



AGENDA

SPECIAL MEETING OF THE MAYWOOD PLANNING COMMISSION

Maywood City Council Chambers
4319 E. Slauson Avenue, Maywood, CA 90270
Tuesday, November 29, 2016 at 7:00 pm

Joaquin Lanuza, Chair
Ignacio Flores, Vice Chair
Carlos Alvarez, Commissioner
Raul Perez, Commissioner
Jose Raul Gerardo Saenz, Commissioner

David Mango, Director of Building and Planning
Julia Sylva, Special Counsel
Lynda Chavez, Planning Commission Secretary

A. SPECIAL MEETING OF THE PLANNING COMMISSION: 7:00 P.M.

Any public record relating to an open session agenda item distributed within 72 hours prior to the meeting, or 24 hours prior to a Special Meeting, is available for public inspection at Maywood City Hall, 4319 E. Slauson Avenue, Maywood CA 90270. If you challenge in court any discussion or action taken concerning an item on this Agenda, you may be limited to raising only those issues you or someone else raised during the meeting or in written correspondence delivered to the City at or prior to the City's consideration of the item at the meeting. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (323) 562-5714. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

1. CALL TO ORDER

2. ROLL CALL/PLEDGE OF ALLEGIANCE

3. OATH OF OFFICE

*Carlos Alvarez
Jose Raul Gerardo Saenz*

4. CITIZENS' COMMUNICATION/PUBLIC PARTICIPATION

*Members of the audience may speak on an item **NOT** otherwise listed on the agenda and within the subject matter jurisdiction of the Planning Commission. Each speaker is limited to three (3) minutes and is required to fill out a comment card with the Planning Commission Secretary. Public comments on agenda items will be discussed when that agenda item is raised.*

Agenda for Planning Commission Special Meeting
November 29, 2016

5. APPROVAL OF MINUTES

None

6. CONSENT ITEMS

Adoption of resolution regarding findings of the planning commission related to public hearing of October 18, 2016, denying the appeal of DTLA investments, LLC, and upholding the determination of the Director of Building and Planning, that the non-conforming use at the property located at 3405 and 3407 Slauson Avenue, is terminated.

7. PUBLIC HEARING

Withdrawal of recommendation made at duly noticed adjourned meeting August 30, 2016 regarding enactment of Ordinance Number 16-02. Recommendation concerning: Repeal of Ordinance Number 10-04, prohibiting the establishment of medical marijuana dispensaries; Repeal Ordinance 15-02, prohibiting indoor and outdoor marijuana cultivation; and Enactment of Ordinance Number 16-03, permitting marijuana businesses in certain specified zones of the City.

8. CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Name of Case: *DTLA Investments, LLC, v. City of Maywood*
(LASC Case No. BC 628 555)

9. INFORMATIONAL/BUSINESS ITEMS

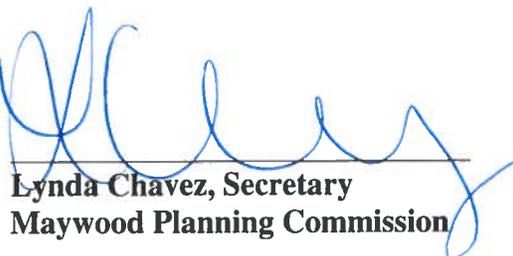
None.

10. COMMISSIONER'S COMMENTS

11. ADJOURNMENT

To the regular Planning Commission meeting of Tuesday, December 20, 2016 at 6:00 P.M.

I, Lynda Chavez, Planning Commission Secretary, certify this agenda was posted at the following locations on November 28, 2016: Maywood City Hall (4319 E. Slauson Avenue), Maywood Public Library (4323 E. Slauson Avenue) and city's webpage (www.cityofmaywood.com)



Lynda Chavez, Secretary
Maywood Planning Commission



PLANNING COMMISSION STAFF REPORT

DATE: NOVEMBER 29, 2016

TO: HONORABLE CHAIR AND MEMBERS OF THE PLANNING COMMISSION

FROM: DAVID MANGO, DIRECTOR OF BUILDING & PLANNING

BY: JULIA SYLVA, SPECIAL COUNSEL 

SUBJECT: ADOPTION OF RESOLUTION REGARDING FINDINGS OF THE PLANNING COMMISSION RELATED TO PUBLIC HEARING OF OCTOBER 18, 2016, DENYING THE APPEAL OF DTLA INVESTMENTS, LLC, AND UPHOLDING THE DETERMINATION OF THE DIRECTOR OF BUILDING AND PLANNING, THAT THE NON-CONFORMING USE AT THE PROPERTY LOCATED AT 3405 AND 3407 SLAUSON AVENUE, IS TERMINATED.

RECOMMENDATION

That the Planning Commission , City of Maywood (the Planning Commission"), adopt a Resolution setting forth the findings, after the Public Hearing of October 18, 2016, held pursuant to the Maywood Municipal Code ("MMC"), specifically, pursuant to section 5140 of the Maywood Zoning Ordinance ("MZO"), wherein the Planning Commission denied the appeal of the DTLA Investments, LLC, and upheld the determination of the Director, Building and Planning, that the non-conforming use on the subject property is terminated for non-use over a six (6) month period.

BACKGROUND

On or about **August 14, 2015**, DTLA Investments, LLC (the "Owner"), purchased real property commonly known as 3405 and 3407 E. Slauson Avenue, Maywood, CA 90270 (the "Property"), from long-time owner Mozafar Koshki and Dalia Koshki, Co-Trustees of the Koshki Revocable Family Trust dated April 19, 2004 (the "Prior-Owner"). Public records indicate that on or about **April 10, 2012**, the Prior Owner purchased the Property from 3505 Slauson Avenue, LLC.

The Property is zoned "M" (Manufacturing) with a Land Use Designation of Industrial. It is improved with an approximately 13,620 square foot commercial/industrial building, which consists of multiple units. The Property does not have and has never had adequate on-site parking. As of at least **1969**, the City of Maywood (the "City"), has designated the Property as "legal non-conforming." The Property continued, uninterrupted, as a legal "legal non-conforming" until on or about **January 10, 1995**. When Owner purchased the Property it had been vacant, with no active or inactive use, for at least twenty (20) years, prior.

The Maywood Municipal Code (the “MMC”), specifically, Maywood Zoning Ordinance (“MZO”), Section 5080.80 (A), provides that the “[d]iscontinuance for six or more successive months of a nonconforming use shall terminate the right to operate the nonconforming use.”

When Owner purchased the Property, it was fully aware of the non-conforming use and the application MMC/MZO. In or about **January 2016**, Owner applied for three (3) building permits for tenant improvements (the “Remodel Permits”). However, Owner did not apply for a Request for Review (MMC, Section 5080.90 A). In or about **April 2016**, the City’s Building and Planning Department issued a Notice to Stop Work to Owner (the “Stop Order”).

On or about **July 27, 2016**, Owner filed a civil complaint against the City seeking Declaratory Relief (LASC Case No. BC 628 555) (the “Complaint”). Owner has granted a continuance to City to respond to the Complaint, pending settlement discussions.

Pursuant to Section 5140 of the MZO, the Owner filed an appeal to the Planning Commission, which appeal was conducted and heard on October 18, 2016. Following testimony, the Planning Commission denied the appeal and upheld the determination of the Director of Building and Planning that the legal non-conforming status of the building is terminated due to the discontinuance of its use, in excess of six (6) month period, prior to the issuance of Remodel Permits.

APPEALS

If you challenge a Planning Commission decision in court, you may be limited to issues raised at the public hearing of October 18, 2016, or in correspondence received by the Building and Planning Department, City of Maywood, at, or prior to, the public hearing. Any party seeking to challenge in court those decisions that are final and not administratively appealable to the City Council must do so within ninety (90) days of the date of the announcement of the final decision. The Planning Commission will take testimony on each appeal.

Attachments: Proposed Resolution re Findings of the Planning Commission

RESOLUTION NO.16-0421

A RESOLUTION OF THE PLANNING COMMISSION, CITY OF MAYWOOD, CALIFORNIA, PURSUANT TO DULY NOTICED PUBLIC HEARING, UPHOLDING THE DETERMINATION OF THE DIRECTOR OF BUILDING AND SAFETY, WHEREIN HE DECLARED THAT THE NON-CONFORMING USE AT PROPERTY LOCATED AT: 3405 AND 3407 E. SLAUSON AVENUE, IS TERMINATED.

