

ORDINANCE NO. 1131

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF HOLLISTER AMENDING AND RESTATING
CHAPTER 5.42 “MEDICAL MARIJUANA FACILITIES
REGULATORY PERMIT” TO TITLE 5 “BUSINESS
LICENSES AND REGULATIONS” OF THE HOLLISTER
MUNICIPAL CODE**

WHEREAS, on November 5, 1996, California voters passed Proposition 215, the Compassionate Use Act, which decriminalized the cultivation and use of marijuana by seriously ill individuals upon a physician's recommendation; and

WHEREAS, Proposition 215, which was codified as section 11362.5 of the California Health and Safety Code was enacted to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of marijuana,” and to “ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction”; and

WHEREAS, on January 1, 2004, Senate Bill 420, the Medical Marijuana Program Act, became law and was codified in sections 11362.7 to 11362.83 of the California Health and Safety Code; and

WHEREAS, the Medical Marijuana Program Act, among other things, requires the California Department of Public Health to establish and maintain a program for the voluntary registration of qualified medical marijuana patients and their primary caregivers through a statewide identification card system; and

WHEREAS, the Federal Controlled Substances Act, which was adopted in 1970, established a federal regulatory system designed to combat recreational drug abuse by making it a federal criminal offense to manufacture, distribute, dispense, or possess any controlled substance which includes marijuana; and

WHEREAS, the Department of Justice of the State of California in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (“2008 Attorney General Guidelines”) has opined that neither Proposition 215 nor the Medical Marijuana Program Act conflict with Federal Controlled Substances Act since “California did not ‘legalize’ medical marijuana, but instead exercised the state's reserved powers to not punish certain marijuana offenses under state law when a physician has recommended its use to treat a serious medical condition”; and

WHEREAS, the federal government has issued guidelines for states and local governments that have enacted laws authorizing marijuana-related conduct, requiring them to "implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests," and recognizes that where such strong and effective regulatory and enforcement systems are in place, conduct in compliance with those regulatory and enforcement systems is less likely to threaten federal priorities and thus less likely to require federal enforcement intervention; and

WHEREAS, in *City of Riverside v. Inland Empire Patients Health & Wellness Ctr., Inc.* (2013) 56 Cal.4th 729, the California Supreme Court ruled unanimously that the Compassionate Use Act and the Medical Marijuana Program Act do not preempt local ordinances that completely and permanently ban medical marijuana facilities, but recognized that the local police power, which derives from California Constitution Art XI, Section 7, "includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within a local jurisdiction's borders"; and

WHEREAS, on January 1, 2016, Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, collectively the Medical Marijuana Regulation and Safety Act ("MMRSA"), became law and are codified in appropriate sections of the California Business and Professions Code, Government Code, Health and Safety Code, Revenue and Taxation Code, Fish and Game Code, and Water Code; and

WHEREAS, the MMRSA establishes a comprehensive medical marijuana regulatory structure, including, but not limited to, establishing a State licensing regulatory scheme for medical marijuana dispensary, distributor, transport, and manufacturing facilities; establishing uniform health and safety standards, testing standards, and security requirements at medical marijuana dispensaries and during transport of the product; establishing physician medical marijuana recommendation and professional conduct standards; establishing a track and trace program for medical marijuana from cultivation, to testing, and to dispensaries; and establishing pesticide and environmental protection standards; and

WHEREAS, the MMRSA will phase out the current regulatory model of marijuana cooperatives and collectives, replacing it with a comprehensive state licensing and local licensing or permitting system; and

WHEREAS, in signing the bills comprising MMRSA (AB 243, AB 266, and SB 643), Governor Brown in his signing statement said the Legislation "establish[es] a long-overdue comprehensive regulatory framework for the production, transportation, and sale of medical marijuana.

"While many of these new standards take effect in January 1, 2018, state agencies will begin working immediately with experts and stakeholders on crafting clear guidelines, so local government, law enforcement, businesses, patients and health providers can prepare and adapt to the new regulated system.

"This new structure will make sure patients have access to medical marijuana, while ensuring a robust tracking system. This sends a clear and certain signal to our federal counterparts that California is implementing robust controls not only on paper, but in practice.

