

ORDINANCE NO. 1780

AN ORDINANCE OF THE CITY OF INDIO ADDING A NEW CHAPTER 123 ENTITLED CANNABIS BUSINESS ACTIVITIES TO TITLE XI, BUSINESS REGULATIONS, OF THE INDIO MUNICIPAL CODE TO REGULATE COMMERCIAL CANNABIS USES IN THE CITY

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

SECTION 1. Chapter 123 (Cannabis Activities) of Title XI (Business Regulations) of the Indio Municipal Code is hereby repealed in its entirety.

SECTION 2. A new Chapter 123 entitled "Cannabis Business Activities" is hereby added to Title XI (Business Regulations) of the Indio Municipal Code to read as follows:

"CHAPTER 123

CANNABIS BUSINESS ACTIVITIES

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- 123.03 Legal Authority**
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123.01 Title.

This Chapter shall be known as the Cannabis Activities Ordinance of the City of Indio.

123.02 Purpose and Intent.

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to same. It is also the purpose and intent of this Chapter to provide access to adult-use cannabis for persons aged 21 and over as authorized by the MAUCRSA, while imposing sensible regulations on the use of land to protect the City's residents, neighborhoods, and businesses from disproportionately negative impacts. It is the purpose and intent of this Chapter to regulate the commercial sale and delivery of cannabis and cannabis products in a responsible

manner to protect the health, safety, and welfare of the residents of the City and to enforce rules and regulations consistent with state law.

123.03 Legal Authority.

This Chapter is adopted pursuant to the authority granted to the City by Section 7 of Article XI of the California Constitution, Title 4, Division 19 of the California Code of Regulations, and the provisions of the MAUCRSA.

123.04 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized by this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution, or transportation, of cannabis or cannabis products is expressly prohibited in the City.

123.05 Compliance with State and Local Laws and Regulations.

It is the responsibility of the owners and/or operators of any Commercial Cannabis Business within the City limits to ensure that they operate in a manner compliant with this Chapter, all applicable state and local laws, and any regulations promulgated thereunder, including but not limited to the MAUCRSA.

123.06 Definitions.

- (A) "Applicant" means a person or entity that submits an application for a Cannabis Business Permit under this Chapter.
- (B) "Cannabis" shall have the same meaning as that appearing in Business and Professions Code Section 26001(e).
- (C) "Cannabis Products" shall have the same meaning as that appearing in Business and Professions Code Section 26001(h).
- (D) "City" shall mean the City of Indio, California.
- (E) "City Manager" shall mean the City of Indio City Manager or his or her designee.
- (F) "Commercial Cannabis Business" or "Cannabis Business" means any business or operation which engages in medicinal or adult-use commercial cannabis activity authorized by this Chapter.
- (G) "Cannabis Business Permit" means a regulatory permit issued by the City pursuant to this Chapter, to a Commercial Cannabis Business and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a 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.

- (H) "Cannabis Business Permittee" or "Permittee" means a person or entity that has received a Cannabis Business Permit from the City as authorized under this Chapter
- (I) Delivery shall have the same meaning as that appearing in Business and Professions Code Section 26001(o).
- (J) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- (K) "Limited-access area" means an area in which cannabis is stored or held and is only accessible to a permittee and authorized personnel.
- (L) "Medicinal cannabis" or "Medicinal cannabis product" shall have the same meaning as that appearing in Business and Professions Code Section 26001(ai).
- (M) "Non-Storefront retailer" is a subset of "Retailer" and is a permitted retail business that is closed to the public and provides product to customers solely by means of a delivery service which the retailer owns and controls.
- (N) "Owner" means any of the following:
 - (1) A person with an aggregate ownership interest of 10 percent or more in the Commercial Cannabis Business, unless the interest is solely a security, lien or encumbrance.
 - (2) An individual who manages, directs, or controls the operations of the Commercial Cannabis Business, including but not limited to:
 - (a) A member of the board of directors of a nonprofit.
 - (b) A general partner of a Commercial Cannabis Business that is organized as a partnership.
 - (c) A non-member manager or manager of a Commercial Cannabis Business that is organized as a limited liability company.
 - (d) The trustee(s) and all persons who have control of the trust and/or the Commercial Cannabis Business that is held in trust.
 - (e) An individual with the authority to provide strategic direction and oversight for the overall operations of the Commercial Cannabis Business, such as the chief executive officer, president or their equivalent, or an officer, director, vice president, general manager or their equivalent.
 - (f) An individual with the authority to execute contracts on behalf of the

Commercial Cannabis Business.

- (g) When an entity is an owner in a Commercial Cannabis Business, all entities and individuals with a financial interest in the entity shall be disclosed to the City and may be considered owners of the Commercial Cannabis Business. For example, this includes all entities in a multi-layer business structure, as well as the chief executive officer, members of the board of directors, partners, trustees and all persons who have control of a trust and managing members or non-member managers of the entity. Each entity disclosed as having a financial interest must disclose the identities of persons holding financial interests until only individuals remain.
- (O) "Package" means any container or receptacle used for holding cannabis or cannabis products.
- (P) "Person" shall mean 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.
- (Q) "Physician's recommendation" shall have the same meaning as that appearing in Business and Professions Code Section 26001(ap).
- (R) "Premises" all have the same meaning as that appearing in Business and Professions Code Section 26001(aq).
- (S) "Retailer" or "Storefront Retailer" shall have the same meaning as that contained in Section 26070(a)(1) of the California Business and Professions Code.
- (T) "State license" means a permit or license issued by the State of California, or one of its departments or divisions, under the MAUCRSA and any subsequent related State of California legislation, to engage in cannabis activity. A state license alone will not authorize the holder to operate a Cannabis Business, as state law also requires a license or other authorization issued by a local jurisdiction.
- (U) "Youth center" means any:
 - (1) Public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:
 - (a) Private youth membership organizations or clubs,
 - (b) Social service teenage club facilities,
 - (c) Video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or
 - (d) Similar amusement park facilities, and
 - (e) Must be used for youth activities at least 60 percent of the time in a

calendar year.