WHEREAS, on or about **August 14, 2015**, DTLA Investments, LLC, a California limited liability company (the "Owner"), purchased real property (the "Property") commonly known as 3405 and 3407 E. Slauson Avenue, Maywood, CA 90270 (the "City"), from long-time owner Mozafar Koshki and Dalia Koshki, Co-Trustees of the Koshki Revocable Family Trust dated April 19, 2004;

WHEREAS, the Property is zoned "M" (Manufacturing) with a Land Use Designation of Industrial. It is improved with an approximately 13,620 square foot commercial/industrial building, which consists of multiple units. The Property does not have and has never had adequate on-site parking;

WHEREAS, the Maywood Municipal Code (the "MMC"), specifically, Maywood Zoning Ordinance ("MZO"), Section 5080.80 (A), provides that the "[d]iscontinuance for six or more successive months of a nonconforming use shall terminate the right to operate the nonconforming use";

WHEREAS, as of at least **January 1995**, the Property has remained vacant and has had no active or inactive use, uninterrupted, for the past twenty (20) years, until Owner purchased the Property in **August 2015**;

WHEREAS, since at least **January 1995**, the City has deemed the "non-conforming" use at the Property at terminated;

WHEREAS, in or about **January 2016**, Owner applied for three (3) building permits for tenant improvements (the "Remodel Permits"). The Owner allowed at least six (6) months to lapse without any use on the Property; thus vesting the "non-conforming" use during its ownership interest. Regardless, Owner did not apply for a Request for Review (MMC, Section 5080.90 A);

WHEREAS, in or about **April 2016**, the City's Director of Building and Planning (the "Director") issued a Notice to Stop Work to Owner and specifically concluded that **"no use can be permitted and the building must remain vacant until the parking requirement is satisfied"** (the "Stop Order");

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WHEREAS, on or about **July 27, 2016**, Owner filed a civil complaint against the City seeking Declaratory Relief (LASC Case No.: BC 628 555) (the "Complaint"). Owner has granted a continuance to City to respond to the Complaint, pending settlement discussions;

WHEREAS, Pursuant to Section 5140 of the MZO, the Owner filed an appeal to the Planning Commission, and sought reconsideration of the determination made by the Director that the "non-conforming use" status of the Property is terminated due to the discontinuance of its use, prior to the issuance of Remodel Permits;

WHEREAS, on **October 18, 2016**, the Planning Commission conducted a duly noticed public hearing, wherein public testimony was heard for reconsideration of the Director's determination regarding non-conforming use on the Property, from all interested parties and additional written evidence was submitted by the Owner;

WHEREAS, representatives of the Owner testified, among other things, that they disagreed with the Director's determination, that they are appealing the Director's determination, and that they will continue to operate business at the Property, in spite of the Stop Order;

WHEREAS, this Resolution and its findings are made based upon the public testimony and other evidence presented to the Planning Commission at its duly noticed public hearing held on October 18, 2016, including without limitation, staff reports, staff presentations, public comments, both written and oral, received and/or submitted at or prior to the public hearing, supporting and/or opposing the Director's determination, and all related documents received and/or submitted at or prior to the public hearing; and

WHEREAS, after the public hearing was closed, the Planning Commission, voted (4-0-one absent) to uphold the Director's determination that the "non-conforming use at the Property is terminated.

NOW THEREFORE, the Planning Commission, City of Maywood, hereby finds, determines, resolves and orders as follows:

Section 1. Recitals. The Planning Commission finds and declares that all of the facts set forth in the recitals of this Resolution are true and correct.

Section 2. Findings. The Planning Commission finds and declares that the determination of the Director that the "non-conforming" use at the Property is terminated is consistent with the goals, policies, and standards with the Maywood Municipal Code; specifically, the Maywood Zoning Ordinance. Further, that the Director's determination is not detrimental to the public interest, health, safety, convenience, or welfare of the residents of the City.

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Section 4. Director's Determination Upheld. The Planning Commission hereby upholds the determination of the Director and rejects the appeal of the Owner.

Section 5. Supporting Documents. The documents and other materials that constitute the record of the proceedings upon which the Planning Commission's decision was based, which include, but are not limited to, the staff reports and all of the materials that support the staff reports, and additional written evidence submitted by the Owner, are located in the Office of the Director of Building and Planning, Planning Department, located at: 4319 Slauson Avenue, Maywood, CA 90270.

Section 6. Certification of Adoption. The Planning Commission Secretary shall certify to the adoption of this Resolution and shall forward a copy to the City Council, City Clerk, City Manager, and the City Attorney.

Section 7. Effective Date. This resolution shall take effect *immediately* upon its adoption, and shall remain effective until superseded by a subsequent resolution.

PASSED, APPROVED AND ADOPTED by the Planning Commission, City of Maywood, this 29th day of November, 2016.

Joaquin Lanuza, Chair,
Planning Commission

Attest:

Lynda Chavez, Secretary, Planning Commission

Approved as to form:

Julia Sylva, Special Counsel, Planning Commission

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Planning Commission Resolution No. 16-0421, was adopted by the Planning Commission at a special meeting held on November 29, 2016, and that it was adopted the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

The Secretary of the Planning Commission shall certify the adoption of this resolution, and transmit copies of this resolution to the applicant along with proof of mailing in the form required by law and enter a copy of this resolution in the book of resolutions of the Planning Commission. Section 1094.56 of the Civil Code of the Procedure governs the time in which judicial review of this decision may be sought.



PLANNING COMMISSION STAFF REPORT

To: Hon. Chair and Members of the Planning Commission

From: David Mango, Director Building and Planning

By: Julia Sylva, Special Counsel 

Meeting Date: November 29, 2016; Special Meeting of the Planning Commission

Subject: PUBLIC HEARING: Withdrawal of recommendation made at duly noticed adjourned meeting of August 30, 2016 regarding enactment of Ordinance Number 16-02. Recommendation concerning: Repeal of Ordinance Number 10-04, prohibiting the establishment of medical marijuana dispensaries; Repeal of Ordinance Number 15-02, prohibiting indoor and outdoor marijuana cultivation; and Enactment of Ordinance Number 16-03, permitting marijuana businesses in certain specified zones of the City

Assignment

The Planning Commission (the "Planning Commission") of the City of Maywood (the "City") consider and review the proposed Ordinance entitled:

Withdrawal of recommendation made at duly noticed adjourned meeting of August 30, 2016 regarding enactment of Ordinance Number 16-02. Repeal of Ordinance Number 10-04, prohibiting the establishment of medical marijuana dispensaries; Repeal of Ordinance Number 15-02, prohibiting indoor and outdoor marijuana cultivation; and Enactment of Ordinance Number 16-03, permitting medical marijuana businesses in certain specified zones of the City.

Executive Summary

The California State Legislature has deferred to cities and counties to take action regarding the prohibition and/or regulation of medical marijuana businesses in their respective jurisdictions. Meanwhile, the City's Municipal

Code and Zoning Ordinance is prohibitive on the issue; specifically, the City has explicitly banned: the establishment of medical marijuana dispensaries (see Ordinance No. 10-04), and indoor and outdoor marijuana cultivation (see Ordinance No. 15-02). In addition, the City has no current regulations that would govern this particular use if it were permitted.

Currently, it remains debatable as to whether this silence could be interpreted to permit dispensaries and/or this cultivation, given that the City's Zoning Ordinance does not expressly state that a use not listed in the City's Appendix A - "Regulation of Uses By Zone District" is otherwise prohibited.

Accordingly, prior to this time, the City believed the best course of action was to prohibit medical marijuana dispensaries and/or indoor and outdoor marijuana cultivation as a land use within the entire City.

The subject prior ordinances, combined, did the following four things:

1. Prohibited the establishment of medical marijuana dispensaries within the City.
2. Prohibited the establishment of indoor and outdoor marijuana cultivation with the City.
3. Land uses not expressly listed in the City's Appendix A (i.e. the City's land use matrix) would be prohibited.
4. Any administrative decision rendered by City Staff and/or the Planning Commission, would be appealable to the City Council as provided under the City's Zoning Ordinance.

Legal Authorities--Medical Marijuana

Federal law, pursuant to the Controlled Substances Act , 21 U.S.C. § 801 *et seq.* ("CSA"), prohibits, except for certain research purposes, the illegal possession, distribution, and manufacture of marijuana. However, due to limited investigative and prosecutorial resources, the U. S. Department of Justice expects that states and local governments will enact laws authorizing marijuana-related conduct and that they will adopt and implement strong and effective regulatory and enforcement systems to protect public safety, public health, and other law enforcement interests.

Generally, California law is similar to the CSA (Health and Safety Code, § 11357 *et seq.*). However, certain California laws have removed obstacles that allow qualified patients to obtain and use marijuana for legitimate medical purposes. Specifically: in November 1996, California's voters adopted **Proposition 215**, the "Compassionate Use Act" ("CUA") codified as Health and Safety Code section 11362.5. The intent of **Proposition 215** was to enable persons who are in need of marijuana for medical

reasons to obtain it under limited, specified circumstances. Additionally, the Medical Marijuana Program (Health and Safety Code § 11362.7 *et seq.*), allows for limited use of medical marijuana.

Further, on October 9, 2015, Governor Brown signed a package of bills intended to change the way medical marijuana is cultivated, processed, and distributed to patients and caregivers in the State of California. Specifically, (1) AB 206 (Bonita) establishes dual licensing structures requiring state license and local license or permit. The Department of Consumer Affairs heads the overall regulatory structure establishing minimum health and safety and testing standards; (2) AB 243 (Wood) establishes a regulatory and licensing structure for cultivation sites under the Department of Food and Agriculture ("DFA"). AB 243 also sets forth "State cultivator license types" issued by the DFA, which are described as Types 1 to 4, with Types: 3, 3A, and 3B, subject to limited number of licenses to be issued by the DFA. [As of this date, the DFA has not set forth the limits to the number of licenses.]; and (3) SB 643 (McGuire) establishes criteria for licensing of medical marijuana businesses, regulates physicians, and recognizes local authority to levy taxes and fees.

