

**ORDINANCE NUMBER 1330**

**AN ORDINANCE OF THE PEOPLE OF THE CITY OF PERRIS, CALIFORNIA TO PERMIT AND REGULATE MEDICAL MARIJUANA DISPENSARIES, BY ADDING CHAPTER 5.54 (MEDICAL MARIJUANA DISPENSARY REGULATORY PROGRAM) TO TITLE 5 (BUSINESS REGULATIONS AND LICENSES); BY AMENDING SECTION 19.36.020 (PERMITTED USES) OF CHAPTER 19.36 (CN COMMERCIAL NEIGHBORHOOD), SECTION 19.38.020 (PERMITTED USES) OF CHAPTER 19.38 (CC COMMERCIAL COMMUNITY), AND SECTION 19.44.020 (LAND USES AND PERMIT REQUIREMENTS) OF CHAPTER 19.44 (INDUSTRIAL ZONES) OF TITLE 19 (ZONING); BY REPEALING SUBSECTION (A) ENTITLED "PROHIBITION AGAINST THE LOCATION AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES" AND AMENDING SUBSECTION (B) ENTITLED "ZONING DISTRICT COMPLIANCE" OF SECTION 19.02.020 (LIMITATIONS ON LAND USE) OF CHAPTER 19.02 (GENERAL PROVISIONS) OF TITLE 19 (ZONING); AND, BY REPEALING THE DEFINITION OF "MEDICAL MARIJUANA DISPENSARY" IN SECTION 19.08.010 (DEFINITIONS) OF CHAPTER 19.08 (DEFINITIONS) OF TITLE 19 (ZONING), OF THE PERRIS MUNICIPAL CODE**

**WHEREAS**, in 1996 the California voters approved Proposition 215, the Compassionate Use Act ("CUA"), codified as Health and Safety Code Section 11362.5, to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for medical purposes; and

**WHEREAS**, in 2003 the California legislature enacted Senate Bill 420, the Medical Marijuana Program Act ("MMPA"), codified as Health and Safety Code Section 11362.7, *et seq.*, and as later amended, to clarify the scope of the Compassionate Use Act of 1996 relating to the possession and cultivation of marijuana for medical purpose, and to authorize local governing bodies to adopt and enforce laws consistent with its provisions; and

**WHEREAS**, in 2005 the California Board of Equalization began issuing seller's permits for sales consisting only of medical marijuana; and

**WHEREAS**, in 2008 the California Attorney General issued guidelines for the security and non-diversion of marijuana grown for medical use; and

**WHEREAS**, in 2013 the California Supreme Court in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4<sup>th</sup> 729 affirmed the authority of cities to prohibit the operation of medical marijuana dispensaries within their jurisdiction; and

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**WHEREAS**, in 2013 the California Third District Court of Appeal in *Maral v. City of Live Oak*, 221 Cal. App. 4th 975, 978 affirmed that California law does “not preempt a city’s police power to prohibit the cultivation of all marijuana within that city.”; and

**WHEREAS**, in 2014 and in 2015 the U.S. House of Representatives voted to stop federal law enforcement from interfering with medical marijuana operations in the various states which have decriminalized and/or authorized such operations; and

**WHEREAS**, in 2015, the California legislature enacted the Medical Marijuana Regulation and Safety Act (“MMRSA”) (AB 243, AB 266, and SB 643) to establish a framework for regulating medical marijuana; and

**WHEREAS**, in 2015 the California Fifth District Court of Appeal in *Kirby v. County of Fresno*, 242 Cal. App. 4th 940 affirmed that the CUA and MMPA did not preempt a local ban on all medical marijuana cultivation activities; and

**WHEREAS**, in 2016 the California Second District Court of Appeal in *Safe Life Caregivers v. City of Los Angeles*, 243 Cal. App. 4th 1029, 1032 affirmed that “there is no constitutional or statutory right to possess, cultivate, distribute, or transport marijuana for medical purposes.”; and

**WHEREAS**, the California Constitution grants local governments in Article XI, Section 7 the authority under their police powers to regulate land use; and

**WHEREAS**, the Medical Marijuana Regulation and Safety Act of 2015 is not intended “to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements.” (Business & Professions Code § 19315(a)); and

**WHEREAS**, the Medical Marijuana Regulation and Safety Act of 2015 provides that “[p]ursuant to Section 7 of Article XI of the California Constitution, a city... may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, and worker protections established by the state shall be the minimum standards for all licensees statewide.” (Business & Professions Code § 19316(a)); and

**WHEREAS**, the Medical Marijuana Regulation and Safety Act of 2015 provides that “[n]othing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.” (Business & Professions Code § 19316(c)); and

**WHEREAS**, Health & Safety Code Section 11362.83 provides that cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medical marijuana dispensaries and cultivation; and

**WHEREAS**, the operation of medical marijuana dispensaries and the cultivation of medical marijuana within the City of Perris presently remain prohibited; and

**WHEREAS**, the City Council of the City of Perris intends that nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, nor to otherwise permit any activity that is prohibited under that Act or other applicable law; and

**WHEREAS**, the City Council of the City of Perris intends that nothing in this Ordinance shall be construed to allow persons to engage in conduct that endangers others or causes a public nuisance, or allow any activity relating to the cultivation, distribution or consumption of marijuana that is otherwise illegal; and

**WHEREAS**, if the voters of the City of Perris support regulating and permitting medical marijuana dispensaries, the City Council of the City of Perris finds that medical marijuana operations, as well as the regulation of the location and manner in which dispensaries operate, require careful consideration so as to prevent negative impacts on nearby residents and businesses; and

**WHEREAS**, if the voters of the City of Perris support regulating and permitting medical marijuana dispensaries, then the City Council of the City of Perris finds that the City of Perris has a compelling interest in protecting the public health, safety and welfare of its residents and businesses by regulating the location and operation of medical marijuana dispensaries, and in preserving the peace and quiet of the neighborhoods in which medical marijuana dispensaries operate;

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF PERRIS, CALIFORNIA DO HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1. CHAPTER 5.54 (MEDICAL MARIJUANA DISPENSARY REGULATORY PROGRAM) IS HEREBY ADDED TO TITLE 5 (BUSINESS REGULATIONS AND LICENSES) OF THE PERRIS MUNICIPAL CODE AS FOLLOWS:**

**“CHAPTER 5.54. MEDICAL MARIJUANA DISPENSARY REGULATORY PROGRAM**

Sec. 5.54.010 - Purpose and Intent.