- (2) It shall also include a park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, county, or state parks.
- (3) This definition shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist office, doctor's office primarily serving children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.

123.07 Cannabis Business Permit Required to Engage in Cannabis Business Activity.

No person may engage in any Cannabis Business within the City, including cultivation, manufacture, processing, laboratory testing, distributing, dispensing, or sale of cannabis or a cannabis product, unless the person meets all of the following requirements:

- (A) Possess a valid Cannabis Business Permit from the City;
- (B) Possess a valid business license from the City;
- (C) Possess a valid State of California Seller's Permit; and
- (D) Is currently in compliance with all applicable state and local laws and regulations pertaining to the Cannabis Business and the cannabis activities, including the duty to obtain any required state licenses.

123.08 Cannabis Owners Criminal Background.

- (A) Any person who is an owner of a Cannabis Business must be legally authorized to do so under applicable state law.
- (B) Cannabis Business owners shall be required to submit to a criminal background check for themselves. Business owners shall be required to complete a criminal background check prior to issuance or transfer of a Cannabis Business Permit.
- (C) The City shall conduct criminal background checks which must, at a minimum, identify the following:
 - (1) Whether the owner has ever been convicted of a violent felony as defined by California Penal Code 667.5 or equivalent offense in other states;

- (2) Whether the owner has ever been convicted of a serious felony, as defined by California Penal Code 1192.7 or equivalent offense in other states;
 - (3) Whether the owner as ever been convicted of a felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;
 - (4) Whether the owner has ever been convicted of a felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code; or
 - (5) Whether the owner has ever been convicted of a felony involving fraud, deceit, or embezzlement.
- (D) Evidence of a conviction of any the offenses enumerated in Section 123.08(c) of this Code shall be grounds for denial or revocation of a Cannabis Business Permit.

123.09 Persons Prohibited from Holding a Permit.

- (A) A person is prohibited from holding or maintaining a Cannabis Business Permit if any of the following apply:
- (1) The applicant has been denied a cannabis license or permit, or has had a cannabis license or permit suspended or revoked by any city, county, city and county or any other state cannabis licensing authority;
 - (2) The applicant was notified by the state, county, or city that it was conducting cannabis activity in violation of State law or City ordinances, codes, and requirements, and failed to cure the violation in a timely manner;
 - (3) Evidence that the applicant is delinquent in payment of federal, state, or local taxes and/or fees, and took no steps to cure the delinquency when notified by the appropriate agencies;

123.10 Maximum Number and Type of Authorized Cannabis Businesses Permitted.

This section is intended to create a maximum number and types of Cannabis Businesses that may be issued permits to operate in the City.

- (A) The following cannabis license types are authorized to operate in the City of Indio.
- (1) Cannabis Storefront Retailer.

(2) Cannabis Non-Storefront Retailer.

- (B) Cannabis license types not identified in Section 123.10 (A) are prohibited from obtaining a Cannabis Business Permit in the City of Indio.
- (C) The number of each type of Cannabis Business that shall be permitted to operate in the City shall be established by resolution by the City Council.
- (D) Notwithstanding Section 123.10 (C), the total number of allowable Cannabis Storefront Retail permits established by City Council resolution shall be no more than one (1) permit for every fifteen thousand (15,000) residents in the City of Indio, and no less than one (1) permit for every twenty-five thousand (25,000) residents in the City of Indio. The population of the City of Indio shall be based on the official census population estimate, as periodically updated by the US Department of Commerce, Census Bureau.
- (E) Each year following the City's initial award of permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of Cannabis Business Permits which are authorized for issuance and make any changes by resolution.
- (F) The City Council, at its sole discretion, may determine that the number and/or types of Cannabis Business Permits should remain the same or be modified.

123.11 Community Benefits.

- (A) The application Procedure Guidelines and Review Criteria, set forth in Section 123.13 of this Chapter, shall include a component on community benefits.
- (B) Any community benefits that a Cannabis Business agrees to provide shall be incorporated into the terms and conditions under which the Cannabis Business will operate with the City's approval, if and when a Cannabis Business Permit is issued. Such terms and conditions shall be in addition to the requirements of this Chapter.

123.12 City's Reservation of Rights.

The City reserves the right to reject any or all applications for a Cannabis Business Permit. Prior to permit issuance, the City may modify, postpone, or cancel any request for applications, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California law. Persons submitting applications assume the risk that all or any part of the Cannabis Business Permit program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to

a failure to comply with other requirements in this Chapter, an application may be rejected for any of the following reasons:

- (A) The application was received after the designated time and date of the deadline.
- (B) The application did not contain the required elements, exhibits, or was not organized in the required format.
- (C) The application was considered not fully responsive to the request for a permit application, i.e. was substantially incomplete.

123.13 Procedure Guidelines and Review Criteria to Evaluate Cannabis Business Permit Applications.

- (A) By resolution, the City Council shall adopt Procedure Guidelines and Review Criteria for the City's evaluation of Cannabis Business permit applications and subsequent issuance.
- (B) The Procedure Guidelines shall provide the process for soliciting applications including time frames, limitations, requirements, forms, and rules for completing applications.
- (C) The Review Criteria shall include detailed instructions on the methodology to be used to evaluate applications on a point, or other evaluation system, tied to particular sets of criteria.
- (D) The Review Criteria shall be used to determine which candidates will be eligible to proceed to the final selection process as determined by City Council resolution.
- (E) The City Manager shall be authorized to prepare any necessary forms and adopt any necessary rules to implement the Procedure Guidelines and Review Criteria.
- (F) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the application process.
- (G) For applicants with ten or more employees, the applicant shall attest that the applicant will enter into a labor peace agreement as defined in Business and Professions Code Section 26001(y) and will abide by the terms of the agreement, and the applicant shall provide a copy thereof to the City. For applicants that have not yet entered into a labor peace agreement, the applicant shall provide a notarized statement indicating that within 30-days of cannabis permit from the City, the applicant will enter into and abide by the labor peace agreement.