WHEREAS, if medical marijuana medical marijuana dispensary, cultivation, and manufacturing facilities were permitted to be established or if existing business were permitted to distribute, sell or cultivate medical marijuana, or manufacture edible medical marijuana products without appropriate regulation, such uses might place the City in jeopardy of being noncompliant with guidelines issued by the State Attorney General and the U.S. Department of Justice, and applicable State law; and

WHEREAS, such unregulated uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare; and

WHEREAS, the City Council desires to enact strong and effective regulations pertaining to medical marijuana dispensary, cultivation, and manufacturing facilities to ensure that qualified patients and their primary caregivers are afforded safe and convenient access to medical marijuana as is their right under the Compassionate Use Act, while at the same time ensuring that such uses do not conflict with the General Plan, are not inconsistent with surrounding uses, and are not detrimental to the public health, safety and welfare, and the operation of such facilities is in compliance with applicable State law and as such does not threaten federal drug enforcement priorities and, therefore, are not likely to require federal enforcement intervention; and

WHEREAS, in the event “Marijuana Legalization. Initiative Statute,” “Adult Use of Marijuana Act” or similar initiative passes, or Legislative action is taken to, among other matters, legalize marijuana and hemp under state law, designates state agencies to license and regulate marijuana industry, exempts medical marijuana from some taxation, establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products, and allows local regulation and taxation of marijuana, it is the intention of the City Council to provide a framework herein for administrative regulations to be revised to allow MMRSA licensees to transition some, or all, of their operations, if desired and qualified, to provide Adult Use cannabis, or cannabis products.

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

Section 1. EVIDENCE

The City Council has considered all of the evidence submitted into the administrative record, which includes, but is not limited to, public comments, both written and oral, received and/or submitted at, or prior to the City Council’s consideration of this ordinance.

Section 2. AMENDING AND RESTATING CHAPTER 5.42 “MEDICAL MARIJUANA FACILITIES REGULATORY PERMIT” TO TITLE 5 “BUSINESS TAXES, LICENSES AND REGULATIONS” OF THE HOLLISTER MUNICIPAL CODE

Title 5 “Business Taxes, Licenses and Regulations” of the Hollister Municipal Code shall be amended to read in its entirety as follows:

Chapter 5.42
MEDICAL MARIJUANA FACILITIES
REGULATORY PERMIT

Sections:

- 5.42.010 Purpose and Intent
- 5.42.020 Medical Marijuana Facilities
- 5.42.030 Definitions
- 5.42.040 City Council Review and Approval
- 5.42.050 Regulatory Permit Required
- 5.42.060 Background Check
- 5.42.070 Grounds for Denial
- 5.42.080 Fees and Charges
- 5.42.090 Development Agreement
- 5.42.100 Cessation of Operations
- 5.42.110 Change in Location; Updated Registration Form
- 5.42.120 Renewal or Revocation of Regulatory Permit
- 5.42.130 Limitations on City's Liability
- 5.42.140 Additional Terms and Conditions
- 5.42.150 Signage
- 5.42.160 Cultivation, Dispensary, and Manufacturing Locations
- 5.42.170 Dispensing of Medical Marijuana
- 5.42.180 Delivery of Medical Marijuana
- 5.42.190 Packaging of Medical Marijuana
- 5.42.200 Medical Marijuana Facility Operations
- 5.42.210 Public Health and Safety
- 5.42.220 Records
- 5.42.230 Audit
- 5.42.240 Community Relations
- 5.42.250 Compliance
- 5.42.260 Inspection and Enforcement
- 5.42.270 Appeals
- 5.42.280 Violations
- 5.42.290 Implementation Procedures

5.42.010 Purpose and Intent.

A. If medical marijuana dispensary, cultivation, and manufacturing facilities were permitted to be established or if existing business were permitted to distribute, sell or cultivate medical marijuana, or manufacture edible medical marijuana products without appropriate regulation, such uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare, or the operation of such facilities may be in conflict with applicable State law and regulations. The City Council desires to enact reasonable regulations pertaining to medical marijuana dispensary, cultivation, and manufacturing facilities to ensure that qualified patients

and their primary caregivers are afforded safe and convenient access to medical marijuana, while at the same time ensuring that such uses do not conflict with the General Plan, are not inconsistent with surrounding uses, and are not detrimental to the public health, safety and welfare, and the operation of such facilities is in compliance with applicable State law and regulations.