Sec. 5.54.020 - Operation Prohibited Without Permit.

Sec. 5.54.030 - Definitions.

Sec. 5.54.040 - Medical Marijuana Dispensary Permit.

Sec. 5.54.050 - Applications for Medical Marijuana Dispensary Permit.

Sec. 5.54.060 - Review of Medical Marijuana Dispensary Permit Applications.

Sec. 5.54.070 - Suspension of Review of Medical Marijuana Dispensary Permit Applications.

Sec. 5.54.080 - Action on Applications for Medical Marijuana Dispensary Permit.

Sec. 5.54.090 - Obligations of Medical Marijuana Dispensary.

Sec. 5.54.100 - Process for Renewing a Medical Marijuana Dispensary Permit.

Sec. 5.54.110 - General Operating Standards and Restrictions.

Sec. 5.54.120 - Administration.

Sec. 5.54.130 - Fees.

Sec. 5.54.140 - Location Restrictions.

Sec. 5.54.150 - Suspension and Revocation.

Sec. 5.54.160 - Violations and Penalties.

Sec. 5.54.170 - Public Nuisance and Abatement.

Sec. 5.54.180 - Appeals.

Sec. 5.54.190 - Prohibitions.

Sec. 5.54.200 - Nonconforming Use.

Sec. 5.54.210 - Severability.

Sec. 5.54.220 - Amendment or Repeal.

Sec. 5.54.230 - Consistency with Statewide Regulation of Marijuana.

Sec. 5.54.240 - Effective Only Upon Successful Passage, and Continuing Enforcement, of Marijuana Tax Ordinance.

**Sec. 5.54.010 – Purpose and Intent.**

- A. The purpose of this chapter is to establish a comprehensive set of regulations with an attendant regulatory permit applicable to the operation of medical marijuana dispensaries. The regulations are intended to ensure such operations are consistent with the overall health, welfare and safety of the City and its populace, and that such operations are in compliance with California's Compassionate Use Act of 1996, California's Medical Marijuana Program Act of 2003 and California's Medical Marijuana Regulation and Safety

Act of 2015.

- B. The chapter is not intended to permit activities that are otherwise illegal under federal, state or local law. This chapter is not intended to conflict with federal or state law.
- C. This chapter and its regulations shall be known as the “Medical Marijuana Dispensary Regulatory Program.”

**Sec. 5.54.020 - Operation Prohibited Without Permit.**

It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a medical marijuana dispensary, or to participate with a medical marijuana dispensary as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this chapter. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting a medical marijuana dispensary to occupy or use a location, vehicle, or other mode of transportation.

**Sec. 5.54.030 - Definitions.**

The following definitions shall apply to this chapter unless the context clearly denotes otherwise.

- A. “Applicant” means a person who is required to file an application for a permit under this chapter.
- B. “Attending physician” has the same definition as set forth in Health and Safety Code section 11362.7, and as may be amended, defined as “an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient’s medical record the physician’s assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.”
- C. “Attorney General Guidelines” shall refer to the California Attorney General Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use, issued by the Attorney General’s Office in August, 2008, as amended from time to time, which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients or primary caregivers.
- D. “Cannabis” has the same definition as “marijuana” provided herein.
- E. “Community Center” means any facility open to the public at which classes, social activities, recreational activities, educational activities, support and/or public information are offered for all residents of the community.
- F. “Cultivation” has the same definition as provided for in Bus. & Prof. Code § 19300.5(1),

and as may be amended, defined as “any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.”

- G. “Delivery” means the act of taking something to a person or place (and includes the definition as provided for in Bus. & Prof. Code § 19300.5(m), and as may be amended, defined as “the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. ‘Delivery’ also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.”).
- H. “Director” means the City of Perris Director of Development Services, and includes her or his designee(s).
- I. “Dispense” means the selection, measuring, packaging, labeling, distribution or sale of medical marijuana to a qualified patient or a primary caregiver (and includes the term “dispensing” as provided for in Bus. & Prof. Code § 19300.5(o), and as may be amended, defined as “any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.”).
- J. “Edible” has the same definition as “edible cannabis product” as provided for in Bus. & Prof. Code § 19300.5(s), and as may be amended, defined as “manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.”
- K. “Employee” means any person (whether paid or unpaid) who provides regular labor or regular services for a medical marijuana dispensary, including, but not limited to, at the location of a medical marijuana dispensary.
- L. “Identification card” has the same definition as provided for in Health and Safety Code section 11362.7(g), and as may be amended, defined as “a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person’s designated primary caregiver, if any.”
- M. “Labeling” means all labels and other written, printed, or graphic matter (a) upon any marijuana intended for medical use, or (b) accompanying such marijuana intended for medical use.
- N. “Location” means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

- O. "Lighting" means the act of illuminating as well as the effect achieved by the arrangement of lights.
- P. "Live scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (DOJ) which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.
- Q. "Manager" means an employee responsible for management and/or supervision of a medical marijuana dispensary.
- R. "Marijuana" has the same definition as provided for in Bus. & Prof. Code § 19300.5(f) for the term "cannabis," and as may be amended, defined as "all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. 'Cannabis' also means the separated resin, whether crude or purified, obtained from marijuana. 'Cannabis' also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. '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 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code."
- S. "Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5), the Medical Marijuana Program Act (Health and Safety Code sections 11362.7 et seq.), and the Medical Marijuana Regulation and Safety Act of 2015.
- T. "Medical marijuana dispensary" includes any facility or location where marijuana is made available, sold, transmitted, distributed, given or otherwise provided by or to one or more of the following: a primary caregiver, a qualified patient or a person with an identification card (and includes the term "dispensary" as provided for in Bus. & Prof. Code § 19300.5(n), and as may be amended, defined as "a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.").
- U. "Member" means either a qualified patient, a person with an identification card, or a primary caregiver.