Notwithstanding the ability under California law for medical marijuana dispensaries to operate, the law is clear that cities have the ability to independently prohibit and ban medical marijuana dispensaries within the city. (*City of Riverside v. Inland Empire Patient Health and Wellness Center* (2013) 51 Cal.4th 729.) Currently, the City does not allow medical marijuana dispensaries or indoor/outdoor cultivation within the City.

Land Use Regulations

In sum, under state law, the City's power to regulate land uses within its boundaries lies within its police powers so long as it is reasonably related to the public welfare. "The reasonableness of regulation...is dependent upon the nature of the business being regulated and the degree of threat that the operation of such business presents to the tranquility, good order, and well-being of the community at large. So long as a 'patent relationship between the regulations and the protections of the public health, safety, morals, or general welfare' exists, the regulations will be considered reasonable." (*1978 Corporation v. Pitchess* (1974) 41 Cal. App.3d 42, 47). Traditionally, cities adopt a land use ordinance to address land use impacts associated with a particular use.

Prior Actions re Medical Marijuana in the City

On August 30, 2016, pursuant to public hearing, at a duly noticed adjourned meeting, the Planning Commission took action to recommend adoption of Ordinance No. 16-02, with a 3 - 2 vote, which allowed the regulation of medical marijuana businesses in certain specified zones of the City. This public hearing was duly published on August 19, 2016, in the *La Opinion* newspaper. Pursuant to this recommendation, on September 28, 2016, the City Council passed Ordinance No. 16-03, which added Chapter 45, "Commercial Cannabis Activity" to the Municipal Code, all of the

commercial cannabis applicants ("Applicants") would be subject to State cultivator license types: 3, 3A, and 3B, which are subject to limited number of licenses to be issued by the DFA; these Applicants are subject to a conditional use permit.

Current Actions re Medical Marijuana in the City

Allegations have been asserted regarding non-compliance with the Brown Act (Government Code Sections 54950, *et seq.*), in adoption of Ordinance No. 16-02, by the Planning Commission on August 30, 2016.

Without acknowledging any non-compliance, and in order to promote further transparency in posted Agendas, it is recommended that the Planning Commission take the curative action set forth herein and that each member state how and why they originally voted in support or opposition of Ordinance No. 16-02 on August 30, 2016. Notice of Public Hearing was published in *La Opinion* Newspaper on November 17, 2016.

Environmental Impact

The project is considered Exempt pursuant to Section 15061 (b) (3) of the California Environmental Quality Act as the project will not have a significant effect on the environment.

State laws and federal policy now hold that medicinal use of marijuana is legal, under certain circumstances. Under the federal Controlled Substances Act ("CSA") marijuana remains a Schedule I drug. However, the Justice Department's enforcement policy has been restricted to drug traffickers who falsely masqueraded as medical dispensaries.

As set forth above, on November 1996, California's voters adopted **Proposition 215**, the "Compassionate Use Act" ("CUA"), which enabled the medical marijuana under limited, specified circumstances.

On November 8, 2016, the California voters overwhelmingly approved **Proposition 64**, wherein they legalized the possession and transportation, for adults 21 or older, of no more than one ounce of marijuana or 8 grams of concentrated cannabis. Further, they may cultivate up to six plants per residence and possess the marijuana produced by these plants. All plants and harvest in excess of one ounce must be kept in a locked space not in public view at one's residence. Local governments may still forbid cultivation outdoors, but must allow it inside a private residence or accessory structure that is "fully enclosed and secure." **Proposition 64** to be *effective* in January 1, 2018.

Prop. 64 is not meant to interfere with the continued implementation of **Prop. 215**. Therefore, medical marijuana patients keep their existing rights under Prop. 215 to possess and cultivate as much as they need for personal medical use so long as they have a doctor's recommendation, regardless of the Prop. 64 limits for adult users.

Regardless, local governments may still restrict cultivation via nuisance ordinances, among others (except for the six indoor plant minimum allowed for personal use).

Alternatives

Pursuant to Public Hearing, duly noticed and published in compliance with Government Code Sections: 65854, 65856 and 65090, among its options, the Commission may consider the following recommendations to the City Council:

1. Take no further action and leave in place Ordinance No. 10-04, and Ordinance No. 15-02, which would continue the current prohibition and operation of medical marijuana dispensaries and indoor/outdoor cultivation within City limits, respectively;
2. Take action to rescind Ordinance No. 16-02, and enact Ordinance No. 16-03, which would regulate, but not prohibit, the establishment of medical marijuana businesses within certain specified zones of the City. This action may also include the requirement that the applicant for a medical marijuana dispensary and/or indoor/outdoor cultivation to apply for and obtain a conditional use permit¹;
3. Take action to adopt a moratorium on the establishment of such dispensaries and/or indoor/outdoor cultivation. Until the moratorium fully expires, the City may not enact any legislation on the same subject matter (i.e., repealing the ban and allowing these business operations). This alternative delays the substantive decision of whether the City wants to permit the use in the future; or
4. Continue the item for additional discussion.

Recommendation

Commission discretion.

Enclosures

- Ordinance No. 10-04;
- Ordinance No. 15-02;
- Ordinance No. 16-02 (repealed by the City Council on November 23, 2016);
- Proposed Ordinance No. 16-03; and
- City Zoning Map.

¹ A conditional use permit requires notice and a public hearing. As part of this permitting process, the City could impose reasonable conditions such as distance requirements, security requirements, limited hours of operation, limitations on the amount of marijuana which may be stored at the facility, and restrictions on the sale of paraphernalia and/or edibles on site. No matter the condition placed on the dispensaries, the practical effectiveness of these conditions depends on the City's resources to enforce them.

ORD. # 10-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA ADDING SECTION 4130 TO THE MAYWOOD ZONING ORDINANCE PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES; AMENDING APPENDIX A -"REGULATION OF USES BY ZONE DISTRICT"; ADDING SECTION 4140 TO THE MAYWOOD ZONING ORDINANCE ADDRESSING FINDING OF SIMILAR USES; AND AMENDING SECTION 3-1.123 OF THE MAYWOOD MUNICIPAL CODE TO REQUIRE NEW BUSINESS LICENSE CERTIFICATION

WHEREAS, on November 5, 1996 the voters of the state of California approved Proposition 215, which enacted the Compassionate Use Act of 1996, codified at California Health and Safety Code Section 11362.5. The Compassionate Use Act permits possession and cultivation of marijuana for certain medical purposes under limited and specified circumstances; and

WHEREAS, in 2001, the United States Supreme Court issued its decision in United States v Oakland Cannabis Buyers Cooperative, 532 U.S. 483, in which the Court held that there is no medical necessity defense or exemption for the possession of medical marijuana under the Federal Controlled Substances Act (21 USC §§801, et seq., the "Controlled Substances Act"); and

WHEREAS, in 2003 the California Legislature enacted Senate Bill 420 ("SB 420"), which added Article 2.5 ("Medical Marijuana Program") to Division 10, Chapter 3, of the California Health and Safety Code, to clarify the scope of the Compassionate Use Act of 1996. SB 420 created a state approved voluntary medical marijuana identification card program, established the quantity of marijuana that a qualified patient or primary caregiver may possess, and provided for additional immunities from state marijuana laws. SB 420 also allows cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420; and

WHEREAS, in 2005, the United States Supreme Court further held in Gonzalez v Raich, 545 U.S. 1, that the United States Congress has authority under the Commerce Clause of the United States Constitution to prohibit the manufacture, cultivation, distribution and possession of marijuana pursuant to the Controlled Substances Act, even as such prohibitions apply to marijuana manufactured cultivated distributed or possessed within the State of California under the auspices of the Compassionate Use Act; and

WHEREAS, nothing in either the Compassionate Use Act or the Medical Marijuana Program contains an affirmative mandate that cities allow or permit medical marijuana dispensaries within their city limits; and

WHEREAS, in City of Claremont v. Kruse (2009)(Superior Court Case No. B210084), the Court of Appeal, Second Appellate District, upheld the City of Claremont's land use decision to prohibit medical marijuana dispensaries as a permitted land use within the City; and

WHEREAS, no medical marijuana dispensaries currently exist in the City of Maywood ("City") and are not a permitted land use under the City's Zoning Ordinance; and

WHEREAS, the City is adopting this Ordinance to make it explicit that medical marijuana dispensaries are a prohibited land use within the City; and

WHEREAS, the City is further adopting language that makes it explicit that land uses not listed within Appendix A - "Regulation Of Uses By Zone District" are prohibited, unless a Finding of a Similar Use is administratively made by the Director of Building and Planning; and

WHEREAS, many cities with medical marijuana dispensaries have reported an increase in pedestrian and vehicular traffic and noise, increased loitering around dispensary locations, increased incidents of burglary, robbery and sales of other illegal drugs nearby and increased complaints from neighbors regarding operation of the dispensaries; and

WHEREAS, the City Council, the City Attorney's Office, and City staff, with input from the City Police Department and other law enforcement professionals, have studied the public health and safety issues relating to, and adverse secondary effects associated with, the operation of medical marijuana dispensaries and the zoning, regulation or control of medical marijuana dispensaries; and

WHEREAS, the California Police Chiefs Association has compiled an extensive report detailing a number of the negative secondary effects associated with medical marijuana dispensaries; and

WHEREAS, City staff has concluded that medical marijuana dispensaries often produce negative impacts on the health, safety and welfare of the community because of the potential for increases in illegal drug use and sales, robbery of dispensaries and dispensary operators, employees and clients; loitering, falsely obtained identification cards, and other increases in criminal activity related to the operation of medical marijuana dispensaries.

