(a) Within thirty (30) calendar days following the date of enactment of this Chapter, the City Clerk shall cause to be prepared a priority application for exempted commercial cannabis activity status.

(b) The priority application form shall require the applicant to: (i) pay a reasonable application fee of not more than two thousand five-hundred dollars (\$2,500.00); (ii) list the address, or Assessor's Parcel Number, of the proposed exempted lot; (iii) indicate the proposed exemption type(s), as set forth in Subsection (n) of Section 11.45.020 of this Chapter; (iv) attach an original, or certified copy, of the applicant's initial-not amended or restated-Statement by Unincorporated Association, that specifically contains the following language: "commercial cannabis" or "commercial marijuana," which contained those exact words at the time such Statement by Unincorporated Association was filed with the California Secretary of State, and that was file-stamped by the California Secretary of State on or before the date of September 1, 2016; and (v) provide the legal name, mailing address, and emergency telephone number of the

applicant and on-site staff person for whom the City should contact in case of operational problems at the exempted premises.

(c) Thirty-one (31) calendar days following the date of enactment of this Chapter, the City Clerk shall begin accepting priority applications. No applicant shall submit more than one priority application.

(d) The initial period for accepting priority applications shall be limited to fifteen (15) business days.

(e) The City Clerk shall ensure that each priority application received during the initial fifteen (15) business day period is date- and time-stamped, and processed in the order in which it was received.

(f) Any priority application with a proposed exemption type of Type 3 (retail sales) that is processed after the maximum number of exempted retail sales premises has been reached, as set forth in Subsection (e) of Section 11.45.030 of this Chapter, shall be deemed incomplete.

(g) Any priority application processed after the maximum number of exempted lots allowed within a 1,000-foot radius of the applicant's proposed lot has been reached, as set forth in Subsection (d) of Section 11.45.030 of this Chapter, shall be deemed incomplete.

(h) Any priority application with a proposed exempted premises located in the C-1/C-P (General Commercial) or the R-VC (Rubidoux-Village Commercial) zone classifications of the City, and that also indicates a proposed exemption type other than Type 3 (retail sales), as set forth in Subsection (m) of Section 11.45.1030 of this Chapter, shall be deemed incomplete.

(i) Any priority application with a proposed exempted premises not located within the C-1/C-P (General Commercial), M-SC (Manufacturing- Service Commercial), B-P (Business Park), or R-VC (Rubidoux-Village Commercial) zone classifications of the City, as set forth in Subsection (1) of Section 11.45.1030 of this Chapter, shall be deemed incomplete.

j) Any priority application submitted by an applicant which does not fully comply with the requirements set forth in this Section shall be deemed incomplete.

(k) Within ten (10) business days following the expiration of the initial period for accepting priority applications, the City Clerk shall determine if the priority application is complete, and shall either:

(1) Notify the applicant in writing that the priority application is complete; or

(2) Notify the applicant in writing that the priority application is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render it complete.

(l) The applicant shall have fifteen (15) business days from the date of notice of incomplete application to submit all additional information and documentation identified by the

City Clerk to complete the priority application. Any amended priority application shall maintain the original date- and time-stamp in the order in which it was received.

(m) Within ten (10) business days following receipt of an amended priority application, the City Clerk shall determine whether the application is complete, and shall either:

(1) Notify the applicant in writing that the amended priority application is complete; or

(2) Notify the applicant in writing that the amended priority application is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render it complete.

(n) The applicant shall have fifteen (15) business days from the date of notice of incomplete amended application to submit all additional information and documentation identified by the City Clerk to complete the amended priority application. Any amended priority application shall maintain the original date- and time-stamp in the order in which it was received.

(o) Within ten (10) business days following receipt of an amended priority application, the City Clerk shall determine whether the application is complete, and shall either:

(1) Notify the applicant in writing that the amended priority application complete; or

(2) Notify the applicant in writing that the priority application remains incomplete, setting forth the reasons therefore, and shall be considered rejected and null and void.

(p) Nothing shall prevent an applicant that submitted a priority application but was rejected from thereafter submitting a non-priority application, as set forth in Section 11.45.050 of this Section.

11.45.050 -Non-priority Application.

(a) Within sixty (60) calendar days following the date of enactment of this Chapter, the City Clerk shall cause to be prepared an application form for use by the non-priority applicant for exempted commercial cannabis activity status.