123.14 Exercise of a Cannabis Business Permit.

- (A) A Cannabis Business Permit shall be exercised within twelve (12) months of the final selection process, as defined by the Procedure Guideline and Review Criteria. A Cannabis Business Permit shall be considered exercised shall be when any of the following occur:
- (1) A Certificate of Occupancy has been issued,
 - (2) The permitted use(s) has commenced on the site, and
 - (3) A City Building Permit or Grading Permit is secured, and construction lawfully commenced.
- (B) Failure to exercise a Cannabis Business Permit within the timeframe established in Section 123.14 (A) shall result in denial of the application.
- (C) The City Manager, in his/her sole discretion, may extend the timeframe established in Section 123.14 (A), if he/she determines that the applicant has made a good faith effort to exercise the Cannabis Business Permit within the defined timeframe.

123.15 Abandonment of Permit.

If the Cannabis Business has not been in regular and continuous operation in the preceding four (4) months at the permitted location, the Cannabis Business Permit shall be considered abandoned, unless mitigating circumstance occur which was beyond the control of the permittee and an extension has been authorized by the City Manager.

123.16 Reapplying for a Cannabis Business Permit.

If an applicant is denied a permit due to a disqualifying factors including, but not limited to, failing a background check or not complying with any state, or local jurisdictions regulatory requirements in which legal or administrative action has been taken, a new application may not be filed by the applicant for one (1) year from the date of the denial. This section shall not apply to an approved applicant not awarded a permit resulting from the City not selecting them for one of the permits in the application process.

123.17 Term of a Cannabis Business Permit.

All permits issued under the provisions of this chapter shall be effective for a period not to exceed one (1) year from the date of issuance. The City Manager may renew a permit through the procedures identified in Section 123.18 of this Code.

123.18 Renewal of Cannabis Business Permits.

- (A) An application for renewal of a Cannabis Business Permit shall be filed by the Cannabis Business Permittee at least sixty (60) calendar days prior to the expiration date of the current permit.

- (B) The renewal application shall contain all the information required for new applications.
- (C) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (D) An application for renewal of a Cannabis Business Permit may be rejected if any of the following exists:
 - (1) The application is filed less than sixty (60) days before its expiration or a shorter time period which shall be at the discretion of the City Manager.
 - (2) The Cannabis Business Permit is suspended or revoked at the time of the application.
 - (3) The Cannabis Business has not been in regular and continuous operation in the four (4) months prior to the renewal application or the approved extension of the deadline from the City Manager.
 - (4) The Cannabis Business has failed to conform to the requirements of the Cannabis Business Permit or this Chapter or any regulations adopted pursuant to this Chapter.
 - (5) The permittee fails or is unable to renew its State of California license.
 - (6) If the state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of the state rules and regulations and the state has determined that the violation is grounds for termination or revocation of the Cannabis Business Permit.
 - (7) Violation of Section 123.08 of this Code.
- (E) The City Manager is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety, or welfare. Appeals from the decision of the City Manager shall be handled pursuant to this Chapter.
- (F) If a renewal application is denied, a person may file a new application pursuant to this Chapter not sooner than one (1) year from the date of the denial.

123.19 Suspension, Revocation or Modification of Permits.

Cannabis Business Permits may be suspended, revoked or modified for any violation of

this Chapter, any state or local laws, rules, and/or any standards, policies, procedures, or regulations adopted pursuant to this Chapter relating to Cannabis Businesses. A decision of the City to suspend, revoke or modify a Cannabis Permit is appealable as set forth in this Chapter.

123.20 Effect of State License Suspension.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the Cannabis Business Permit of the Cannabis Business. If the State of California or its respective department or division reinstates or reissues the State license, the Cannabis Business may seek reinstatement of its Cannabis Business Permit if the business can demonstrate that the grounds for revocation of the license by the state no longer exist or that the underlying deficiency has otherwise been cured. Any Cannabis Business Permittee shall inform the City of any suspension of a state license.

123.21 Effect of State License Revocation or Termination.

Revocation or termination of a license issued by the State of California, or by any of its departments or divisions, shall immediately revoke or terminate the Cannabis Business Permit of the Cannabis Business. Any Cannabis Business Permittee shall inform the City of any revocation or termination of a state license.

123.22 Appeals.

Appeals relating to denial of an application; to revoke, suspend or modify a permit; to deny renewal of an application for a permit; or to add conditions to a permit shall be conducted as prescribed in this Chapter.

123.23 Appeals and Contents of Appeal

- (A) Within ten (10) calendar days after service of the notice of the decision of the City to deny advancement to the final selection process; to revoke, suspend or modify a permit; to deny a renewed application for a permit; or to add conditions to a permit, an applicant or permittee may appeal such action by filing a written appeal with the City Clerk setting forth the reason why the decision was not proper. For appeals of a denial of an application prior to the final decision process, reasons shall be stated with specificity and shall address the issues outlined in Section 123.24 (A). Date of service shall mean the date when a notice or written decision was personally delivered to the applicant or permittee or the date when the notice was caused to be delivered by certified, first class mail. In cases in which the city can verify delivery of a notice to an applicant or in which an applicant is documented as refusing delivery, lack of receipt of the notice cannot form the basis for an appeal.
- (B) The Notice of Appeal shall be in writing and signed by the person making the

appeal ("Appellant"), or their legal representative, and shall contain the following:

- (1) Name, address, and telephone number of the appellant.
 - (2) Specify decisions, actions, or a particular part thereof, made that are the subject of the appeal.
 - (3) Include a true and correct copy of the notice issued by the City Manager for which the appellant is appealing.
 - (4) State with specificity the reasons and grounds for making the appeal, including, but not limited to, a statement of facts upon which the appeal is based in sufficient detail to enable the City Council, or any appointed hearing officer, to understand the nature of the controversy, the basis of the appeal, and the relief requested.
 - (5) All documents or other evidence pertinent to the appeal that the appellant requests the hearing officer or body to consider at the hearing.
 - (6) An appeal fee as established by Resolution of the City Council.
- (A) Failure of the City Clerk to receive a timely appeal constitutes a waiver of the right to appeal the notice issued by the City Manager. In this event, the City Manager's notice of revocation, nonrenewal, or suspension shall be final.
- (B) In the event a written Notice of Appeal is timely filed, the nonrenewal, suspension, or revocation shall not become effective until a final decision has been rendered and issued by the City Council or appointed hearing officer. Notices of appeal not served in a timely manner or served by non-operational business shall not serve to allow such business to operate pending appeal.
- (C) If no appeal is timely filed in the event of a decision of nonrenewal, the Cannabis Businesses Permit shall expire at the conclusion of the term of the permit. If no appeal is timely filed in the event of a decision supporting suspension or revocation, the suspension or revocation shall become effective upon the expiration of the period for filing a written Notice of Appeal.

123.24 Appointment and Scope of Hearing Officer or Body.

- (A) Denial of Application Prior to Final Decision Process. The City Manager, or an appointed hearing officer, as set forth by City Council Resolution, will hear appeals that address the following issues:
- (1) Any deviation from the City's published Procedure Guidelines and Review Criteria that adversely affected the applicant by altering the outcome of the City's decision on the application. Examples of appealable deviations

include, but are not limited to:

- i. Failure on the part of the City to provide appropriate notification regarding changes to the application process via website postings and/or email to the applicant prior to the time the application was submitted;
 - ii. Failure on the part of the City to provide an applicant an equal opportunity to modify an application where that opportunity was provided to other applicants;
 - iii. Failure on the part of the City to correctly apply the Review Criteria, as established by City Council resolution, in reviewing the application;
- (2) Any appeal based upon this section must be supported by a preponderance of the evidence that the applicant presented the relevant information with completeness and in the appropriate section of the application. Information presented in the application that is incomplete in nature or that is relevant to a question posed by the City on the application form but appears in the incorrect section, even if complete, may be grounds for the dismissal of the appeal.
- (B) All Other Appeals. The City Council, or an appointed hearing officer or body, as set forth by City Council Resolution, shall hear appeals relating the denial of a renewed application, revocation, suspension or modification a permit, or addition of conditions to a permit.
- (C) Notwithstanding Section 123.24 (A) (1), an applicant that is eligible to participate in the final selection process, as set forth in the Procedure Guidelines and Review Criteria, but is not selected during the final selection process, shall not be eligible to appeal the outcome of the process.

123.25 Appeal Hearing Process and Proceedings.

- (A) Review by City Council, City Manager, Appointed Hearing Officer or Body.
- (1) Appellants who file a timely written Notice of Appeal will be entitled to an administrative hearing before the City Council, City Manager, hearing officer or body, as set forth by the City Council by Resolution.
 - (2) Upon receipt by the City Clerk of a timely-filed Notice of Appeal, the City Clerk shall forward such appeal to the hearing officer who shall schedule a hearing within thirty days (30) days. In the event such hearing cannot be heard within that time period or a mutually agreed upon time with the appellant, then the City Clerk shall schedule the appeal to be heard within forty-five (45) days or

as reasonably possible.

- (3) The appellant(s) listed on the written Notice of Appeal shall be notified in writing of the date, time, and location of the hearing at least ten (10) days before the date of the hearing ("Notice of Appeal Hearing").
 - (4) A request by an appellant or by the City to continue a hearing must be submitted to the City Clerk in writing no later than three (3) business days before the date scheduled for the hearing. The City Council, City Manager, appointed hearing officer or body may continue a hearing for good cause or on its own motion; however, in no event may the hearing be continued for more than thirty (30) calendar days, unless there is a stipulation by all parties to do so.
- (B) At the date, time and location set forth in the Notice of Appeal Hearing, the City Council, City Manager, appointed Hearing Officer or body shall hear and consider the testimony of the appellant(s), City staff, and/or their witnesses, as well as any documentary evidence properly submitted for consideration.
- (C) The following rules shall apply at the appeal hearing:
- (1) Appeal hearings are informal, and formal rules of evidence and discovery do not apply. However, rules of privilege shall be applicable to the extent they are permitted by law, and irrelevant, collateral, undue, and repetitious testimony may be excluded.
 - (2) The City bears the burden of proof to establish the grounds for nonrenewal, suspension, revocation, modification of the permit, or adding conditions to the permit by a preponderance of evidence. Appellant(s) bear the burden of proof regarding denial of an application or denial of advancement to the final selection process established by the City Council.
 - (3) The issuance of the City's notice constitutes prima facie evidence of grounds for the denial, nonrenewal, suspension or revocation.
 - (4) The hearing officer or body may accept and consider late evidence not submitted initially with the Notice of Appeal upon a showing by the appellant of good cause. The hearing officer or body shall determine whether a particular fact or set of facts amount to good cause on a case-by-case basis.
 - (5) The appellant may bring a language interpreter to the hearing at their sole expense.
 - (6) The City may, at its discretion, record the hearing by stenographer or court reporter, audio recording, or video recording. If the appellant requests from the City that a court reporter, stenographer, or videographer be used,

appellant shall bear the costs of same and shall deposit such fees prior to commencement of the administrative hearing.