- V. "Minor" means a person under eighteen (18) years of age.
- W. "Owner" means the owner of a medical marijuana dispensary.
- X. "Park" means a public playground, public recreation center or area, and other public areas, created, established, designated, maintained, provided or set aside by the City of Perris, the County of Riverside or any other public entity or agency, for the purposes of public rest, play, recreation, enjoyment or assembly, and all buildings and structures located thereon or therein.
- Y. "Permit" means the regulatory license issued pursuant to this chapter for a medical marijuana dispensary and which constitutes a "local permit, license, or other authorization" as used in Bus. & Prof. Code § 19320(a)
- Z. "Person" means any natural person, firm, corporation, partnership, club, or any association or combination of natural persons, whether acting by themselves or through any servant, agent or employee.
- AA. "Person with an identification card" has the same definition as provided for in Health and Safety Code section 11362.7(c), and as may be amended, defined as "an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article."
- BB. "Physician's referral" means a written recommendation for a patient from a licensed medical doctor indicating that marijuana would be a beneficial treatment for a serious medical condition of the patient.
- CC. "Place of worship" means an establishment which has the principal purpose of religious worship (e.g., church, synagogue, mosque, temple), including accessory uses in the principal structure or in separate buildings, including school rooms, assembly rooms, kitchen, library room, one (1) family dwelling unit and day nurseries operated by and on the site of the place of worship.
- DD. "Police Chief" means the Riverside County Sheriff's Department Captain in command of the Perris Station of the Riverside County Sheriff.
- EE. "Police Department" means the Riverside County Sheriff which is under contract with the City of Perris for police services, as provided for through the Perris Station of the Riverside County Sheriff's Department.
- FF. "Premises" means a single parcel of property. Where contiguous parcels are under common ownership or control, such contiguous parcels shall be counted as a single "premises."
- GG. "Primary caregiver" has the same definition as provided for in Health and Safety Code section 11362.7(d), and as may be amended, defined as "the individual, designated by a qualified patient or by a person with an identification card, who has consistently



assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following: (1) In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card. (2) An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver. (3) An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card." A "primary caregiver" shall also meet the requirements of Health and Safety Code section 11362.7(e), and as may be amended, which provide that a "primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code."

- HH. "Qualified Patient" has the same definition as provided for in Health and Safety Code section 11362.7(f), and as may be amended, defined as "a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article."
- II. "School" means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a home school, vocational or professional institution of higher education, including a community or junior college, college, or university.
- JJ. "Serious Medical Condition" has the same definition as set forth in Health and Safety Code section 11362.7(h), and as may be amended, defined as meaning all of the following medical conditions: "(1) Acquired immune deficiency syndrome (AIDS). (2) Anorexia. (3) Arthritis. (4) Cachexia. (5) Cancer. (6) Chronic pain. (7) Glaucoma. (8) Migraine. (9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis. (10) Seizures, including, but not limited to, seizures associated with epilepsy. (11) Severe nausea. (12) Any other chronic or persistent medical symptom that either: (A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336). (B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health."

KK. "Youth-oriented Facility" means any facility that caters to or provides services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

**Sec. 5.54.040 - Medical Marijuana Dispensary Permit.**

- A. Prior to initiating operations as a medical marijuana dispensary and as a continuing requisite to conducting operations, the owner of a medical marijuana dispensary shall obtain a regulatory permit from the Director under the terms and conditions set forth in this chapter.
- B. Medical marijuana dispensary permits issued pursuant to this chapter shall automatically expire one year from the date of issuance.
- C. Conditions necessary for the continuing validity of any and all regulatory permits issued for the operation of a medical marijuana dispensary include:
  - 1. Strict adherence to each and every requirement of this chapter, as well as any requirements adopted by the City pursuant to the authority of this chapter.
  - 2. Allowing the Director and the Police Department to conduct reasonable inspections of the location of the medical marijuana dispensary at the discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the medical marijuana dispensary, for the purposes of ensuring compliance with local and state law.
  - 3. Maintaining with the City current and valid contact information of the owner(s) and manager(s) of the medical marijuana dispensary.
  - 4. Maintaining with the City current and valid contact information of a legal representative of the medical marijuana dispensary.
  - 5. Transferable only if transferee successfully completes all of the requirements that a new applicant for a medical marijuana dispensary permit would otherwise need to meet.

**Sec. 5.54.050 - Applications for Medical Marijuana Dispensary Permit.**

- A. The owner of a proposed medical marijuana dispensary shall file an application with the Director upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council as amended from time to time.
- B. An application for a regulatory permit for a medical marijuana dispensary permit shall include, but shall not be limited to, the following information:
  - 1. Address of the location where the medical marijuana dispensary will be located.

2. A list of the names of all current and prospective employees of the medical marijuana dispensary, accompanied by:
  - a) the results of a live scan for all such employees which was performed within ninety (90) days prior to the date of the application; and
  - b) for each such employee, a color photocopy of either a valid California Driver's License or equivalent identification approved by the Director.
3. Evidence satisfactory to the Director of compliance with all state law requirements governing medical marijuana dispensaries.
4. Evidence satisfactory to the Director of compliance with all applicable insurance requirements.
5. A site plan and floor plan of the premises denoting all the use of areas on the premises of the medical marijuana dispensary, including storage, exterior lighting, restrooms, and signage.
6. A security plan including the following measures:
  - a) Security cameras shall be installed and maintained in good condition, with at least 30 days of digitally recorded documentation in a format approved by the Police Department. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, all doors and windows, and any other areas as determined by the Police Department.
  - b) The lease/business space site shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with Business & Professions Code section 7590 *et seq.* and whose agents are properly licensed and registered under applicable law.
  - c) Entrance to the dispensing area and any storage areas shall be locked at all times, and under the control of employees.
  - d) Interior Lighting. The premises within which the medical marijuana dispensary is operated shall be equipped with and, at all times during which is open to the public, shall remain illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which members of the public or portions thereof are permitted access with an illumination of not less than two foot-candles as measured at the floor level.
  - e) Exterior Lighting. The exterior of the premises upon which the medical marijuana

dispensary is operated shall be equipped with and, at all times between sunset and sunrise, shall remain illuminated with fixtures of sufficient intensity and number to illuminate every portion of the property with an illumination level of not less than one foot-candle as measured at the ground level, including, but not limited to, landscaped areas, parking lots, driveways, walkways, entry areas, and refuse storage areas.