(b) The non-priority application form shall require the applicant to: (i) pay a reasonable application fee of not more than two thousand five-hundred dollars (\$2,500.00); (ii) list the address, or Assessor's Parcel Number, of the proposed exempted lot; (iii) indicate the proposed exemption type(s), as set forth in Subsection (n) of Section 11.45.020 of this Chapter; and (iv) provide the legal name, mailing address, and emergency telephone number of the applicant and on-site staff person for whom the City should contact in case of operational problems at the exempted premises.

(c) One hundred (100) calendar days following the date of enactment of this Chapter, the City Clerk shall begin accepting non-priority applications. The City Clerk shall ensure that

each non-priority application is date and time-stamped and processed in the order in which it was received.

(d) Any non-priority application with a proposed exemption type of Type 3 (retail sales) that is processed after the maximum number of exempted retail sales premises has been reached, as set forth in Subsection (e) of Section 11.45.030 of this Chapter, shall be deemed incomplete.

(e) Any non-priority application processed after the maximum number of exempted lots allowed within a 1,000-foot radius of the applicant's proposed lot has been reached, as set forth in Subsection (d) of Section 11.45.030 of this Chapter, shall be deemed incomplete.

(f) Any non-priority application with a proposed exempted premises located in the C-1/C-P (General Commercial) or the R-VC (Rubidoux-Village Commercial) zone classifications of the City, and that also indicates a proposed exemption type other than Type 3 (retail sales), as set forth in Subsection (m) of Section 11.45.030 of this Chapter, shall be deemed incomplete.

(g) Any non-priority application with a proposed exempted premises not located within the C-1/C-P (General Commercial), M-SC (Manufacturing- Service Commercial), B-P (Business Park), or R-VC (Rubidoux-Village Commercial) zone classifications of the City, as set forth in Subsection (l) of Section 11.45.030 of this Chapter, shall be deemed incomplete.

(h) Any priority application submitted by an applicant which does not fully comply with the requirements set forth in this Section shall be deemed incomplete.

(i) Within ten (10) business days following the non-priority application being submitted, the City Clerk shall determine if it is complete and shall either:

(1) Notify the applicant in writing that the non-priority application is complete; or

(2) Notify the applicant in writing that the non-priority application is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render it complete.

(j) The applicant shall have fifteen (15) business days from the date of notice of incomplete application to submit all additional information and documentation identified by the City Clerk to complete the non-priority application. Any amended non-priority application shall maintain the original date- and time-stamp in the order in which it was received.

(k) Within ten (10) business days following receipt of an amended non-priority application, the City Clerk shall determine whether the application is complete, and shall either:

(1) Notify the applicant in writing that the amended non-priority application is complete; or

(2) Notify the applicant in writing that the amended non-priority application is incomplete, and set forth the reason(s) therefore, including all additional information and documentation necessary to render it complete.

(1) The applicant shall have fifteen (15) business days from the date of notice of incomplete amended application to submit all additional information and documentation identified by the City Clerk to complete the amended non-priority application. Any amended non-priority application shall maintain the original date- and time-stamp in the order in which it was received.

(m) Within ten (10) business days following receipt of an amended non-priority application, the City Clerk shall determine whether the application is complete, and shall either:

(1) Notify the applicant in writing that the amended non-priority application is complete; or

(2) Notify the applicant in writing that the non-priority application remains incomplete, setting forth the reasons therefore, and shall be considered rejected and null and void.

(n) Nothing shall prevent an applicant that applied for exemption but was rejected from thereafter submitting an application together with full payment of the application fee to the City Clerk, as set forth in this Section.

11.45.060 -Exempted Commercial Cannabis Activity Status.

An applicant that has been provided with written notice from the City Clerk indicating that his/her/its application pursuant to this Chapter has been deemed complete shall be conferred exempted commercial cannabis activity status, and is thus eligible to engage in commercial cannabis activity upon the exemption holder's exempted premises in a manner that comports with, and is limited to, the exemption type(s) set forth in the exemption holder's completed application, so long as such exempted commercial cannabis activity fully complies with each of the requirements and limitations set forth in this Chapter. For purposes of obtaining commercial cannabis licensure from the state, exempted commercial cannabis activity status shall be deemed the functional equivalent of local municipal authorization for the exemption holder to conduct commercial cannabis activity at his/her /its exempted premises, so long as such commercial cannabis activity fully complies with each of the requirements and limitations set forth in this Section. Upon receiving a written request from an exemption holder or representative of a governmental agency requesting confirmation of the exemption holder's local municipal authorization to engage in commercial cannabis activity, the City Clerk shall provide a timely written response in a form and manner that comports with the request. The City Clerk's written response shall include, at a minimum, written statement indicating the location of the exemption holder's exempted premises and the exemption type(s) associated with the same.