- (D) If the appellant, or their legal representative, fails to appear at the appeal hearing, the City Council, City Manager, appointed hearing officer or body, may cancel the appeal hearing and send a notice thereof to the appellant by certified, first class mail to the address(es) stated on the Notice of Appeal. A cancellation of a hearing due to non-appearance of the appellant shall constitute the appellant's waiver of the right to appeal and a failure to exhaust all administrative remedies. In such instances, the City's notice of decision is final and binding.
- (E) Final Decision. Following the conclusion of the hearing, the City Council, City Manager, appointed hearing officer or body shall issue a written decision within twenty (20) days which (i) determines if the action appealed from is affirmed or overturned and (ii) specifies the reasons for the decision.
- (F) The written decision of the City Council, City Manager, appointed hearing officer or body shall provide that it is final and conclusive and is subject to the time limits set forth in California Code of Civil Procedure Section 1094.6 for judicial review.
- (G) A copy of the written decision shall be served by certified, first class mail on the appellant. If the appellant is not the owner of the real property in which the Cannabis Business is located, or proposed to be located, a copy of the final decision may also be served on the property owner by first class mail to the address shown on the last equalized assessment roll. Failure of a person to receive a properly addressed final decision shall not invalidate any action or proceeding by the City pursuant to this Chapter.

123.26 Change in Location; Updated Application Form.

- (A) Any time the business location specified in the regulatory permit is changed, the permittee shall submit an updated application form to the City Manager for approval prior to the change in location. The process and the fees for the processing of the application form shall be the same as the process and fees set forth in Sections 123.18 and 123.27.
- (B) Within fifteen (15) calendar days of any other change in the information provided in the updated application form or any change in status of compliance with the provisions of this Chapter, including any change in the Cannabis Business ownership or management members, the applicant shall file an updated application form with the City Manager for review along with an application amendment fee.

123.27 Transfer of Cannabis Business Permit.

- (A) The owner of a Cannabis Business Permit shall not transfer ownership or control

of the permit to another person or entity unless and until the transferee obtains an amendment to the permit from the City Manager stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with the provisions of this Chapter (as though the transferee were applying for an original Cannabis Business Permit). The proposed transferee's application shall be accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee). The transferee's application will be treated as a new application, and will be evaluated according to procedures adopted by the City Manager, pursuant to Section 123.43.

- (B) Cannabis Business Permits issued through the grant of a transfer by the City Manager shall be valid for a period of one year beginning on the day the City Manager approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit and pay the appropriate fee in the manner required by this Chapter.
- (C) A Cannabis Business Permit shall not be transferred when the City has notified the permittee in writing that the permit has been or may be suspended or revoked.
- (D) Any attempt to transfer a Cannabis Business Permit either directly or indirectly in violation of this section is hereby declared a violation of the permit and this Chapter. Such a purported transfer shall be deemed a ground for revocation of the permit.

123.28 City Business License.

Prior to commencing operations, a Cannabis Business shall obtain a City of Indio business license.

123.29 Building Permits and Inspection.

Prior to commencing operations, a Cannabis Business permittee shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), Fire Department approvals, Police Department approval, Code Enforcement, Planning, and County Health Department approvals, and any other applicable zoning and land use permit(s) and approvals.

123.30 Authorization from the Community Development Director.

Prior to commencing operations, a Cannabis Business must obtain authorization from the Community Development Director certifying that the business is located on a site that meets all of the requirements of Sections 123.29, 123.31 and 123.32 of this Code.

123.31 Right to Occupy and to Use Property.

Prior to the City 's issuance of a Cannabis Business Permit pursuant to this Chapter, any person intending to open and to operate a Cannabis Business shall first provide sufficient evidence of the legal right to occupy and to use the proposed location. If the proposed location will be leased from the property owner, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the Cannabis Business on the owner's property.

123.32 Location and Design of Cannabis Businesses.

- (A) A Cannabis Business must meet land use and building standards pursuant to Title 15 of this Code, including:
 - (1) Conform with the City 's general plan, any applicable specific plan, master plan, and design requirements.
 - (2) Comply with all applicable zoning and related development standards.
 - (3) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.

- (B) A Cannabis Business must meet the following rules relating to proximity to sensitive uses:
 - (1) Shall be no closer than six hundred (600) feet from any zoned parcel in the City designated as a sensitive use under Section 123.32 (B) (2) or 250 feet from any church located in a residential zone, that is in existence at the time the permit is issued. The distance shall be determined by the horizontal distance measured in a straight line from the closest property line of the sensitive use to the closest property line of the lot on which the Cannabis Business is to be located, without regard to intervening structures.

 - (2) Sensitive uses include:
 - (a) A school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).

 - (b) A commercial daycare center licensed by the State, County or City.

 - (c) A Youth Center.

123.33 Limitations on City's Liability.

To the fullest extent permitted by law, the City of Indio shall not assume any liability whatsoever with respect to having issued a Cannabis Business Permit pursuant to this Chapter or otherwise approving the operation of any Cannabis Business. As a condition to the approval of any Cannabis Business Permit, the applicant shall be required to meet all of the following conditions prior to receiving the Cannabis Business Permit:

- (A) 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 Indio, 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 of the Cannabis Business Permit, the City's decision to approve the operation of the Cannabis Business or activity, the process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the Cannabis Business or any of its officers, employees or agents.
- (B) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City's Risk Manager.
- (C) Reimburse the City for all costs and expenses, including but not limited to legal fees and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's Cannabis Business Permit or related to the City's approval of a cannabis activity. The City, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any of the obligations imposed hereunder.

123.34 Records and Recordkeeping.

- (A) Each owner and operator of a Cannabis Business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities for a period not less than seven (7) years. On no less than an annual basis (at or before the time of the renewal of a Cannabis Business Permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each Cannabis Business shall file a sworn statement detailing the number and amount of sales by the Cannabis Business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and/or fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and a gross receipts financial audit, where applicable, as determined by the City.

- (B) Each owner and operator of a Cannabis Business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the Cannabis Business, and separately of all the officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the Cannabis Business. The register required by this paragraph shall be provided to the City Manager upon request.
- (C) All Cannabis Businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing processes until purchase as set forth in the MAUCRSA.