- f) All windows on the building that houses the dispensary shall be secured against entry from the outside.
  - g) All marijuana present or kept at the premises shall be securely stored against both unauthorized access as well as theft.
7. The name, address and current phone number of any person who is managing or responsible for the medical marijuana dispensary's activities.
  8. The name, address and current phone number of the owner and lessor of the real property upon which the medical marijuana dispensary is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a medical marijuana dispensary will be operated on his/her property.
  9. Authorization for the Director to seek verification of the information contained within the application.
  10. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
  11. Any such additional and further information as is deemed necessary by the Director to administer this chapter.

**Sec. 5.54.060 - Review of Medical Marijuana Dispensary Permit Applications.**

- A. The Director shall conduct a review of any application for a medical marijuana dispensary permit authorized under this chapter, and shall prepare a written report on the acceptability of the application.
- B. Upon completing the review process, the permit shall be deemed a qualified application, unless the Director finds:
  1. The applicant has made one or more false or misleading statements or omissions, either on the written application or during the application process; or
  2. A proposed location for the medical marijuana dispensary is not allowed by state or local law, statute, ordinance, or regulation (including this Code); or

3. The applicant is not a primary caregiver, qualified patient, or otherwise qualified to operate a medical marijuana dispensary under the Medical Marijuana Regulation and Safety Act of 2015; or
  4. The applicant has not satisfied each and every requirement of this chapter and Code; or
  5. The applicant is not in compliance with applicable state law, including, but not limited to, applicable requirements and minimum standards of the Medical Marijuana Regulation and Safety Act of 2015.
- C. Based on the information set forth in the application and the Director's review, the Director may impose reasonable terms and conditions on the use of the permit in addition to those specified in this chapter to ensure the safe operation of the dispensary, and to ensure the health, safety and welfare of the citizens and visitors of the City of Perris.

**Sec. 5.54.070 - Suspension of Review of Medical Marijuana Dispensary Permit Applications.**

Upon a resolution from the City Council that a more rigorous selection process (e.g., a lottery or a scoring system) is warranted for the acceptance of applications for medical marijuana dispensary permits for review, then review of all applications for medical marijuana dispensary permits will be suspended until such a selection process is adopted by the City Council through either a resolution or an ordinance.

**Sec. 5.54.080 - Action on Applications for Medical Marijuana Dispensary Permit.**

- A. Upon receipt of a completed application and payment of the application and license fees, the Director shall investigate the information contained in the application to determine whether the applicant shall be issued the requested permit.
- B. If the Director determines that the applicant has completed the application improperly, the Director shall notify the applicant of such fact within thirty (30) days of receipt of the application. The incomplete application upon return as incomplete shall be deemed abandoned. The applicant may then resubmit a new application for a new review pursuant to the requirements of this section.
- C. Within sixty (60) days of receipt of the completed application, the Director shall complete the investigation, approve or deny the application in accordance with the provisions of this chapter, and so notify the applicant by United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- D. The Director shall grant the application upon findings that the proposed permit meets all of the requirements of this chapter, unless the application is denied for one (1) or more of the reasons set forth in section 5.54.060.
- E. If an application is granted a permit will not be issued until and unless subsequent compliance by the successful applicant with the requirements of Section 5.54.090(B).

- F. If the Director neither grants nor denies a complete application within sixty (60) days after it is received (except as provided in section 5.54.080(B)), the application shall be forwarded to the City Council at its next regularly scheduled meeting for consideration in strict conformance with the requirements of this chapter.

**Sec. 5.54.90 - Obligations of Medical Marijuana Dispensary.**

- A. A medical marijuana dispensary permit issued by the City constitutes a revocable privilege. The burden of proving qualifications for a medical marijuana dispensary permit rests at all times with an applicant and/or permit holder.
- B. Before receiving possession of an approved medical marijuana dispensary permit, as provided for in this chapter, the medical marijuana dispensary permit holder shall to the satisfaction of the Director:
1. Provide written authorization to the Director as well as the Police Department, to conduct reasonable inspections of the location of the medical marijuana dispensary at the discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the medical marijuana dispensary, for the purposes of ensuring compliance with local and state law.
  2. Execute an agreement indemnifying the City, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, from all liability in connection with all claims, damages, attorney's fees, costs and allegations arising from or in any way related to the operation of the medical marijuana dispensary.
  3. Execute an agreement to:
    - a) defend, at the medical marijuana dispensary permit holder's sole expense, any action against the City, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, which arises from the operation of the medical marijuana dispensary.
    - b) to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action.
- C. Upon and after receiving possession of a medical marijuana dispensary permit as provided for in this chapter, the medical marijuana dispensary permit holder shall:
1. Maintain continuing compliance with all applicable insurance requirements, including, but not limited to, those imposed by the City and as an operation of this chapter.
  2. Maintain continuing compliance with background check requirements of Section 5.54.050(B)(2) of this chapter by ensuring that upon the hiring, association or

retention of an employee by the medical marijuana dispensary, the requirements of Section 5.54.050(B)(2) are met by immediately providing the Director in writing with:

- a) the results of a live scan for the employee which was performed within ninety (90) days prior to the date of the hiring, association or retention of the employee; and
  - b) a color photocopy of either a valid California Driver's License for the employee, or equivalent identification for the employee approved by the Director.
3. Immediately update the Director in writing with correct and current contact information, when there is any change in the address or phone number, previously provided to the City in compliance with this chapter, for any owner(s), manager(s) or legal representative(s) of the medical marijuana dispensary.
- D. Failure to perform the aforementioned actions of this Section 5.54.090 shall render the operation of a medical marijuana dispensary unlawful.