11.45.070 - Transfer of Exempted Status; Change of Location and Exemption Classification.

An exemption holder may change the location of his/her/its exempted premises, may change his/her/its exemption classifications, and may transfer his/her/its exempted commercial cannabis activity status, so long as the exemption holder satisfies the requirements related to the filing of a complete amended application for exempted commercial cannabis activity status, as set forth herein this Section. The form, contents, manner of processing, and standard for determining completeness of the amended application for exempted commercial cannabis activity status shall be substantially similar to non-priority applications, as set forth in Section 11.45.050 of this Chapter.

11.45.080 - Enforcement.

(a) Engaging in commercial cannabis activity within the City of Jurupa Valley in violation of this Chapter or noncompliance with any of the requirements of this Chapter is declared to be a public nuisance and shall be subject to any criminal or civil enforcement remedies available under the law and this Code. In addition, an exemption holder may, at the City's discretion, have his/her/its exempted commercial cannabis activity status revoked when, following administrative proceedings conducted in accordance with Chapter 2.40 (Hearings and Appeals") of this Code, the exemption holder is found to have violated this Section or the Act. Furthermore, the City may prosecute a violation of this Chapter by means of civil enforcement through a restraining order, a preliminary or permanent injunction, or by any other means authorized by law or equity. Notwithstanding any other provision of this Code; no conduct which is protected from criminal liability pursuant to state law shall be made criminal by this Section.

(b) Any person violating or causing or permitting the violation of any of the provisions of this Chapter shall be guilty of a misdemeanor.

11.45.090 - Application to Establish Exempted Commercial Marijuana Activity.

A City of Jurupa Valley citizens' ballot measure known as "An Initiative Measure to Legalize Marijuana Dispensaries and Commercial Marijuana Activity in the Manufacturing-Service Commercial Zone and Impose Certain Operational Requirements on Marijuana Dispensaries and Commercial Marijuana Activities in this Zone" (Chapter 11.35 "Commercial Marijuana Activity") has qualified for the June 2018 ballot. In the event that the provisions of this Chapter 11A5 ("Exempted Commercial Cannabis Activity") do not appear in the form of a competing citizens' ballot measure on the same June 2018 ballot, and should the previously qualified citizens' ballot measure be approved by the voters and become effective, it is the intent of the People of the City of Jurupa Valley that any exempted commercial marijuana activity status conferred pursuant to Section 11.35.030 of Chapter 11.35 ("Commercial Marijuana Activity") remain valid, so long as the established exempted commercial marijuana activity remains fully compliant with all of the requirements and standards set forth in Chapter 11.35 ("Commercial Marijuana Activity"). Other than to allow for the continued operation of exempted commercial marijuana activity that was established prior to this Chapter 11.45 ("Exempted Commercial Cannabis Activity") becoming effective, Chapter 11.35 ("Commercial Marijuana Activity") shall be fully repealed and replaced in its entirety by the provisions of this Chapter

11.45 ("Exempted Commercial Cannabis Activity"). In no event shall any exempted commercial marijuana activity status conferred pursuant to Chapter 11.35 ("Commercial Marijuana Activity") be considered an "exempted retail sales premises" or "exempted lot" pursuant to this Chapter 11.45 ("Exempted Commercial Cannabis Activity"), nor shall any exempted commercial marijuana activity established pursuant to Chapter 11.35 ("Commercial Marijuana Activity") cause any application submitted pursuant to Sections 11.45.040 and 11.45.050 of this Chapter 11.45 ("Exempted Commercial Cannabis Activity,") to be deemed incomplete or otherwise rejected.

Section 2. Amendment to Add Subsection E to Section 9.10.110 of Chapter 9.10 of Title 9 of the Jurupa Valley Municipal Code.