NOW, THEREFORE, the City Council of the City of Maywood, California, does hereby ordain as follows:

SECTION 1. FINDINGS. The City Council of Maywood finds the following:

A. Based on documentation, investigation and reports compiled by City staff, the cultivation and distribution of medical marijuana through medical marijuana dispensaries contributes directly to undesirable secondary impacts on neighboring land uses, including, but not limited to, excessive traffic and noise, attraction of criminality and criminal elements, trespass, disturbance calls, diversion of marijuana for illegitimate non-medical or recreational purposes, dependency, addiction and substance abuse, vehicular violations, burglary, theft, display and discharge of firearms, loitering, vagrancy, and on-site consumption of marijuana and marijuana enhanced products.

B. The report compiled by the California Police Chiefs Association, contains further persuasive and documented evidence that medical marijuana dispensaries pose a threat to public health safety and welfare.

C. Based on the foregoing, there is a threat to the public health safety or welfare from the operation of medical marijuana dispensaries within the City and the secondary effects of those dispensaries, and this Ordinance is necessary to alleviate and address that threat and to ensure that the operation of medical marijuana dispensaries is prohibited within the City.

D. Based on the public health, safety or welfare concerns and the adverse impact of medical marijuana dispensaries on the level of quality and character of the City's residential neighborhoods and on other existing land uses within the City, and the potential negative economic impact on existing land uses, among other things, as described herein, the establishment, maintenance and/or operation of medical marijuana dispensaries within the City conflicts with the general purposes of the Zoning Ordinance to protect and promote the public health, safety, and general welfare, and to implement the policies and the land use plan map of the City of Maywood General Plan.

E. Because of the documented threat to public health, safety and welfare relating to the operation of medical marijuana dispensaries, it is in the best interest of the citizens of the City of Maywood that the City prohibit the establishment and operation of medical marijuana dispensaries within the City and the use of property within the City for the operation of medical marijuana dispensaries.

F. Based on the public safety concerns described herein, the establishment, maintenance and/or operation of medical marijuana dispensaries within the City constitutes a public nuisance.

G. Prohibiting medical marijuana dispensaries is consistent with the City of Maywood's General Plan and each element thereof, Municipal Code and Zoning Ordinance, and the proposed zoning ordinance amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City.

SECTION 2. AMENDMENT. Section 4130 is hereby added to the Maywood Zoning Ordinance to read as follows:

**"Section 4130
MEDICAL MARIJUANA DISPENSARIES**

Sections:

**4130.10 Medical marijuana dispensaries defined.
4130.20 Prohibited.**

4130.10 Medical marijuana dispensaries defined.

A. As used in this chapter, "medical marijuana dispensary" or "dispensary" means any facility or location where medical marijuana is made available to and/or distributed by or to one or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq.

B. A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed 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 a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.

4130.20 Prohibited.

Medical marijuana dispensaries are prohibited in all City zones, and no permit shall be issued therefor."

SECTION 3. AMENDMENT. Appendix A - "Regulation of Uses By Zone District" hereby amended to include the following note:

(2) In the event a use is not listed or there is difficulty categorizing a use as one of the uses listed in the City's land use matrix, the use shall be prohibited unless a Finding of Similar Use is approved by the Director of Building and Planning pursuant to Section 4140.

SECTION 4. AMENDMENT. Section 4140 is hereby added to the Maywood Zoning Ordinance to read as follows:

"Section 4140 FINDINGS OF SIMILAR USE

Sections:

4140.10 Intent

4140.20 Request for Determination 4140.10 Intent

The intent of this Chapter is to allow the Director of Building and Planning to administratively determine whether a use that is not specifically listed in this Title as a permitted, conditional or special use in a district, shall be as a permitted use, conditional use or special use in one or more districts on the basis of its similarity to uses that are specifically listed.

4140.20 Request for Determination

A. Procedure

A request for a Finding of Similar Use shall be made to the Department of Building and Planning. The request should be in writing and should include an explanation of the requested use, the districts in which the use is proposed, why the use should be permitted, and any additional information as may reasonably be required by the Director of Building and Planning for a complete understanding of the proposal. Making a request does not constitute an indication of approval.

B. Prior Requests

A person may not submit, and the Department of Building and Planning shall not accept, a request for a Finding of Similar Use which is the same or substantially the same as a request upon which final action has been taken by the City of Maywood within 12 months prior to the date of said request, unless accepted by a motion of the Planning Commission or City Council.

C. Consistency with General Plan

The Director shall compare the proposed use characteristics with the General Plan goals and objectives, the land use district descriptions and permitted uses, and determine if the requested use is consistent with the intent of the General Plan and applicable land use district. In making a decision to permit a use in a land use district, the Director may require that the use be permitted subject to approval of a conditional use permit or a special use and development permit, or the Director may establish special development standards for the use as may be deemed necessary to assure consistency with the intent of the General Plan and applicable land use district, to promote the public health, safety and welfare. The Director shall notify the applicant and the Planning Commission of his/her decision by writing.

D. Listing of Decisions

The Director of Building and Planning shall maintain a list of all decisions on proposed findings of similarity. A finding of similarity shall not be construed as an amendment to this Title.

4140.30 Appeals

The person making the request may appeal, or the City Council may review, any decision of the Director pertaining to Finding of Similar Use pursuant to Section 5140."

SECTIONS. AMENDMENT. Section 3-1.123 of the Maywood Municipal Code is hereby amended to read s follows:

3-1.123 Unlawful businesses

The issuance of a license pursuant to the provisions of this chapter shall not entitle the licensee to engage in any business which for any reason is in violation of any state or federal law or any provisions of this Code. Any license issued in violation of this section is void. Each application for a business license must contain a certification that every licensed business will be operated in accordance with all applicable federal, state and city laws and regulations.

SECTION 6. CEQA. The City Council hereby finds and determines, that it can be seen with certainty that adoption of this Ordinance will not have a significant adverse effect on the environment. Thus, the adoption of this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Sections 15061(b)(3) of the CEQA Guidelines. Staff is directed to file a Notice of Exemption with the Riverside County Recorder's Office within five (5) working days of adoption of this Ordinance

SECTION 7. SEVERABILITY. If any section, subsection, sentence, clause phrase or word of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Maywood hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.

SECTION 8, CERTIFICATION AND PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance or a summary thereof to be published in the manner required by law.

SECTION 9. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days after its adoption.

PASSED, APPROVED and ADOPTED this 27th day of April, 2010, by the City Council of the City of May wood, California by the following vote, to wit:

AYES: Councilmembers Varela, Aguirre, Martin, Mayor Pro
Tern Guardado/ Mayor Rizo.

NOES: None

ABSENT: None

ABSTAIN:

Ana Rosa Rizo, Mayor

ATTEST

Patricia Bravo, City Clerk

APPROVED AS TO FORM:

Parissh Knox, Assistant City Attorney

ORDINANCE NO. 15-02**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MAYWOOD, CALIFORNIA, AMENDING SECTION 4000, STANDARDS OF USE AND DEVELOPMENT, OF THE MAYWOOD ZONING ORDINANCE ADDING SUBSECTION 4130 TO PROHIBIT INDOOR AND OUTDOOR MARIJUANA CULTIVATION**

WHEREAS, the City of Maywood, pursuant to its police power, may adopt regulations to protect the health, safety and welfare of the public, Cal. Const. art. XI, §7, Cal. Govt. Code § 37100, and thereby is authorized to declare what use or condition constitutes a public nuisance; and

WHEREAS, Section 38771 of the California Government Code 38771 authorizes the City through its legislative body to declare actions and activities that constitute a public nuisance; and

WHEREAS, in 1970, Congress enacted the controlled Substances Act (21 U.S.C. Section 801 et seq.) which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana for any purpose in the United States and further provides criminal penalties for marijuana possession, cultivation and distribution; and

WHEREAS, the People of the State of California have enacted Proposition 215, the Compassionate use Act of 1996 (codified at Health and Safety code Section 11362.5 et seq.) (the "CUA"), which exempts qualified patients and their primary caregivers from criminal prosecution under enumerated Health and Safety Code sections for use of marijuana for medical purposes: and

WHEREAS, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) (the "MMPA"), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and

WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which establishes a state licensing system for medical marijuana cultivation, manufacturing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, dispensing, and delivery within their jurisdictions. Under the MMRSA, cities and counties may continue to ban medical marijuana cultivation, manufacturing, dispensing, and delivery, in which case the new law would not allow or permit these activities within the cities and counties; and

WHEREAS, no medical marijuana dispensaries currently exist in the City of Maywood ("City") and, notwithstanding the CUA, the MMPA, and the MMRSA, marijuana remains a schedule I substance pursuant to Cal. Health & Saf., Code § 11054 (d)(13); and

WHEREAS, marijuana also remains a schedule I substance pursuant to federal law, 21 U.S.C. § 812, Schedule 1 (c)(10), and federal law does not provide for any medical use defense or exception (*Gonzales v. Raich*, 545 U.S. 1 (2005); *United States v. Oakland Cannabis Buyers' Coop.*, 532 U.S. 483 (2001)); and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMPA preempt local regulation in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013); and

WHEREAS, the MMRSA expressly allows cities and counties to ban marijuana cultivation consistent with current state law including the *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal. 4th 729 (2013); and

WHEREAS, the MMRSA provides that if a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under the principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to the MMRSA, then commencing March 1, 2016, the state will be the sole licensing authority for medical marijuana cultivation applicants (Health & Safety Code Section 11372.777(c)(4); and

WHEREAS, the City intends, by the adoption of this ordinance, to prohibit the indoor and outdoor cultivation of marijuana within the City for the express and specific purpose of preserving the City's authority to ban and/or adopt future regulations pertaining to marijuana cultivation as is required by California health and Safety Code Section 11372.777(c)(4), effective January 1, 2016, added by the MMRSA; and

WHEREAS, the City of Maywood's permissive Zoning Code does not list marijuana cultivation as a permitted use in any zone in the City; and

WHEREAS, the City Council of the City of Maywood finds that it is in the interest of the health, safety and welfare of the City to make explicit that marijuana cultivation is prohibited anywhere in the City and is a public nuisance per se; and

WHEREAS, the City Council finds that the cultivation of marijuana significantly impacts, or has the potential to significantly impact, the City's jurisdiction. These impacts include the following:

- A. Public safety agencies and other public entities have reported adverse impacts from marijuana cultivation, including disagreeable odors and release of pollen that can aggravate the respiratory system; increased risk of burglary and other property crimes; and acts of violence in connection with the commission of such crimes or the occupants' attempts to prevent such crimes.

- B. The creation of persistent strong odors as marijuana plants mature and flower is offensive to many people and creates an attractive nuisance, alerting persons to the location of valuable marijuana plants and creating an increased risk of crime.
- C. The unregulated cultivation of marijuana can adversely affect the health, safety and well-being of the City and its residents. Comprehensive regulation of premises used for marijuana cultivation is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, smells and indoor electrical fire hazards that may result from unregulated marijuana cultivation, especially if the amount of marijuana cultivated on a single premises is not regulated and substantial amounts of marijuana can be cultivated in a concentrated place.
- D. The indoor cultivation of substantial amounts of marijuana also frequently requires excessive use of electricity, which often creates an unreasonable risk of fire from the electrical grow lighting systems used in indoor cultivation.
- E. Children are particularly vulnerable to the effects of marijuana use, and the presence of marijuana plants has proven to be an attractive nuisance for children, creating an unreasonable hazard in areas frequented by children including hospitals, schools, churches, parks or playgrounds, childcare centers, recreation centers or youth centers. Cultivation of any amount of marijuana at, or near, these sensitive uses presents unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.
- F. The cultivation of marijuana in other cities has resulted in calls for service to the police department, including calls for robberies, thefts and physical assaults from marijuana that is grown outdoors.
- G. Marijuana growth poses significant safety risks for surrounding neighbors, including but not limited to, risks of violent confrontation in connection with attempts to steal marijuana, risk of fire from improperly wired electrical lights within structures growing marijuana, and risk of guard dogs and security measures associated with structures and properties growing marijuana; and
- H. The smell associated with marijuana cultivation could be severe enough that it interferes with the use and enjoyment of property in the City; and

WHEREAS, the City of Maywood, California, pursuant to the provisions of the California Environmental Quality Act (hereinafter "CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA Guidelines (Sections 15000 et seq.) has determined that

the Ordinance is exempt pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations; and

WHEREAS, the City Council finds that the provisions of this Ordinance are consistent with the City of Maywood’s General Plan; and

WHEREAS, the City Council finds that this Ordinance will not adversely affect property values and will not be detrimental to the City; and

WHEREAS, on December 7, 2015, following proper notice and public hearing, the City’s Planning Commission adopted Resolution No. PC-1115S recommending to the City Council the adoption of an Ordinance amending Section 4000, Standards of Use and Development, of the Maywood Zoning Ordinance adding Sub-section 4130 to prohibit indoor and outdoor marijuana cultivation; and

WHEREAS, the City Council has considered evidence presented by the Planning Commission and City staff at a duly noticed public hearing held on January 29, 2016; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MAYWOOD DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2. Sub-section 4130 is hereby added to Section 4000, Standards of Use and Development, of the Maywood Zoning Ordinance to read as follows:

Sub-Section 4130 Marijuana Cultivation

1. Purpose

The City Council of the City of Maywood hereby finds and determines that it is the purpose and intent of this article to prohibit marijuana cultivation in order to promote the health, safety, morals and general welfare of the residents and the businesses within the City by maintaining local control over the ability to authorize and regulate marijuana-related businesses, including cultivation.

2. Applicability

- A. Nothing in this article is intended, nor shall it be construed, to burden any defense to criminal prosecution under the CUA.
- B. All the provisions of this article shall apply to all property, public and private, within the City.

- C. All the provisions of this article shall apply indoors and outdoors.

3. Definitions

The following definitions apply to this Section:

- A. "Marijuana" shall have the same definition as that set forth in California Health & Safety Code Section 11018.
- B. "Medical marijuana" shall mean marijuana used for medical purposes in accordance with California Health and Safety code Section 11362.5.
- C. "Marijuana cultivation" shall mean the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof for any purpose, including medical marijuana, and shall include both indoor and outdoor cultivation.
- D. "Person" shall mean any person, firm, corporation, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer and/or salesperson.

4. Cultivation of Marijuana Prohibited

Marijuana cultivation by any person, including primary caregivers, qualified patients and dispensaries, is prohibited in all zone districts within the City of Maywood.

5. Declaration of Public Nuisance

Any use, structure, or property that is altered, enlarged, erected, established, maintained, moved, or operated contrary to the provisions of this article, is hereby declared to be unlawful and a public nuisance and may be abated by the City through civil, criminal, and/or administrative proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.

6. Violations

- A. Violations of this article shall be punishable pursuant to Sub-section 5030 of this Code.
- B. This article is not the exclusive means for the abatement of marijuana within the City of Maywood. The remedies set forth pursuant to this Section shall be in addition to any other existing remedies for violations of the Zoning Code, including but not limited to, any action at law or equity.

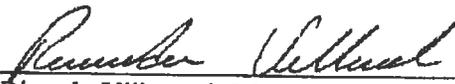
SECTION 3: Any provision of the Maywood Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council of the City of Maywood declares that it would have adopted all the provisions of this Ordinance that remain valid if any provisions of this Ordinance are declared invalid.

SECTION 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

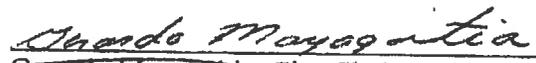
APPROVED FOR INTRODUCTION AT A SPECIAL MEETING on the 11th day of December, 2015, by the following vote, to wit:

- AYES: COUNCILMEMBERS -Calderon, De La Riva, Martin, Medina and Villarreal
- NAYES: COUNCILMEMBERS -None
- ABSENT: COUNCILMEMBERS -None
- ABSTAIN: COUNCILMEMBERS -None


Ricardo Villarreal, Mayor

ATTEST:

APPROVED AS TO FORM:


Gerardo Mayagoitia, City Clerk


Michael Montgomery, City Attorney

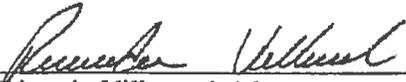
PASSED, APPROVED, AND ADOPTED THIS 29th day of January 2016 by the following vote, to wit:

AYES: COUNCILMEMBERS - De La Riva, Martin and Villarreal

NAYES: COUNCILMEMBERS - Calderon

ABSENT: COUNCILMEMBERS - None

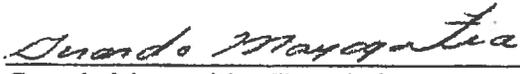
ABSTAIN: COUNCILMEMBERS - Medina



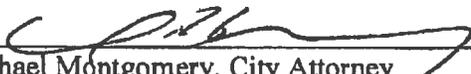
Ricardo Villarreal, Mayor

ATTEST:

APPROVED AS TO FORM:



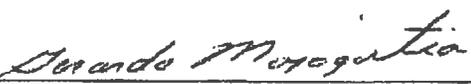
Gerardo Mayagoitia, City Clerk



Michael Montgomery, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF MAYWOOD) ss.