123.35 Security Measures.

- (A) A Cannabis Business permittee shall implement 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 Cannabis Business. Except as may otherwise be determined by the City Manager, these security measures shall include, but shall not be limited to, all of the following:
 - (1) Perimeter fencing and exterior lighting systems (including motion sensors) for after-hours security as approved by the Chief of Police and/or the Community Development Director were applicable.
 - (2) Preventing individuals from remaining on the premises of the Cannabis Business if they are not engaging in an activity directly related to the permitted operations of the Cannabis Business. In cases in which the individual will not voluntarily leave the premises, the cannabis employee shall contact the Police Department.
 - (3) Establishing limited access areas accessible only to authorized Cannabis Business personnel.
 - (4) Installing 24-hour security surveillance cameras of at least high-definition (HD) quality to monitor all entrances and exits to and from the premises, all interior spaces within the Cannabis Business which are open and accessible to the public, all interior spaces where cannabis, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The Cannabis Business shall be responsible for ensuring that the security

surveillance camera's footage is remotely accessible by the City Manager, and that it is compatible with the City's software and hardware. In addition, if required, remote and real-time, live access to the video footage from the cameras shall be provided to the Chief of Police at the expense of the permittee. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the Chief of Police upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the Cannabis Business and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Police Department by the Cannabis Business, to facilitate remote monitoring of security cameras by the Department or its designee. Each business shall have network security protocols that are certified by Underwriters Laboratories.

- (5) Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (6) Panic buttons shall be installed in all Cannabis Businesses with direct notification to the Police Department dispatch and shall be configured to immediately alert dispatch for the Police Department.
- (7) Having a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services. The permittee shall be required to obtain an alarm permit from the Police Department.
- (8) Any security measures, such as bars, installed on the windows or the doors of the Cannabis Business shall be installed only on the interior of the building.
- (9) Security personnel shall be on-site 24 hours a day or alternative security as authorized by the City Manager and must have a security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager, with such approval not to be unreasonably withheld.
- (10) Each Cannabis Business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (11) Each Cannabis Business shall have an accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.

- (12) Each Cannabis Business shall demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.
 - (13) Each Cannabis Business shall have a professionally installed video surveillance system, access control and intrusion alarm systems designed to protect the inventory, facility, and employees. Each business shall have network security protocols that are certified by Underwriters Laboratories.
 - (14) Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
 - (15) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.
- (B) Each Cannabis Business shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the City Manager regarding any security related measures and/or operational issues. The designated security representative/liaison shall, on behalf of the Cannabis Business, annually maintain a copy of the current security plan on the premises of the business, to present to the City Manager upon request that meets the following requirements:
- (1) Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
 - (2) Identifies all Managers of the Cannabis Business and their contact phone numbers.
 - (3) Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 - (4) Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 - (5) Identifies a sufficient number of licensed, interior, and exterior security personnel who will monitor individuals inside and outside the Cannabis Business, the parking lot, any adjacent property under the business' control, and ensure that the parking lot is cleared of employees and their vehicles one-half hour after closing.
- (C) As part of the application and licensing process each Cannabis Business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, any hazardous materials that may be used by the business, and any currency.

- (D) The Cannabis Business shall cooperate with the City whenever the City Manager makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- (E) A Cannabis Business shall notify the City Manager within twenty-four (24) hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager.
 - (2) Diversion, theft, loss, or any criminal activity involving the Cannabis Business or any agent or employee of the Cannabis Business.
 - (a) The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the Cannabis Business.
 - (b) Any other breach of security.
- (F) Compliance with the foregoing requirements shall be verified by the City Manager prior to commencing business operations. The City Manager may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

123.36 Fees and Charges.

- (A) No person may commence or continue any cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a Cannabis Business. Fees and charges associated with the operation of a cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- (B) All Cannabis Businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, permit, registration, and other fees required under federal, state, and local law. Each Cannabis Business shall cooperate with the City with respect to any request to audit the Cannabis Business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes or fees required to be paid during any period.
- (C) Prior to operating in the City and as a condition of issuance of a permit, the operator of each cannabis facility shall enter into an operational and/or community benefit agreement with the City setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and

conditions that will protect and promote the public health, safety and welfare.

123.37 General Operating Requirements.

- (A) Cannabis Businesses may operate only during the hours specified in the Cannabis Business Permit issued by the City.
- (B) Restriction on Sales and Consumption. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or tobacco on or about the premises of the Cannabis Business.
- (C) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a Cannabis Business Permit, or on any of the vehicles owned or used as part of the Cannabis Business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (D) Reporting and Tracking of Product and of Gross Sales. Each Cannabis Business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the Cannabis Business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The Cannabis Business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager prior to being used by the permittee.
- (E) All cannabis and cannabis products sold, distributed, or manufactured shall be cultivated, manufactured, and transported by state licensed facilities that maintain operations in full conformance with the State and local regulations.
- (F) Emergency Contact. Each Cannabis Business shall provide the City Manager with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- (G) Signage and Notices.
 - (1) In addition to the requirements otherwise set forth in this section, business identification signage for a Cannabis Business shall conform to the requirements of Chapter 150 Billboards and Signs, including, but not limited to, seeking the issuance of a City sign permit.
 - (2) No signs placed on the premises of a Cannabis Business shall obstruct any entrance or exit to the building or any window.

- (3) Each entrance to a Cannabis Business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the Cannabis Business is prohibited.
- (4) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No Cannabis Business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the Cannabis Business or elsewhere including, but not limited to, the public right-of-way.
- (5) Signage shall not depict any image of cannabis or cannabis products. No banners, flags, snipe signs, billboards, or other prohibited signs may be used at any time.
- (6) In accordance with state law and regulations or as stipulated in the City's Cannabis Business Permit, holders of a Cannabis Business Permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any Cannabis Business located in the city limits utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising. This paragraph is not intended to place limitations on the ability of a Cannabis Business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.

(H) Minors.

- (1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of a Cannabis Business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a Cannabis Business who is not at least twenty-one (21) years of age.
- (2) The entrance to the Cannabis Business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the Cannabis Business.
- (3) Notwithstanding Section 123.37(h)(1), persons aged 18 to 20 years shall be allowed on the premises of a Cannabis Business if they can produce a physician's recommendation. In that event, such persons can lawfully purchase cannabis for the sole purpose of addressing the medical need that is the subject of the physician's recommendation.