The People of the City of Jurupa Valley do hereby enact and ordain that Subsection E is hereby added to Section 9.10.110 ("Marijuana Cultivation and Medical Marijuana Dispensaries Prohibited") of Chapter 9.10 ("Amendments to the County Zoning Ordinance") of Title 9 ("Planning and Zoning") of the Jurupa Valley Municipal Code to read as follows:

"E. Section 17.12.090 (Prohibition of Commercial Marijuana Activity") is hereby added to Chapter 17.12 ("Zone Classifications and Districts") of Title 17 ("Zoning") of the Riverside County Code, as adopted by the City of Jurupa Valley by Chapter 1.31 of the Jurupa Valley Municipal Code, to read as follows:

Section 17.12.090 - Exempted Commercial Cannabis Activity.

(a) Exempted Commercial Cannabis Activity Considered Permitted. It is the intent of the People of the City of Jurupa Valley that exempted commercial cannabis activity conducted in strict accordance with Chapter 11.45 of the Jurupa Valley Municipal Code shall be considered a permitted use in the following zone classifications: C-1/C-P (General Commercial); M-SC (Manufacturing- Service Commercial); B-P (Business Park); and R-VC (Rubidoux-Village Commercial).

(b) Given that every aspect of commercial cannabis activity is pervasively regulated by the state, and participation in the same will always be exclusive to a relatively small, limited number commercial cannabis licensees, the potential negative impacts on the City from exempted commercial cannabis activity due to hazardous emissions, commercial traffic, and socioeconomic conditions are negligible compared to similar uses conducted within the context of more common and less pervasively regulated industries. Thus, exempted commercial cannabis activity conducted in accordance with Chapter 11.45 of the Jurupa Valley Municipal Code is exempt from all logistic and other similar supply-chain locational restrictions not imposed by Chapter 11.45 of the Jurupa Valley Municipal Code.

Section 3. Amendment to add Chapter 4.05 to Title 3 of the Jurupa Valley Municipal Code

The People of the City of Jurupa Valley do hereby enact and ordain that Chapter 4.05 ("Cannabis Business Tax") of Title 3 ("Revenue and Finance") is hereby added to the Jurupa Valley Municipal Code to read as follows:

Chapter 4.05 - CANNABIS BUSINESS TAX Section 4.05.010 - Imposition of Tax.

(a) Every person engaged in operating or otherwise conducting a cannabis business within the City of Jurupa Valley shall pay the following tax:

(1) Up to a maximum of three dollars (\$3.00) per square foot of space utilized in connection with the commercial cannabis activity; subject to adjustment by the City Council pursuant to Section 4.05.050 of this Chapter; and

(2) Up to a maximum of twenty-five dollars (\$25.00) per square foot of space utilized in connection with retail cannabis sales; subject to adjustment by the City Council pursuant to Section 4.05.050 of this Chapter.

Section 4.05.020 - Purpose of Tax.

The purpose of this tax is to raise revenue to fund general governmental services.

Section 4.05.030 - Definitions.

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

(b) A "Cannabis business" means any business, organization, or group, regardless of form, whether operating for profit or not for profit that conducts commercial cannabis activity.

(c) "Commercial cannabis activity" means any cannabis-related activity that requires a state license pursuant to California's Medicinal and Adult-Use Cannabis Regulation and Safety Act, as set forth in Division 10 of the Business and Professions Code, Section 26000, et seq., including the commercial cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, and delivery or sale of cannabis and cannabis goods, and/or any other later enacted state law regulating commercial cannabis activity.

(d) "Cannabis goods" means cannabis and products containing cannabis.

(e) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular, which is conducting itself as a cannabis business.

(f) "Retail cannabis sales" means the sale of cannabis goods to consumers other than a person holding a valid state license for commercial cannabis activity.

(g) "Retail cannabis area" means a room or other contiguous area where retail cannabis sales take place.

(h) "Space utilized in connection with retail cannabis sales" means any space or ground, floor or other surface area (whether horizontal or vertical) of the retail cannabis area occupied by a cannabis business.

(i) "Space utilized in connection with commercial cannabis activity" means any space or ground, floor or other surface area (whether horizontal or vertical) of the structure, or structures, occupied by a cannabis business, excluding any space or ground, floor or other surface area (whether horizontal or vertical) that is exclusively designated and used as: a retail cannabis area; office/clerical space; employee lunch/meal space; restroom space; visitor waiting space; and storage space for storing of tools and supplies that do not contain any amount of cannabis.

Section 4.05.040 - Payment Obligation.