I, Gerardo Mayagoitia, City Clerk of the City of Maywood, do hereby certify that the foregoing Ordinance was introduced on the 11th day of December, 2015, was regularly adopted at a special meeting thereof on the 29th day of January 2016 and was published/posted pursuant to law.



Gerardo Mayagoitia, City Clerk

ORDINANCE # 18-02

CODE AMENDMENT PERMITTING MARIJUANA BUSINESSES IN CERTAIN ZONES OF THE CITY

SECTION 1, Chapter 45, "Commercial Cannabis Activity," is hereby added to Title 5 of the Maywood Municipal Code, as follows:

5-45.01 Definitions.

Except as otherwise specifically designated, all terms in this section retain the definitions of the Maywood City Code or Chapter 3.5 of Division 8 of the Business and Professions Code.

(a) "Applicant" means the owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility. If the applicant is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility. If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(b) "Building Official" means the Director of the Department of Building and Planning, or designee.

(c) "Dispensary" means 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 medical cannabis or medical cannabis products.

(d) "Enclosed locked structure" means a structure that:

- (1) does not allow for the visibility of the interior from the outside;
 - (2) is secured with a lock;
 - (3) is completely surrounded on all sides by a wall or other barrier; and
 - (4) is roofed or otherwise secured from.
- Enclosed locked structures may include greenhouses and accessory buildings. All enclosed locked structures shall comply with the city building code, fire code, and all other applicable laws.

(e) "Fire Chief" means the Chief of the Los Angeles County Fire Department, or designee.

(f) "Good cause" means:

(1) The licensee or applicant has violated any of the terms, conditions or provisions of this chapter, of state law, of any regulations and rules promulgated pursuant to state law, any applicable local rules and regulations, or any special terms or conditions placed upon its state license, local license or conditional use permit;

(2) The licensed premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located;

(3) The licensee or applicant has knowingly made false statements, misrepresentations or material omissions on an application form, renewal form, or any other document submitted to the city;

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made; except that if the local licensing authority has issued a local license to the applicant or licensee the planning commission shall not consider any criminal history of the applicant or licensee that was disclosed to or discovered by the local licensing authority prior to the issuance of the local license. For any criminal history that was not disclosed to or discovered by the local license authority prior to the issuance of the local license, or that arose after the issuance of the local license, the planning commission shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or licensee, and shall evaluate the suitability of the applicant or licensee based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the planning commission shall consider the factors as set forth in Section 19323(b)(5) of the Business and Professions Code;

(5) The applicant or licensee fails to allow inspection of the security recordings, activity logs, or business records of the licensed premises by the city officials;

(6) The applicant or licensee is owned by or has an officer or director who is, a licensed physician making recommendations for medical cannabis; or

(7) The applicant or licensee operated a medical cannabis business in violation of this chapter.

(g) "License" means a document issued under this chapter, specifically authorizing a person to engage in commercial cannabis activity.

(h) "Licensee" means a person holding a license issued under this chapter.

(i) "Outdoors" means any location within the city that is not within an enclosed locked structure.

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

(k) "Police Chief" means the Chief of the Los Angeles County Sheriff's Department, or designee.

5-45.02 - License required; types.

(a). No person shall engage in commercial cannabis activity within the City of Maywood without a valid license issued under this chapter. Any activity authorized under such a license shall additionally comply with all provisions of this chapter and state law at all times.

(b) The following license types are available for issuance under this chapter:

- (1) Cultivation
- (2) Distribution
- (3) Dispensary
- (4) Product manufacturing / Processing

(c) Recreational use businesses if adopted by the electorate or legislature.

(d) Additional license types, beyond those enumerated in paragraph (b) may be added by the city council by future resolution.

5-45.03 - Application process.

(a) To apply for a license, an applicant shall submit the following information in a manner specified by the Building Official or designee:

(1) Applicant's name, including all trade names and other entities used by the applicant in the proposed course of business, as well as the full name(s) of all owners;

(2) Address in the City and addresses of other places used in the proposed course of business;

(3) State Board of Equalization seller's permit number;

(4) Evidence of ownership or right to occupy and use property as described in proposed course of business;

(5) Security plan, including adequate diagrams and other information;

(6) Operations plan describing the proposed usage for the property, including any activities for which a license is required under MMRSA, as well as the types of products sold by the business; and

(7) An application fee, set by the City Council by Resolution, in an amount sufficient to recover any past, present or future costs incurred by the City in the course of investigating the applicant.

(b) The Building Official shall cause investigations to be made by the Chief of Police, Fire Chief, and Building Official to ascertain what effect, if any, the issuance of such license will have on the public peace, health, safety, morals, and general welfare of the City and its inhabitants. He shall also ascertain whether or not any of such persons have been convicted of a felony or any crime involving theft, embezzlement, or moral turpitude or have had a license or license for a similar business. The Chief of Police shall make a report of his findings to the City Clerk, together with his recommendations, if any. The City may cause fingerprints to be taken of the applicant and any other person required by law.

(c) The Fire Chief and the Building Official, within the jurisdiction and duties of their particular departments, shall ascertain whether or not the premises to be used are suitable, proper, and adequate and comply with the laws for the issuance of the license. The Building Official and the Fire Chief shall each investigate and report as to compliance with building and fire regulations, floor area regulations, and regulations.

(d) Within twenty (20) days after receiving the reports required by paragraphs (b) and (c), the City Clerk shall forward such application and the recommendations to the Council for consideration at its next regular meeting. At such meeting the Council shall review the application and recommendations and shall either grant the license or shall set the matter for hearing.

5-45.04 - Grounds for denial.

(a) No license shall be granted under this chapter if the applicant:

(1) Does not qualify for licensure under this ordinance or state law;

(2) Has made any false or misleading statements during the application;

(3) Lacks the adequate right to occupy or use the premises as described in the application; or

(4) Failed to demonstrate ability to adequately satisfy requirements of this ordinance, based on evidence submitted during the application process.

(b) The Council shall have the right to refuse any such license if the Council shall determine that the granting of such license will be contrary to the preservation of the public peace, safety, or welfare of the City or its inhabitants, or license issuance would violate any other state or local law.

5-45.05 - Approval and issuance.

(a) Based on the information set forth in the application, the Council may impose such terms, conditions, and restrictions upon the operation, management, and conduct of such business, not in conflict with any paramount law, as the Council may deem necessary or expedient to protect the health, safety, or welfare of the City or its inhabitants. Any failure to comply with such terms, conditions or restrictions shall constitute a violation of this chapter.

(b) If the license is granted, the City Clerk shall issue the license. The City Clerk, in issuing licenses, shall strictly limit such licenses to the terms of the application and to such other terms as the Council may specify.

(c) Any applicant for such license shall be entitled to a hearing thereon before the Council upon a request therefor.

(d) The license shall provide a unique identifier - including a number or alphanumeric code - specifically designating the business. Such number may be used for any verification of license validity.

(e) The license shall be valid for a term of one year unless another term is specified.

(f) As part of the application fee required in section 5-45.03, the city may require the applicant submit a bond or other security (including cash or other assets) in order to cover expected liabilities or risks presented by the application. Such bond or security requirement shall be reasonably related to the probable financial risks presented by the proposed operation.

5-45.06 - Operation requirements.

(a) It shall be unlawful for any person to violate any of the following rules and regulations:

(1) All licensees shall comply with state law at all times;

(2) All licensees shall maintain a record system which provides adequate tracking capability, including, but not limited to, a point of sale and inventory management system

(3) All licensees shall pay any applicable sales tax or other tax obligations under state or local law

(4) All products shall be secured in a safe and lawful manner, including the use of commercial grade locks, security alarms, and camera systems;

(5) All food product handling or preparation shall comply with applicable state and local law

(6) All licensees shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical marijuana facility that is distinctive to its operation is not detected outside the medical marijuana facility, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the medical marijuana facility in a manner to constitute a nuisance. 5-45.07 - Inspections.

The city manager or designated officials shall have the right to enter all medical cannabis businesses from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter. Such inspections shall be limited to observing the licensed premises for purposes of determining whether the medical cannabis business is being operated or maintained in compliance with this code, state law, and other applicable laws and regulations.

5-45.07 - Inspections.

The Building Official or designated officials shall have the right to enter all medical cannabis businesses from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter. Such inspections shall be limited to observing the licensed premises for purposes of determining whether the medical cannabis business is being operated or maintained in compliance with this code, state law, and other applicable laws and regulations.

5-45.08 - Transfer / Renewal / Alteration

(a) No license issued pursuant to this article shall be transferred or assigned, nor shall such license be construed as authorizing any person other than the licensee to engage in the licensed business.

(b) A change of address may be endorsed upon the license upon payment of a fee approved by the City Council for the transfer of the license from one location to another for the same business by the same owner within the City.

5-45.09 - Confidentiality.

(a) The city shall treat all financial information provided pursuant to this chapter as financial data in accordance with the California Open Records Act (Sections 6254(d), (k), (l), and 6276).