**Sec 5.54.100 - Process for Renewing a Medical Marijuana Dispensary Permit.**

- A. A medical marijuana dispensary permit issued by the City constitutes a revocable privilege. Medical marijuana dispensary permits issued pursuant to this chapter shall automatically expire one year from the date of issuance.
- B. The following procedures shall govern the process for the renewal of a medical marijuana dispensary permit:
  1. A holder of a medical marijuana dispensary permit may apply for the renewal of an existing permit no less than 60 days prior to the permit's expiration date.
  2. Renewal applications shall comply with all of the requirements in this chapter for applying for a new medical marijuana dispensary permit, including but not limited to the requirements in Section 5.54.050.
  3. If the holder of a medical marijuana dispensary permit files a renewal application less than 60 days prior to expiration, the holder must provide a written explanation detailing the circumstances surrounding the late filing. If the Director accepts the application, then the Director may elect to administratively extend the permit beyond the expiration date while the Director completes the renewal permitting process.
  4. An application for renewal will only be accepted if it is accompanied by the requisite fees as set by resolution of the City Council, and as amended from time to time.

- C. A medical marijuana dispensary permit is immediately invalid upon expiration if the permit holder has not filed a timely and/or accepted renewal application and remitted all of the required fees. In the event the permit is not renewed prior to expiration, the affected medical marijuana dispensary shall not operate and is considered to be unlawful.

#### **Sec. 5.54.110 - General Operating Standards and Restrictions.**

A medical marijuana dispensary shall operate in conformance with the following minimum standards, and such standards shall be deemed to be part of the conditions of approval on the permit for a medical marijuana dispensary to ensure that its operation is in compliance with California law, the Attorney General Guidelines, and the Perris Municipal Code, and to mitigate any potential adverse impacts of the medical marijuana dispensary on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the Director (upon authorization by resolution from the City Council). Such additional standards may include (but are not limited to) insurance requirements, hours of operation, and labeling and packaging requirements.

##### **A. Security.**

1. **Security Cameras.** Security cameras shall be installed and maintained in good condition, with at least 30 days of digitally recorded documentation in a format approved by the Director. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, cultivation areas, all doors and windows, and any other areas as determined by the Director.
2. **Alarm System.** The location of the medical marijuana dispensary shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with California Business & Professions Code section 7590 *et seq.* and whose agents are properly licensed and registered under applicable law.
3. **Locked Entrances.** All entrances into the building housing a medical marijuana dispensary shall be locked from the exterior at all times with entry controlled by employees.

##### **B. Authorizations.**

1. The Director shall have the right to enter all areas of the medical marijuana dispensary from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter and all laws of the City and State of California.
2. Recordings made by security cameras required pursuant to this chapter shall be



made available to the Director or the Police Department upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

### C. Records.

#### 1. Medical marijuana dispensaries shall maintain records reflecting:

- a) The full name, address, and telephone numbers of the owner and lessee of the property, all employees, and all members (if any) who participate in cultivation of marijuana for the medical marijuana dispensary.
- b) Results of annual live scans of all employees.
- c) The state issued identification card number of all members to whom the medical marijuana dispensary provides medical marijuana. If a member does not have a state issued identification card, then the medical marijuana dispensary shall assign the member a unique identifying number for the use of the medical marijuana dispensary, and maintain a written copy of the physician's referral for the member.
- d) The source (including name, location and contract information) of all medical marijuana dispensed, sold or stored by the medical marijuana dispensary.
- e) The dates upon which all members are dispensed medical marijuana, the amount dispensed, and the state issued identification card number (or unique identifying number referenced above in Section 5.54.110(C)(1)(c)) of the recipient.
- f) The delivery of medical marijuana, from the medical marijuana dispensary by an employee, to a member located outside of the medical marijuana dispensary location, including but not limited to the identity of the recipient, the amount delivered, the date of the delivery, the address of the delivery, the name of the employee making the delivery, and a written receipt from the member confirming the delivery.
- g) A written accounting of all expenditures, costs, revenues and profits of the medical marijuana dispensary.
- h) A written accounting of all cash and in-kind contributions, reimbursements, and compensation provided by the management members and members to the medical marijuana dispensary.
- i) A copy of all insurance policies related to the operation of the medical marijuana dispensary.

- j) An inventory record documenting the dates and amounts of medical marijuana received at the medical marijuana dispensary, the daily amounts of medical marijuana stored at the location of the medical marijuana dispensary, and the daily amounts distributed to members.
  - k) Proof of a valid and current permit issued by the City in accordance with this chapter. Every medical marijuana dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter in a conspicuous place so that it may be readily seen by all persons entering the location of the medical marijuana dispensary.
2. Records shall be maintained on-site, either in paper or electronic form, and secured and verified by the Director as needed (consistent with requirements pertaining to patient confidentiality pursuant to applicable State and Federal law).
  3. All records required to be maintained by the medical marijuana dispensary must be maintained for no less than three (3) years and are subject to immediate inspection upon a lawful written request by the Director.

#### D. Employees.

1. A medical marijuana dispensary shall maintain results of live scans conducted annually by the medical marijuana dispensary on all employees, the written results of such live scans being maintained at the location of the medical marijuana dispensary.
2. No employee convicted within the last ten years of a felony substantially related to the qualifications, functions or duties of an employee of a medical marijuana dispensary (such as a felony conviction for distribution of controlled substances, money laundering, racketeering, etc.) shall be employed by a medical marijuana dispensary, unless such employee has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar federal statute or state law where the expungement was granted. At the request of the medical marijuana dispensary, the Director shall determine the applicability of this section to a potential employee within a reasonable period of time after a written request has been made to the Director for such determination.
3. All employees must possess a valid government issued (or equivalent) form of identification containing an identifying photograph of the employee, the name of the employee, the date of birth of the employee, and the residential address of the employee. Color copies of such identification shall be maintained at the location of the medical marijuana dispensary. A valid California Driver's license will satisfy this requirement.
4. All owners and managers must have a current and valid identification card.