All taxpayers subject to this Chapter must pay the full tax imposed by this Chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this Code, except as required by California or Federal law. Failure to pay the tax shall be subject to penalties, interest charges, and assessments as the City Council may establish and the City may use any or all other code enforcement remedies provided in this Code. No provision in this Code can lower the tax rate set forth in this Chapter or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

Section 4.05.050 - City Council Authorization to Adjust Tax Rate and/or Methodology.

The City Council may impose the tax authorized by this Chapter at a lower rate and may otherwise amend this Chapter without a vote of the People. However, voter approval is required for any amendment that would increase the maximum rate or methodology of any tax levied pursuant to this Chapter. The People of the City affirm that the following actions shall not constitute an increase of the maximum rate or methodology of the tax requiring subsequent voter approval:

(a) The restoration of the rate of the tax to a rate that is no higher than the maximum set by this voter-approved Chapter, if the City Council has previously acted to reduce the rate of the tax;

(b) An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter;

(c) The establishment of a class of person or service that is exempt or excepted from the tax or the discontinuation of any such exemption or exception; and

(d) Resuming collection of the tax imposed by this Chapter, even if the City had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

Section 4.05.060 - Payment of Tax Does Not Authorize Illegal Activity.

The payment of the tax required pursuant to this Chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Chapter implies or authorizes that any activity connected with cannabis is legal.

Section 4.05.070 - Commercial Cannabis Tax is Not a Sales Tax.

The tax provided for under the provisions of this Chapter is not a Sales, Transactions or Use Tax and shall not be calculated or assessed as such. The tax established under this Chapter shall not be separately identified or otherwise specifically assessed or charged to any client of a cannabis business.

Section 4.05.080 - Amendments and Administration.

(a) This Chapter was submitted to the voters for approval. Any amendment to this Chapter to increase the tax above the maximum rate expressly provided in Section 4.05.010 of this Chapter shall not become effective until such amendment is approved by the voters. The voters expressly authorize the City Council to amend, modify, change, or revise any other provision of this Chapter as the City Council deems in the best interest of the City, as set forth in Section

Section 4.05.050 of this Chapter.

(a) The City Manager or the City Manager's designee shall promulgate rules, regulations, and procedures to implement and administer this Chapter to ensure the efficient and timely collection of the tax imposed by this Chapter, including without limitation, formulation, and implementation of penalties and interest to be assessed for failure to pay the tax as provided.

(b) The City Manager or the City Manager's designee shall annually audit the taxes imposed by this Chapter to verify that tax revenues have been properly expended in accordance with the law.

(c) The appropriation limit for the City is increased to the maximum extent over the maximum period of time allowed under law consistent with the revenues generated by the tax established by this Chapter.

Section 4.05.090 - Returns and Remittances.

The Tax shall be due and payable as follows:

(a) The tax established by this Chapter shall be collected annually. Each person owing tax shall prepare and file a tax return to the City Manager setting out the total amount of

tax owed for the preceding calendar year during which the tax was in effect. The return shall be filed not later than sixty (60) calendar days following the last day of each preceding calendar year. At the time the tax return is filed, the full amount of the tax owed for the preceding calendar year shall be remitted to the City Manager.

(b) All tax returns shall be completed on forms provided by the City Manager or the City Manager's designee.

(c) Tax returns and payments for all outstanding taxes owed the City are immediately due to the City Manager upon cessation of business for any reason.

(d) Whenever any payment, statement, report, request, or other communication received by the City Manager is received after the time prescribed by this Chapter for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this Chapter for the receipt thereof, or whenever the City Manager is furnished substantial proof that the payment, statement, report, request, or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the City Manager may regard such payment, statement, report, request, or other communication as having been timely received. If the due date falls on Friday, Saturday, Sunday, or a holiday, the due date shall be the next regular business day on which the City Hall is open to the public.

(e) Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not paid on or before the due date specified in Subsection (a) of this Section.

(f) The City Manager is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

Section 4.05.100 - Failure to Pay Tax.

(a) Any person who fails or refuses to pay any tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to twenty-five percent (25%) of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at a rate established by resolution of the City Council; and

(2) An additional penalty equal to twenty-five percent (25%) of the amount of the tax if the tax remains unpaid for a period exceeding six (6) calendar months beyond the due date, plus interest on the unpaid tax and interest on the unpaid penalties calculated at the rate established by resolution of the City Council.