- (I) Odor Control. Odor control devices and techniques shall be incorporated in all Cannabis Businesses to ensure that odors from cannabis are not detectable off-site. Cannabis Businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the Cannabis Business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the Cannabis Business. As such, Cannabis Businesses must install and maintain the following equipment, or any other equipment which the Community Development Director or his/her designee(s) determine is a more effective method or technology:
- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - (2) An air system that creates negative air pressure between the Cannabis Business's interior and exterior, so that the odors generated inside the Cannabis Business are not detectable on the outside of the Cannabis Business.
- (J) Display of Permit and City Business License. The original copy of the Cannabis Business Permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the Cannabis Business in a location readily visible to the public.
- (K) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for cannabis employment, licensing, or certification purposes and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner must submit fingerprints and other information deemed necessary by the Chief of Police or his/her designee(s) for a background check by the City of Indio Police Department. Pursuant to California Penal Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from cannabis employment, licensing or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a Cannabis Business unless they have first cleared the background check, as determined by the Chief of Police or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Indio to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a Cannabis Business Permit is submitted. Evidence of a conviction of any of the offenses enumerated in Business and Professions Code Section 26057(b)(4), absent a Certificate of Rehabilitation, shall be grounds for immediate disqualification of the

applicant.

- (L) Loitering. The owner and/or operator of a Cannabis Business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises. The Cannabis Business shall notify the Police Department if anyone continues to loiter around the building or premises after all reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.
- (M) Permits and other Approvals. Prior to the establishment of any Cannabis Business or the operation of any such business, the person intending to establish a Cannabis Business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such Cannabis Business intends to establish and to operate pursuant to Section 123.32 and all applicable requirements in this Chapter.
- (N) Each cannabis operator shall establish minimum training standards for all employees. The City Manager shall have the discretion to require other training for the business operations should the City identify deficiencies or non-compliance issues with City or state requirements.

123.38 Operating Requirements for Store Front Retail Facilities.

- (A) No more than the number of cannabis retailers adopted by Council resolution may operate within the City at any one time and shall be issued a permit by the City.
- (B) Retailers shall verify the age and all necessary documentation of each individual to ensure the customer is not under the age of eighteen (18) years. If the potential customer is 18 to 20 years old, retailer shall confirm the customer's possession of a valid doctor's recommendation and/or Health and Safety Code Section 11362.71 identification card (Medical Marijuana Card). For adult-use purchases, retailers shall verify that all customers are 21 years of age or older for the purchase of cannabis or cannabis products.
- (C) Individuals must show their government-issued identification, and, in the case of medical cannabis facilities, their physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71 in order to gain access into the retailer. The government-issued identification and, if applicable, doctor's recommendation or cannabis card must also be shown at the point-of-sale station at the time of purchase. Doctor recommendations are not to be obtained or provided at the retail location.
- (D) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful

activities. Security personnel may be allowed to carry firearms if authorized by the Chief of Police.

- (E) Retailers may have only that quantity of cannabis and cannabis products to meet the daily demand readily available for sale on-site in the retail sales area of the retailer. Additional product may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.
- (F) All restroom facilities shall remain locked and under the control of management.
- (G) Permitted Store Front Retailers are authorized to conduct cannabis sales by delivery, pursuant to the requirements set forth in Section 123.40.
- (H) Retailers authorized to conduct retail activities shall only serve customers who are within the permitted premises, or at a delivery address that meets the requirements of this division.
 - (1) The sale and delivery of cannabis goods shall not occur through a pass-through window or a slide-out tray to the exterior of the premises.
 - (2) Retailers shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.
 - (3) No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.
 - (4) All cannabis goods sold by a retail business shall be contained in child-resistant packaging.
 - (5) Retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.
 - (6) A retail permittee who is engaged in retail sale shall hire or contract for security personnel who are at least 21 years of age to provide security services for the permitted retail premises. All security personnel hired or contracted for by the permittee shall be licensed by the Bureau of Security and Investigative Services and shall comply with Division 3 of the Business and Professions Code.
- (I) Access to Retailer Premises.
 - (1) Access to the premises of a retail permittee shall be limited to individuals who are at least 21 years of age.

- (2) Notwithstanding Section 123.37 (h)(1), individuals who are at least 18 years of age and in possession of a valid physician's recommendation shall be granted access to the premises of a retail permittee for the sole purpose of purchasing medicinal cannabis consistent with the physician's recommendation.
- (I) Authorized Sales. A retailer shall only sell adult-use cannabis and adult-use cannabis products to individuals who are at least 21 years of age. A retailer shall only sell medicinal cannabis or medicinal cannabis products to individuals who are at least 18 years of age, but not yet 21, if those individuals are in possession of a valid physician's recommendation. Medicinal cannabis sales to individuals 21 years of age and older are unrestricted.
- (J) Limited Access Areas. A retailer shall establish limited-access areas and permit only authorized individuals to enter the limited-access areas. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area. All individuals granted access to the limited access area shall be at least 21 years of age, and if not employed by the retailer, shall be escorted at all times by an employee of the permittee. A retailer shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the City Manager, Chief of Police, or their designees upon request.
- (K) Operating hours of the Store Front Retailer Permit shall be limited to the hours of 6:00 a.m. through 10:00 p.m., seven days a week.
- (L) Store Front/Retail Security Requirements. All provisions incorporated within Section 123.35 of this Code (Security Measures), are directly applicable to and binding on all Cannabis Businesses, including all Store Front/Retail businesses.

123.39 Operating Requirements for Non-Store Front Retail (Delivery-Only) Facilities.

- (A) No more than the number of Non-Store Front Retailers adopted by Council resolution may operate within the City at any one time and shall be issued a permit by the City.
- (B) A non-storefront retailer permittee shall be authorized to conduct retail sales exclusively by delivery. The permitted premises of a non-storefront retailer permittee shall be closed to the public.
- (C) A non-storefront retailer permittee shall comply with all the requirements applicable to retailer permittees, except for those provisions related to public access to the permitted premises and the retail area.