**E. Only Medical Marijuana Products.**

Medical marijuana dispensaries shall dispense, offer for sale or provide only products which are closely associated with medical marijuana, such as pipes, rolling papers, etc.

**F. No Recommendations On-site.**

A medical marijuana dispensary shall not have a physician or an attending physician at the location of the medical marijuana dispensary to evaluate patients or provide a recommendation or physician's referral for medical marijuana.

**G. No Cultivation.**

No marijuana cultivation shall occur at a medical marijuana dispensary site.

**H. No Alcohol.**

Medical marijuana dispensaries shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.

**I. No Lounge or Cafe.**

Medical marijuana dispensaries shall not operate as a lounge, cafe or restaurant serving food or drinks for consumption on-site. There shall be no seating area, tables, couches, or chairs for the gathering or congregating of members.

**J. Medical Marijuana Dispensary Signage.**

1. Signs on the premises shall not obstruct the entrance or the video surveillance system. The size, location, and design of any signage must conform to the sign provisions in the Perris Municipal Code.
2. Business identification signage shall be limited to that needed for identification only, consisting of a single window sign or wall sign that shall comply with the appropriate sign requirements within the applicable zoning district.

**K. Use Restrictions.**

Smoking, ingesting or consuming marijuana at the location of the medical marijuana dispensary or within twenty (20) feet of the medical marijuana dispensary is prohibited.

**L. No Minors.**

1. Minors are prohibited from entering the location of the medical marijuana

dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

2. No minor shall operate a medical marijuana dispensary in any capacity, including but not limited to, as a management member, employee, contractor or volunteer.

M. Odors.

1. A medical marijuana dispensary shall have an air treatment system that ensures off-site odors shall not result from its operations.
2. This requirement at a minimum means that the medical marijuana dispensary shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location of the medical marijuana dispensary is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the medical marijuana dispensary, if the use only occupies a portion of a building.

N. Site management.

1. The medical marijuana dispensary permit holder shall take all reasonable steps to discourage and correct conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if related to the members of the subject medical marijuana dispensary.
  - a) "Reasonable steps" shall include immediately calling the police upon observation of the activity, and requesting that those engaging in activities that constitute a nuisance or are otherwise illegal to cease those activities, unless personal safety would be threatened in making the request.
  - b) "Nuisance" includes but is not limited to disturbances of peace, open public consumption of marijuana, alcohol or controlled substances, excessive pedestrian or vehicular traffic, including the formation of any pedestrian lines outside the building, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.
2. The medical marijuana dispensary permit holder shall make available to members who are dispensed medical marijuana a list of the rules and regulations governing medical marijuana use and consumption within the City and recommendations on sensible medical marijuana etiquette.

O. Delivery of Medical Marijuana to Members.

1. All employees who provide delivery of medical marijuana from a medical marijuana dispensary to a member located outside the medical marijuana dispensary location must have a valid identification card at all times with the employee while the delivery is being made.
2. All deliveries must be recorded by the medical marijuana dispensary and maintained in the regular records of the medical marijuana dispensary. These records shall include but not be limited to the identity of the recipient, the amount delivered, the date of the delivery, the address of the delivery, and the name of the employee making the delivery.
3. Upon receipt of a delivery outside of the location of the medical marijuana dispensary, a member must sign for the delivery on a written identifiable receipt to be kept in the regular records of the medical marijuana dispensary.
4. All deliveries must leave the medical marijuana dispensary in sealed containers whose seals will not be broken until receipt of the delivery by the member.

**P. Exemptions.**

The regulations contained in this chapter shall not apply to a medical marijuana dispensary engaged in the following uses, as long as such use complies strictly with applicable law regulating such use and the location of such use, including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et seq.; a clinic permitted pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility permitted pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness permitted pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a residential hospice; or or a home health agency permitted pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

**Sec. 5.54.120 - Administration.**

Further rules, regulations, procedures and standards for the administration and implementation of this chapter may be adopted from time to time either by resolution or ordinance from the City Council, or by the Director (upon authorization by resolution from the City Council).

**Sec. 5.54.130 - Fees.**

**A. Fees.**

1. An application fee set by resolution of the City Council shall be required for formal processing of every application made under this chapter.
2. The City Council is authorized to pass resolutions to recover any and all fees and costs incurred by the administration and implementation of this chapter through an

appropriate fee recovery mechanism to be imposed upon medical marijuana dispensaries and their operations.

**B. State Board of Equalization Seller's Permit Required.**

1. The State Board of Equalization has determined that medical marijuana transactions are subject to sales tax, regardless of whether the individual or group makes a profit, and those engaging in transactions involving medical marijuana must obtain a Seller's Permit from the State Board of Equalization.
2. Such permit shall be conspicuously displayed at the medical marijuana dispensary.

**Sec. 5.54.140 - Location Restrictions.**

- A. Medical marijuana dispensaries shall not be located within six hundred feet of a school, park, place of worship, youth-oriented facility or community center.
- B. Medical marijuana dispensaries shall not be located within six hundred feet of a residential zone.
- C. No medical marijuana dispensary shall locate and/or operate in any zone of the City of Perris, other than either in the Commercial Neighborhood (CN) Zone (Section 19.36), the Commercial Community (CC) Zone (Section 19.38), or the Industrial Zone (Section 19.44), as defined more fully in Title 19 (Zoning) of the Perris Municipal Code.