(b) Whenever a check is submitted in payment of a tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus penalties and interest as provided for in this Section plus any amount allowed under State law.

(c) The tax due shall be that amount due and payable from January 1, 2018, or the first date on which the cannabis business first operated in the City, whichever date occurred last, together with applicable penalties and interest calculated in accordance with Subsection (a) of this Section.

(d) The City Manager may waive the first and second penalties of twenty-five percent (25%) each imposed upon any person if:

(1) The person provides evidence satisfactory to the City Manager that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent tax and accrued interest owed the City prior to applying to the City Manager for a waiver.

(2) The waiver provisions specified in this Subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four-month period.

Section 4.05.110 - Refunds.

(a) No refund shall be made of any tax collected pursuant to this Chapter, except as provided in this Section.

(b) No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a cannabis business.

(c) Whenever the amount of any tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, such amount may be refunded to the person who paid the tax provided that a written claim for refund is timely filed with the City Manager. The period for filing a claim for refund shall be one (1) year from the time the tax was paid or erroneously or illegally collected; provided, however, that in no event shall the period to file such claim expire prior to the shortest period allowable for filing a tax refund claim under Government Code Section 911.2. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto, and must clearly set forth the facts and legal theories under which the claimant believes he or she has a right to a refund. Where the amount of any individual refund claim is in excess of the amount set by ordinance or resolution of the City Council relating to the settlement of general liability claims against the City by the City Manager, City Council approval shall be required.

(d) The filing of a written claim pursuant to Government Code Section 935 is a prerequisite to any suit thereon.

(e) The City Manager shall have the right to examine and audit all the business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's business records after request by the City Manager to do so.

(f) Any person entitled to a refund of taxes paid pursuant to this Chapter may elect in writing to have such refund applied as a credit against a cannabis business's taxes for the next calendar year.

(g) In the event that the tax was erroneously paid and the error is attributable to the City, the amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this Chapter from the amount to be refunded to cover expenses.

(h) The City Manager shall initiate a refund of any tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is uncovered by a City audit of tax revenues.

Section 4.05.120 - Enforcement.

(a) It shall be the duty of the City Manager to enforce each and all of the provisions of this Chapter.

(b) For purposes of administration and enforcement of this Chapter generally, the City Manager, with the concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations.

(c) The City Manager shall have the power to audit and examine all records of cannabis businesses as well as persons engaged in the operation of cannabis businesses, including applications for state commercial cannabis licensure, both state and federal tax and business filings, or any evidence documenting or demonstrating the space utilized in connection with commercial cannabis activity, or retail cannabis sales, or persons engaged in commercial cannabis activity, for the purpose of ascertaining the amount of tax, if any, required to be paid by the provisions of this Chapter and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this Chapter. If such cannabis business or person, after written demand by the City Manager, refuses to make available for audit, examination, or verification such, records, facility, or equipment as the City Manager requests, the City Manager may, after full consideration of all information within the City Manager's knowledge concerning the cannabis business and its business and activities of the person so refusing, make an assessment in the manner provided in Section 5.05.130 of this Chapter.

(d) The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any State law requiring the payment of all taxes.

(e) Any person violating any of the provisions of this Chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring a certificate or permit from the City as provided for in this Chapter shall be deemed guilty of a misdemeanor.

Section 4.05.130 - Debts; Deficiencies; Assessments; and Appeals.

(a) The amount of any tax, penalties, and interest imposed by the provisions of this Chapter shall be deemed a debt to the City and any person operating a cannabis business without having paid any applicable tax, penalties, and interest shall be liable in an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such cannabis business.

(b) If the City Manager is not satisfied that any statement filed as required under the provisions of this Chapter is correct, or that the amount of tax is correctly computed, the City Manager may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession one or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in commercial cannabis activity, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such commercial cannabis activity whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, notice shall be given to the person concerned in the same manner as notices of assessment are given under Subsections (c), (d), and (e) of this Section.

(c) Under any of the following circumstances, the City Manager may make and give notice of an assessment of the amount of tax owed by a person under this Chapter:

(1) If the person has not filed any statement or return required under the provisions of this Chapter;

(2) If the person has not paid any tax due under the provisions of this Chapter

(3) If the person has not, after demand by the City Manager, filed a corrected statement or return, or furnished to the City Manager adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under the provisions of this Chapter;

(4) If the City Manager determines that the nonpayment of any tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter.