- (D) Operating hours of the Non-Store Front Retailer Permit shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.

123.40 Store Front and Non-Store Front Retail Delivery Requirements.

- (A) Prior to providing cannabis goods to a delivery customer, operators are required to verify the age and the necessary documentation of each customer. They must ensure that medical customers are at least eighteen (18) years of age and verify that the customer has a valid doctor's recommendation. In the case of adult-use customers, they must verify that the customer is at least twenty-one (21) years of age. Sales shall only be made to persons matching these criteria.
- (B) Retail delivery services shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.
- (C) Prior to commencing delivery operations, a cannabis Retailer and cannabis Non-Store Front Retailer shall provide the following information to the City:
 - (1) Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
 - (2) The year, make, model, color, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
 - (3) Proof of insurance as required in Section 123.33(b) for any and all vehicles being used to deliver cannabis goods.
 - (4) The permittee shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
 - (5) The permittee shall provide the City with any changes to the information required by this section in writing within thirty (30) calendar days.

123.41 Operating Requirements for Out-of-City Delivery Services.

- (A) All Cannabis Businesses which conduct deliveries into or within the City of Indio shall be required to obtain a permit from the City of Indio in order to conduct retail sales regardless of whether they are located in the City or another local jurisdiction.
- (B) Prior to commencing operations, a cannabis out-of-City delivery service shall comply with the following requirements:
 - (1) Obtain from the City a permit authorizing the delivery of cannabis and cannabis

products within the City limits. A copy of this permit shall be retained by all drivers.

- (2) The retail business operating the delivery service shall provide the City Manager with evidence of a valid state and local license for a Cannabis Business on whose authorization the delivery service is performing the delivery function.
- (3) The retail business operating the delivery service shall furnish to the City Manager the year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.

(C) Operating hours of the Out-of-City Delivery Service shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.

123.42 Permissible Delivery Locations and Customers.

Cannabis delivery businesses permitted to engage in delivery of cannabis and cannabis products inside the City of Indio are subject to the following requirements:

- (A) A permitted Cannabis Business shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency.
- (B) A permitted Cannabis Business shall comply with all requirements of state and local law pertaining to the Cannabis Business Permit and all subsequent policies, procedures and regulations which may be amended by the City Manager from time to time in order to enforce this Chapter.
- (C) Any kiosk, i-Pad, tablet, smartphone, fixed location or technology platform, whether manned or unmanned, other than a retail location permitted by the city, that facilitates, directs, or assists the retail sale or delivery of cannabis or cannabis products is prohibited and shall be a violation of this Chapter.

123.43 Promulgation of Regulations, Standards and Other Legal Duties.

- (A) In addition to any regulations adopted by the City Council, the City Manager is authorized to establish administratively any additional rules, regulations and standards governing the issuance, denial or renewal of Cannabis Business Permits, the ongoing operation of Cannabis Businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- (B) Regulations shall be published on the City's website.

- (C) Regulations promulgated by the City Manager shall become effective upon date of publication. Cannabis Businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

123.44 Community Relations.

- (A) Each Cannabis Business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the Cannabis Business can be provided. Each Cannabis Business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the Cannabis Business.
- (B) During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from each Cannabis Business holding a permit issued pursuant to this Chapter shall attend meetings with the City Manager, and other interested parties as deemed appropriate by the City Manager, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such Cannabis Business shall meet with the City Manager when and as requested by the City Manager.

123.45 Fees Deemed Debt to the City.

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

123.46 Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the Cannabis Business whether or not said violations occur within the permit holder's presence.

123.47 Inspection and Enforcement.

- (A) The City Manager, or designee charged with enforcing the provisions of the City of Indio Municipal Code, or any provision thereof, may enter the location of a Cannabis Business at any time, without notice, and inspect the location of any Cannabis Business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
- (B) It is unlawful for any person having responsibility over the operation of a Cannabis

Business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a Cannabis Business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a Cannabis Business under this Chapter or under state or local law.

- (C) The City Manager, or designee charged with enforcing the provisions of this Chapter may enter the location of a Cannabis Business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Indio shall be logged, recorded, and maintained in accordance with established procedures by the City of Indio's City Manager or these regulations.

123.48 Violations declared a public nuisance.

Each and every violation of the provisions of this Chapter constitutes a misdemeanor and is hereby deemed unlawful and a public nuisance. The City reserves the right to pursue any available legal remedy to address violations of this Chapter.

123.49 No Vested Rights

No person(s) (including any Applicant, Owner, and/or Permittee) shall have any vested rights to any permit, right, and/or interest under this chapter, regardless of whether such person(s) sold, distributed, and/or otherwise engaged in acts related to the use of Cannabis prior to the adoption of the ordinance codified in this Chapter."

SECTION 3. CEQA. The City Council finds and determines that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to the State CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines Section 15378. Adoption of the Ordinance does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as it is an ordinance setting forth the regulatory process for cannabis permits.

SECTION 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or its application to any person or circumstance, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published in the manner prescribed by law.

PASSED, APPROVED AND ADOPTED this 1st day of June, 2022.



**WAYMOND FERMON
MAYOR**

ATTEST:



**CYNTHIA HERNANDEZ, CMC
CITY CLERK**

CERTIFICATION

I, Sabdi Sanchez, City Clerk Administrator of the City of Indio, California, hereby certify that **Ordinance No. 1780** was duly and regularly adopted at a meeting of the City Council of said City at its meeting held on the 1st day of June 2022 by the following vote, to wit:

Ayes: Miller, Holmes, Ramos Amith, Mayor Pro Tem Ortiz and Mayor Fermon

Noes: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Indio, California, this 1st day of June 2022.



SABDI SANCHEZ, CMC
City Clerk Administrator
City of Indio