**Sec. 5.54.150 - Suspension and Revocation.**

- A. The Director is authorized to suspend and/or revoke a medical marijuana dispensary permit issued pursuant to this chapter upon the determination through written findings of a failure to comply with any provision of this chapter, any condition of approval, or any agreement or covenant as required pursuant to this chapter.
- B. The Director may suspend or revoke a medical marijuana dispensary permit if any of the following occur:
  1. The Director determines that the medical marijuana dispensary has failed to comply with any aspect of this chapter, any condition or approval, or any agreement or covenant as required pursuant to this chapter; or
  2. Operations cease for more than 180 calendar days (including during any change of ownership, if applicable); or
  3. Ownership is changed without securing a new medical marijuana dispensary permit; or
  4. The medical marijuana dispensary fails to maintain required security camera recordings; or

5. The medical marijuana dispensary fails to allow inspection of the security recordings, the activity logs, the records, or of the premise by authorized City officials.
- C. Conditions (if any) of suspension or revocation are at the discretion of the Director and may include, but are not limited to, a prohibition on all owners, operators and employees of the suspended or revoked medical marijuana dispensary from operating within the City for a period of time set forth in writing and/or a requirement (when operations may resume, if at all, pursuant to the Director's determination) for the holder of the suspended or revoked permit to resubmit an application for a medical marijuana dispensary permit pursuant to the requirements of this chapter.
- D. Suspension or revocation of a medical marijuana dispensary permit pursuant to this chapter shall constitute a "revocation" for purposes of Business & Professions Code section 19320(b).

**Sec. 5.54.160 - Violations and Penalties.**

- A. Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued, and shall be subject to all remedies and enforcement measures authorized by the Perris Municipal Code for violation of the law.
- B. To the fullest extent allowed under state law, any person, whether as principal, employee, agent, partner, director, officer, stockholder, or trustee or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor, and any conviction thereof shall be punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

**Sec. 5.54.170 - Public Nuisance and Abatement.**

- A. In addition to the penalties set forth in this chapter, any medical marijuana dispensary that is operating in violation of any provisions of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 7.06 (Property Maintenance) of Title 7 (Health and Welfare) of the Perris Municipal Code.
- B. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the permit holder of the medical marijuana dispensary. Any appeals to a determination that a medical marijuana dispensary is operating as a public nuisance shall be pursuant to the provisions provided for appeal in Chapter 7.06 (Property Maintenance) of Title 7 (Health and Welfare) of the Perris Municipal Code.
- C. In addition to the penalties set forth in this section, failure of a medical marijuana dispensary permit holder to abate a declared public nuisance, after proper notice, shall

subject the medical marijuana dispensary permit holder to the enforcement provisions of Chapter 1.16 (Criminal Enforcement of Perris Municipal Code and Ordinance Violations) of Title 1 (General Provisions) of the Perris Municipal Code to the fullest extent allowed under state law.

#### **Sec. 5.54.180 - Appeals.**

Any decision regarding approval, conditional approval, denial, suspension or revocation of a medical marijuana dispensary permit may be appealed to the Planning Commission (unless subject to the provisions of Section 5.54.160 or Section 5.54.170 of this chapter) by an applicant, a permit holder or interested party as follows:

- a) If the appellant wishes to appeal a decision to the Planning Commission, the appellant must file a written appeal with the Perris City Clerk within ten calendar days of the decision. The written appeal shall specify the person making the appeal, the decision appealed from, shall state the reasons for the appeal, and shall include any evidence in support of the appeal which the applicant seeks to be considered by the Planning Commission.
- b) Notice of the time and place of an appeal hearing shall be providing to the appellant within thirty days of receipt by the Perris City Clerk of the written appeal.
- c) The appeal hearing shall be held within sixty days of the filing of the written appeal with the Perris City Clerk, unless the sixty day time limit is waived by the appellant, or unless the Planning Commission continues the appeal hearing date for good cause and upon written notification to the appellant.
- d) The Planning Commission shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determine whether the appealed decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final unless appealed as provided for below.
- e) If the appellant wishes to appeal the determination of the Planning Commission, then the procedures provided in this section shall be followed for an appeal to the City Council, with the exception of the City Council may determine to simply affirm by minute order or resolution the determination of the Planning Commission, without review, within sixty days of receipt by the Perris City Clerk of the written appeal. Any determination of the City Council shall be final.
- f) The provisions of section 1094.6 of the Code of Civil Procedure sets forth the procedure for judicial review of any final determination. Parties seeking such judicial review shall file such action within ninety (90) days of a determination being made final.

#### **Sec. 5.54.190 - Prohibitions.**

- A. All medical marijuana dispensaries in violation of Health and Safety Code Section 11362.7



*et seq.* and 11362.5, this chapter, or any other applicable State law are expressly prohibited.

- B. It is unlawful for any medical marijuana dispensary in the City, or any agent, employee or representative of such medical marijuana dispensary, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the medical marijuana dispensary, or to violate any State law, or this chapter.

**Sec. 5.54.200 - Nonconforming Use.**

No use which purports to have distributed marijuana prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of the Perris Zoning Code, the Perris Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

**Sec. 5.54.210 - Severability.**

If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Perris hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

**Sec. 5.54.220 - Amendment or Repeal.**

This chapter may be amended and/or repealed, in part or in whole, by ordinance passed by a majority vote of the City Council, pursuant to Section 9217 of the Elections Code.

**Sec. 5.54.230 - Consistency with Statewide Regulation of Marijuana.**

- A. This chapter shall be read consistent with any statewide regulation of medical marijuana that is promulgated by the California legislature or by voter approval in the future.
- B. In the event of state and/or federal laws or regulations which decriminalize, authorize or legalize marijuana for recreational and/or general use, and if the City of Perris authorizes and/or permits recreational/general use marijuana dispensaries pursuant to such laws or regulations, then this chapter shall also govern the conduct of such dispensaries to distribute marijuana for recreational and/or general use, to the fullest extent possible consistent with such laws or regulations.