(5) The notice of assessment shall separately set forth the amount of any tax known by the City Manager to be due or estimated by the City Manager, after consideration of all information within the City Manager's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

(d) The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid

thereon, addressed to the person at the address of the location of the cannabis business appearing on the face of the business license issued by the City, or to such other address as he or she shall register with the City Manager for the purpose of receiving notices provided under this Chapter; or, should the person have no business license issued and should the person have no address registered with the City Manager for such purpose, then to such person's last known address.

For the purposes of this Section, a service by mail is complete at the time of deposit in the United States mail.

(e) Within ten (10) days after the date of service, the person may apply in writing to the City Manager for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the City Manager shall become final and conclusive. Upon receipt of any such application for hearing, the City Manager shall cause the matter to be set for hearing before a hearing officer pursuant to the provisions of this Code that set forth the City's administrative hearing/appeal procedures. At such hearing said applicant may appear and offer evidence why the assessment as made by the City Manager should not be confirmed and fixed as the tax due. Based upon the submission of such evidence and the review of the City's files, the hearing officer shall issue a written notice and order upholding, modifying, or reversing the determination from which the appeal is taken. The notice shall be given within fourteen (14) calendar days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within ninety (90) days from the date of the decision in accordance with Code of Civil Procedure Section 1094.6. If the hearing officer fails or refuses to act on an appeal within the fourteen (14) day period, the appeal shall be deemed to have been denied by the hearing officer on the fifteen (15th) calendar day.

Section 4.05.140 - Future Amendment to Statute or Ordinance.

(a) Unless specifically provided otherwise, any reference to a state or federal statute in this Chapter shall mean such statute as it may be amended from time to time; provided, that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a state or federal agency or court of law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease. Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable. For any application or situation that would not require voter approval or would not result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent. To the extent that the City's authorization to collect or impose any tax imposed under this Chapter is expanded or limited as a result of changes in state or federal law, no amendment or modification of this Chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the fullest extent of the authorization up to the entire amount of the tax imposed under this Chapter.

(b) Should any state law regarding commercial cannabis activity be passed in the future, or should the Jurupa Valley Municipal Code be amended to authorize the operation of additional cannabis businesses within the City, whether to provide recreational or medical

cannabis, at wholesale or retail, the People of the City of Jurupa Valley expressly intend for the tax imposed herein to apply to such operations, on the same terms and conditions as set forth in this Chapter.

(c) No provision of this Chapter shall be construed to authorize the operation of any cannabis business within the City unless mandated by State law or the City's Municipal Code.

Section 4. Statewide Regulation

This initiative, and the provisions herein, shall be read to be consistent with any statewide regulation of commercial cannabis activity now operative or that is duly promulgated in the future.

Section 5. Later Amendments

Except as specifically set forth in the operative provisions of this initiative and every part thereof can only be amended by the voters of the City of Jurupa Valley and cannot be amended by the City of Jurupa Valley Council.

Section 6. Special or Regular Election

The voters of the City of Jurupa Valley hereby expressly request that this initiative be set for a special or regular election at the earliest time allowable by law.

Section 7. Severability

Should any provision of this initiative, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, voidable, or invalid, that determination shall have no effect on any other provision, or the application of this initiative to any other person or circumstance and, to that end, the provisions hereof are severable. By approving this initiative, the voters intend that each section and subsection be explicitly severable, part-by-part, phrase-by-phrase, and word-by-word, thus that the minimum language held invalid be severed.

Section 8. Competing Initiative

In the event another initiative-"competing initiative/measure"- appears on the same election ballot for the City of Jurupa Valley and addresses a subject matter that overlaps with the subject matter of this initiative, the initiatives shall be deemed to be in conflict. If this initiative receives a greater number of affirmative votes than the competing initiative, the provisions of this initiative shall prevail in their entirety, and the competing initiative shall be null and void.

Section 9. Effective Date

If approved by a majority of the voters voting on this initiative, this initiative shall be considered adopted upon the date that the vote is certified and shall go into effect ten days following that date.

PASSED, APPROVED AND ADOPTED by the People of the City of Jurupa Valley on the 6th day of November, 2018.



Micheal Goodland
Mayor

ATTEST:



Victoria Wasko, CMC
City Clerk