(b) The city shall maintain information identifying the names, addresses, or social security numbers of qualified patients, ID card holders, disclosing an individual's medical conditions and any treatment proscribed, recommended, or discussed, or disclosed, or the names of their primary caregivers received pursuant to this chapter in a manner that is in compliance with the Confidentiality of Medical Information Act (Civil Code Section 56, et seq.) and shall not be disclosed by any city official except in accordance with the restrictions on disclosure of "individually identifiable medical information" under the Confidentiality of Medical Information Act (Civil Code Section 56, et seq.).

(c) The information required by section 4-45.06, including recordings from security cameras, as well as operating plans and security plans required by Section 5-45.03, shall be confidential and shall not be subject to public inspection or disclosure except to city employees for purposes of law enforcement.

5-45.10 - Suspension; Revocation.

(a) Any license issued pursuant to the provisions of this chapter may be summarily and temporarily suspended by the Chief of Police or city official in the event the licensee has violated any of the rules and regulations set forth in this chapter or has violated or permitted the infraction of any law of the State or of the City. Such suspension shall be accomplished by posting a notice thereof on the premises or by direct courier to the owner. Within twenty-four (24) hours thereafter, a copy of such notice, together with the reasons for the suspension, shall be transmitted to the Council. The Council shall, at its next regular meeting, hear the matter, giving at least three (3) days' notice of such hearing to the licensee. The hearing may be continued from time to time at the discretion of the Council and, on the conclusion thereof, the Council may continue the suspension, may revoke the license, or may terminate the suspension and reinstate the license. The Council may avail itself of a retired Superior Court Judge as a hearing officer. The decision of the Council shall be final and conclusive. The Council shall revoke the license of any person convicted of violating any provision of this chapter and shall not grant another license to such person or for the same premises for a period of six (6) months after such revocation.

(b) In lieu of the summary suspension of paragraph (a), the City may negotiate an offer in compromise whereby a licensee may remedy a violation through the payment of fines or other affirmative acts sufficient to establish compliance.

5-45.11-Violations.

(a) Any marijuana business facility operated, conducted, or maintained contrary to the provisions of this chapter is unlawful and a public nuisance, and the city attorney may in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action

or actions, proceeding or proceedings, for the abatement, removal and injunction thereof, in a manner provided by law.

(b) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the provisions of Title 1, Chapter 2 of the Maywood Municipal Code.

(c) Each day of violation shall constitute a separate offense.

5-45.12 - Indemnification

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any license pursuant to this chapter or the operation of any medical cannabis business approved for such license pursuant to this chapter. As a condition of approval of a license granted under this chapter, the applicant or its legal representative shall:

(a) Execute an agreement indemnifying and holding the city harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the medical cannabis business; and

(b) Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a license or the operation of the medical cannabis business; and

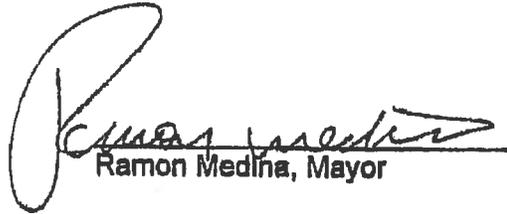
(c) Agree to reimburse the city for any court costs and attorney fees that the city may be required to pay as a result of any legal challenge (or federal enforcement action) related to the city's approval of a license. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

SECTION 2. Appendix A-1 of the Maywood Municipal Code Zoning Ordinance is amended to permit all uses permitted in Section 5-45.02 in the Commercial [C], Commercial Manufacturing [CM] and Industrial [M] zones only, and subject to conditional use permits per Section 5100, et seq.

SECTION 3. The City Council finds that this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs §§15060(c) (2), 15061(b)(3). There is no physical change in the environment and no potential for causing a significant effect on the environment.

SECTION 4. Ordinance No. 10-04, adopted April 27, 2010, and Ordinance No. 15-02, passed on January 29, 2016, are hereby repealed in their entirety.

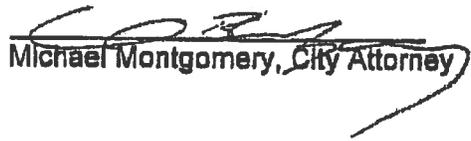
PASSED, APPROVED AND ADOPTED this 28th day of September 2016.


Ramon Medina, Mayor

ATTEST:

APPROVED AS TO FORM:


Gerardo Mayagoitia, City Clerk


Michael Montgomery, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF MAYWOOD)

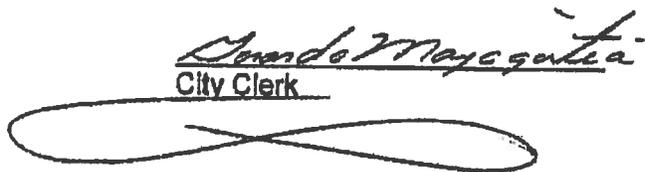
I, Gerardo Mayagoitia, City Clerk of the City Council of the City of Maywood, do hereby certify that foregoing Ordinance No. 16-02 was duly passed and adopted by the City Council of the City of Maywood, at a regular meeting of the City Council held on the 28th of September, 2016, by the following roll call vote, to wit:

AYES: Calderon, Medina and Villarreal

NAYES: De La Riva

ABSENT: None

ABSTAINED: Martin


City Clerk

PROPOSED ORDINANCE # 16-03

**CODE AMENDMENT PERMITTING MARIJUANA BUSINESSES IN CERTAIN ZONES OF
THE CITY**

SECTION 1. *Chapter 45, "Commercial Cannabis Activity," is hereby added to Title 5 of the Maywood Municipal Code, as follows:*

5-45.01 Definitions.

Except as otherwise specifically designated, all terms in this section retain the definitions of the Maywood City Code or Chapter 3.5 of Division 8 of the Business and Professions Code.

(a) "Applicant" means the owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility. If the applicant is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility. If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(b) "Building Official" means the Director of the Department of Building and Planning, or designee.

(c) "Dispensary" means 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 medical cannabis or medical cannabis products.

(d) "Enclosed locked structure" means a structure that:

- (1) does not allow for the visibility of the interior from the outside;
- (2) is secured with a lock;
- (3) is completely surrounded on all sides by a wall or other barrier; and
- (4) is roofed or otherwise secured from. Enclosed locked structures may include greenhouses and accessory buildings. All enclosed locked structures shall comply with the city building code, fire code, and all other applicable laws.

(e) "Fire Chief" means the Chief of the Los Angeles County Fire Department, or designee.

(f) "Good cause" means:

(1) The licensee or applicant has violated any of the terms, conditions or provisions of this chapter, of state law, of any regulations and rules promulgated pursuant to state law, any applicable local rules and regulations, or any special terms or conditions placed upon its state license, local license or conditional use permit;

(2) The licensed premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located;

(3) The licensee or applicant has knowingly made false statements, misrepresentations or material omissions on an application form, renewal form, or any other document submitted to the city;

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made; except that if the local licensing authority has issued a local license to the applicant or licensee the planning commission shall not consider any criminal history of the applicant or licensee that was disclosed to or discovered by the local licensing authority prior to the issuance of the local license. For any criminal history that was not disclosed to or discovered by the local license authority prior to the issuance of the local license, or that arose after the issuance of the local license, the planning commission shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or licensee, and shall evaluate the suitability of the applicant or licensee based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the planning commission shall consider the factors as set forth in Section 19323(b)(5) of the Business and Professions Code;

(5) The applicant or licensee fails to allow inspection of the security recordings, activity logs, or business records of the licensed premises by the city officials;

(6) The applicant or licensee is owned by or has an officer or director who is, a licensed physician making recommendations for medical cannabis; or

(7) The applicant or licensee operated a medical cannabis business in violation of this chapter.

(g) "License" means a document issued under this chapter, specifically authorizing a person to engage in commercial cannabis activity.

(h) "Licensee" means a person holding a license issued under this chapter.

(i) "Outdoors" means any location within the city that is not within an enclosed locked structure.

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

(k) "Police Chief" means the Chief of the Los Angeles County Sheriff's Department, or designee.

5-45.02 - License required; types.

(a). No person shall engage in commercial cannabis activity within the City of Maywood without a valid license issued under this chapter. Any activity authorized under such a license shall additionally comply with all provisions of this chapter and state law at all times.

(b) The following license types are available for issuance under this chapter:

- (1) Cultivation
- (2) Distribution
- (3) Dispensary
- (4) Product manufacturing / Processing

(c) Recreational use businesses if adopted by the electorate or legislature.

(d) Additional license types, beyond those enumerated in paragraph (b) may be added by the city council by future resolution.

5-45.03 - Application process.

(a) To apply for a license, an applicant shall submit the following information in a manner specified by the Building Official or designee:

- (1) Applicant's name, including all trade names and other entities used by the applicant in the proposed course of business, as well as the full name(s) of all owners;
- (2) Address in the City and addresses of other places used in the proposed course of business;
- (3) State Board of Equalization seller's permit number;
- (4) Evidence of ownership or right to occupy and use property as described in proposed course of business;
- (5) Security plan, including adequate diagrams and other information;
- (6) Operations plan describing the proposed usage for the property, including any activities for which a license is required under MMRSA, as well as the types of products sold by the business; and
- (7) An application fee, set by the City Council by Resolution, in an amount sufficient to recover any past, present or future costs incurred by the City in the course of investigating the applicant.