**Sec. 5.54.240 - Effective Only Upon Successful Passage, and Continuing Enforcement, of Marijuana Tax Ordinance.**

This chapter is not effective, and the entire operation of this chapter is suspended indefinitely, until a majority of the voters of the City of Perris, voting at a municipal election, and pursuant to subdivision (b) of Section 2 of Article XIII C of the California Constitution and Section 53720 *et. seq.* of the Government Code, vote in favor of a separate ballot measure imposing both a general municipal tax of (at least) up to 10 cents per \$1.00 on proceeds of marijuana dispensaries operating in the City of Perris, as well as a general municipal tax of (at least) up to \$25 per square foot of space utilized as cultivation area for marijuana cultivation in the City of Perris (“Marijuana Tax Ordinance”). Until such a Marijuana Tax Ordinance is approved by the voters as provided herein, this chapter shall have no effect or force of law in the City of Perris.

The entirety of this chapter shall be immediately repealed and deleted, if county, state and/or federal law operates to preempt in whole or in part the general municipal taxes on marijuana dispensaries and marijuana cultivation provided for by the Marijuana Tax Ordinance referenced above.”

**SECTION 2. AMENDMENT OF SECTIONS 19.36.020 (PERMITTED USES), 19.38.020 (PERMITTED USES), AND 19.44.020 (LAND USE AND PERMIT REQUIREMENTS) OF TITLE 19 (ZONING) OF THE PERRIS MUNICIPAL CODE**

- A. The following new subsection (F) is added to Section 19.36.020 (Permitted Uses) of Chapter 19.36 (CN Commercial Neighborhood) of Title 19 (Zoning) of the Perris Municipal Code:

***“F. Medical Marijuana Dispensaries***

See Chapter 5.54 (Medical Marijuana Dispensaries) of Title 5 (Business Regulations and Licenses) for requirements.”

- B. The following new subsection (G) is added to Section 19.38.020 (Permitted Uses) of Chapter 19.38 (CC Commercial Community) of Title 19 (Zoning) of the Perris Municipal Code:

***“G. Medical Marijuana Dispensaries***

See Chapter 5.54 (Medical Marijuana Dispensaries) of Title 5 (Business Regulations and Licenses) for requirements.”

- C. The following second row below is added to the table entitled “Allowed Land Uses In Industrial Zone Districts” contained within Section 19.44.020 (Land Use and Permit Requirements) of Chapter 19.44 (Industrial Zones) of Title 19 (Zoning) of the Perris Municipal Code:

“

Land Use	BP	LI	GI	See Section
Medical Marijuana Dispensary	P	P	P	Chapter 5.54

”

**SECTION 3. REPEAL AND AMENDMENT OF CERTAIN PORTIONS OF TITLE 19 (ZONING) OF THE PERRIS MUNICIPAL CODE.**

- A. Subsection (A) entitled “Prohibition against the location and operation of medical marijuana dispensaries” of Section 19.02.020 (Limitations on Land Use) of Chapter 19.02 (General Provisions) of Title 19 (Zoning) of the Perris Municipal Code is hereby repealed.
- B. Subsection (B) entitled “Zoning District Compliance” of Section 19.02.020 (Limitations on Land Use) of Chapter 19.02 (General Provisions) of Title 19 (Zoning) of the Perris Municipal Code is hereby amended to be henceforth codified as Subsection (A) for expressly and solely organizational purposes.
- C. The definition of “Medical Marijuana Dispensary” in Section 19.08.010 (Definitions) of Chapter 19.08 (Definitions) of Title 19 (Zoning) of the Perris Municipal Code is hereby repealed.

**SECTION 4. EFFECTIVE DATE.**

If a majority of the voters of the City of Perris voting at the General Municipal Election of November 8, 2016 vote in favor of this Ordinance, and if a majority of the voters of the City of Perris voting at a City of Perris Municipal Election vote in favor of an Ordinance to impose both a general municipal tax of (at least) up to 10 cents per \$1.00 on proceeds of marijuana dispensaries operating in the City of Perris, as well as a general municipal tax of (at least) up to \$25 per square foot of space utilized as cultivation area for marijuana cultivation in the City of Perris, then this Ordinance shall become a valid and binding ordinance of the City of Perris, and shall be considered as adopted upon the date that the last vote necessary for this ordinance to be effective is declared by the City Council of the City of Perris, and this Ordinance shall go into effect ten (10) days after that last date, pursuant to Election Code section 9217.

**SECTION 5. AUTOMATIC REPEAL**

The entirety of this Ordinance shall be rendered null and void, and all additions, changes, repeals and amendments made to the Perris Municipal Code by this Ordinance shall be immediately repealed, deleted and/or reversed, if county, state and/or federal law operates to preempt in whole or in part the Ordinance referenced in Section 4 (“Effective Date”) herein which imposes general municipal taxes on marijuana dispensaries and marijuana cultivation.

**SECTION 6. CITY COUNCIL AUTHORITY TO AMEND AND/OR REPEAL**

This is a City Council sponsored initiative Ordinance which otherwise would only be subject to amendment by the voters of the City of Perris. However, pursuant to Section 9217 of the California Elections Code, the City Council expressly reserves the right and authority to amend or repeal the Ordinance without any restrictions.

**SECTION 7. SEVERABILITY.**

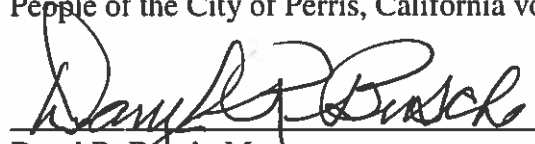
If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of

this Ordinance shall nonetheless remain in full force and effect. The People hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

**SECTION 8. EXECUTION.**

The Mayor of the City of Perris is hereby authorized and ordered to attest to the adoption of the Ordinance (consistent with Section 4 above) by the voters of the City of Perris by signing where indicated below.

I hereby certify that the foregoing Ordinance was ***PASSED, APPROVED and ADOPTED*** by the People of the City of Perris, California voting on the 8th day of November, 2016.

  
\_\_\_\_\_  
Daryl R. Busch, Mayor

ATTEST:

  
\_\_\_\_\_  
Nancy Salazar, City Clerk