(b) The Building Official shall cause investigations to be made by the Chief of Police, Fire Chief, and Building Official to ascertain what effect, if any, the issuance of such license will have on the public peace, health, safety, morals, and general welfare of the City and its inhabitants. He shall also ascertain whether or not any of such persons have been convicted of a felony or any crime involving theft, embezzlement, or moral turpitude or have had a license or license for a similar business. The Chief of Police shall make a report of his findings to the City Clerk, together with his recommendations, if any. The City may cause fingerprints to be taken of the applicant and any other person required by law.

(c) The Fire Chief and the Building Official, within the jurisdiction and duties of their particular departments, shall ascertain whether or not the premises to be used are suitable, proper, and adequate and comply with the laws for the issuance of the license. The Building Official and the Fire Chief shall each investigate and report as to compliance with building and fire regulations, floor area regulations, and regulations.

(d) Within twenty (20) days after receiving the reports required by paragraphs (b) and (c), the City Clerk shall forward such application and the recommendations to the Council for consideration at its next regular meeting. At such meeting the Council shall review the application and recommendations and shall either grant the license or shall set the matter for hearing.

5-45.04 - Grounds for denial.

(a) No license shall be granted under this chapter if the applicant:

- (1) Does not qualify for licensure under this ordinance or state law;
- (2) Has made any false or misleading statements during the application;
- (3) Lacks the adequate right to occupy or use the premises as described in the application; or
- (4) Failed to demonstrate ability to adequately satisfy requirements of this ordinance, based on evidence submitted during the application process.

(b) The Council shall have the right to refuse any such license if the Council shall determine that the granting of such license will be contrary to the preservation of the public peace, safety, or welfare of the City or its inhabitants, or license issuance would violate any other state or local law.

5-45.05 - Approval and issuance.

(a) Based on the information set forth in the application, the Council may impose such terms, conditions, and restrictions upon the operation, management, and conduct of such business, not in conflict with any paramount law, as the Council may deem necessary or expedient to protect the health, safety, or welfare of the City or its inhabitants. Any failure to comply with such terms, conditions or restrictions shall constitute a violation of this chapter.

(b) If the license is granted, the City Clerk shall issue the license. The City Clerk, in issuing licenses, shall strictly limit such licenses to the terms of the application and to such other terms as the Council may specify.

(c) Any applicant for such license shall be entitled to a hearing thereon before the Council upon a request therefor.

(d) The license shall provide a unique identifier - including a number or alphanumeric code - specifically designating the business. Such number may be used for any verification of license validity.

(e) The license shall be valid for a term of one year unless another term is specified.

(f) As part of the application fee required in section 5-45.03, the city may require the applicant submit a bond or other security (including cash or other assets) in order to cover expected liabilities or risks presented by the application. Such bond or security requirement shall be reasonably related to the probable financial risks presented by the proposed operation.

5-45.06 - Operation requirements.

(a) It shall be unlawful for any person to violate any of the following rules and regulations:

- (1) All licensees shall comply with state law at all times;
- (2) All licensees shall maintain a record system which provides adequate tracking capability, including, but not limited to, a point of sale and inventory management system
- (3) All licensees shall pay any applicable sales tax or other tax obligations under share or local law
- (4) All products shall be secured in a safe and lawful manner, including the use of commercial grade locks, security alarms, and camera systems;
- (5) All food product handling or preparation shall comply with applicable state and local law
- (6) All licensees shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical marijuana facility that is distinctive to its operation is not detected outside the medical marijuana facility, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the medical marijuana facility in a manner to constitute a nuisance.

5-45.07 - Inspections.
The city manager or designated officials shall have the right to enter all medical cannabis businesses from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter. Such inspections shall be limited to observing the licensed premises for purposes of determining whether the medical cannabis business is being operated or maintained in compliance with this code, state law, and other applicable laws and regulations.

5-45.07 - Inspections.

The Building Official or designated officials shall have the right to enter all medical cannabis businesses from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter. Such inspections shall be limited to observing the licensed premises for purposes of determining whether the medical cannabis business is being operated or maintained in compliance with this code, state law, and other applicable laws and regulations.

5-45.08 - Transfer / Renewal /Alteration

(a) No license issued pursuant to this article shall be transferred or assigned, nor shall such license be construed as authorizing any person other than the licensee to engage in the licensed business.

(b) A change of address may be endorsed upon the license upon payment of a fee approved by the City Council for the transfer of the license from one location to another for the same business by the same owner within the City.

5-45.09 - Confidentiality.

(a) The city shall treat all financial information provided pursuant to this chapter as financial data in accordance with the California Open Records Act (Sections 6254(d), (k), (l), and 6276).

(b) The city shall maintain information identifying the names, addresses, or social security numbers of qualified patients, ID card holders, disclosing an individual's medical conditions and any treatment proscribed, recommended, or discussed, or disclosed, or the names of their primary caregivers received pursuant to this chapter in a manner that is in compliance with the Confidentiality of Medical Information Act (Civil Code Section 56, et seq.) and shall not be disclosed by any city official except in accordance with the restrictions on disclosure of "individually identifiable medical information" under the Confidentiality of Medical Information Act (Civil Code Section 56, et seq.).

(c) The information required by section 4-45.06, including recordings from security cameras, as well as operating plans and security plans required by Section 5-45.03, shall be confidential and shall not be subject to public inspection or disclosure except to city employees for purposes of law enforcement.

5-45.10 - Suspension; Revocation.

(a) Any license issued pursuant to the provisions of this chapter may be summarily and temporarily suspended by the Chief of Police or city official in the event the licensee has violated any of the rules and regulations set forth in this chapter or has violated or permitted the infraction of any law of the State or of the City. Such suspension shall be accomplished by posting a notice thereof on the premises or by direct courier to the owner. Within twenty-four (24) hours thereafter, a copy of such notice, together with the reasons for the suspension, shall be transmitted to the Council. The Council shall, at its next regular meeting, hear the matter, giving at least three (3) days' notice of such hearing to the licensee. The hearing may be continued from time to time at the discretion of the Council and, on the conclusion thereof, the Council may continue the suspension, may revoke the license, or may terminate the suspension and reinstate the license. The Council may avail itself of a retired Superior Court Judge as a hearing officer. The decision of the Council shall be final and conclusive. The Council shall revoke the license of any person convicted of violating any provision of this chapter and shall not grant another license to such person or for the same premises for a period of six (6) months after such revocation.

(b) In lieu of the summary suspension of paragraph (a), the City may negotiate an offer in compromise whereby a licensee may remedy a violation through the payment of fines or other affirmative acts sufficient to establish compliance.

5-45.11-Violations.

(a) Any marijuana business facility operated, conducted, or maintained contrary to the provisions of this chapter is unlawful and a public nuisance, and the city attorney may in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action

or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in a manner provided by law.

(b) Any person violating the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the provisions of Title 1, Chapter 2 of the Maywood Municipal Code.

(c) Each day of violation shall constitute a separate offense.

5-45.12 - Indemnification

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any license pursuant to this chapter or the operation of any medical cannabis business approved for such license pursuant to this chapter. As a condition of approval of a license granted under this chapter, the applicant or its legal representative shall:

(a) Execute an agreement indemnifying and holding the city harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of federal law associated with the operation of the medical cannabis business; and

(b) Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a license or the operation of the medical cannabis business; and

(c) Agree to reimburse the city for any court costs and attorney fees that the city may be required to pay as a result of any legal challenge (or federal enforcement action) related to the city's approval of a license. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

SECTION 2. Appendix A-1 of the Maywood Municipal Code Zoning Ordinance is amended to permit all uses permitted in Section 5-45.02 in the Commercial [C], Commercial Manufacturing [CM] and Industrial [M] zones only, and subject to conditional use permits per Section 5100, et seq.

SECTION 3. The City Council finds that this ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs §§15060(c) (2), 15061(b)(3). There is no physical change in the environment and no potential for causing a significant effect on the environment.

SECTION 4. Ordinance No. 10-04, adopted April 27, 2010, and Ordinance No. 15-02, passed dcxon January 29, 2016, are hereby repealed in their entirety.

PASSED, APPROVED AND ADOPTED this 14th day of December 2016.

Ramon Medina, Mayor

ATTEST:

APPROVED AS TO FORM:

Gerardo Mayagoitia, City Clerk

Michael Montgomery, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF MAYWOOD)

I, Gerardo Mayagoitia, City Clerk of the City Council of the City of Maywood, do hereby certify that foregoing Proposed Ordinance No. 16-03 was duly passed and adopted by the City Council of the City of Maywood, at a Regular Meeting of the City Council held on the 14th of December 2016, by the following roll call vote, to wit:

AYES:

NAYES:

ABSENT:

ABSTAIN:

City Clerk