B. Medical marijuana facilities shall be permitted, upon application and approval of a regulatory permit in accordance with the criteria and procedures set forth in this Code.

C. The criteria, procedures, standards, requirements, regulations, and provisions set forth in this Code shall be interpreted and applied consistent with all applicable state laws and regulations. To the extent any criteria, procedure, standard, requirement, regulation, or provision of this Code conflicts with or contradicts any applicable state law or regulation, or establishes a criteria, procedure, standard, requirement, or regulation that does not meet the minimum standards of any applicable state law or regulation, the requirements of the applicable state law or regulation shall take precedence.

5.42.020 Medical Marijuana Facilities.

A. Medical marijuana facilities permitted under this chapter include all types of medical marijuana dispensaries, medical marijuana cultivation facilities, medical marijuana manufacturing facilities, medical marijuana testing facilities, medical marijuana distribution facilities, medical marijuana transporter services, and virtual dispensaries (delivery services), subject to the provisions of the Medical Marijuana Regulation and Safety Act (Business and Professions Code, Sections 27, 101, and 205.1, and Chapter 3.5 (commencing with Section 19300) to Division 8, Government Code Section 9147.7, Health and Safety Code Section 11362.775, Labor Code Section 147.5, and Revenue and Taxation Code Section 31020, relating to medical marijuana), Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code Sections 11362.7 through 11362.83), the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, any regulations, systems or policies promulgated by any other licensing authority so authorized by state legislature and any other state laws pertaining to dispensing or cultivating medical marijuana or manufacturing edible medical marijuana products. Upon implementation of the licensing and regulatory scheme established by the Medical Marijuana Regulation and Safety Act, and the phasing out of the existing statewide model of marijuana cooperatives and collectives as provided for thereunder, medical marijuana facilities permitted under this chapter shall be as authorized by that Act and regulations issued by the state thereunder.

B. An Applicant for any license hereunder is a Person as defined by Business and Professions Code Section 19300.5 which provides, "(aj) '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."

C. A medical marijuana dispensary is a facility authorized under this chapter where medical marijuana, medical marijuana products, or devices for the use of medical marijuana or medical marijuana products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical marijuana and medical marijuana products as part of a retail sale, a delivery-only dispensary. (Business and Professions Code Section 19300.7 (n) and (o).)

D. A medical marijuana cultivation facility includes any facility where medical marijuana is planted, grown, harvested, cloned, dried, cured, graded, or trimmed, or that does all or any combination of those activities. (Business and Professions Code Section 19300.7 (a) - (j).)

E. A medical marijuana manufacturing facility is a facility that produces, prepares, propagates, or compounds manufactured medical marijuana, as described in paragraph E, or medical marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical marijuana or medical marijuana products or labels or relabels its container. (Business and Professions Code Section 19300.7 (k) and (l).)

F. Manufactured medical marijuana means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

G. A medical marijuana distribution facilities is a facility as defined in Business and Professions Code Section 19300.7 (m) and (p). Distributors are a business entity created to regulate the flow of products. Under MMRSA all cultivation and manufacturing licensees are required to send their products to a Licensed Distributor for quality assurance and inspection before distributing to the next stage of manufacturing or retailing. Licensed Distributor in turn submits the product to a Licensed Test Facility laboratory for batch testing and certification. Thereafter, the sample returns to the Licensed Distributor for final inspection and execution of the contract between the cultivator and manufacturer or manufacturer and retailer. This process may be further modified by state Legislature or regulations.

H. A medical marijuana transporter is a facility as defined in Business and Professions Code Section 19300.7 (q). Only licensed transporters can transport cannabis or cannabis products between licensees (Business and Professions Code Section 19326(a)). Licensed transporters shall transmit an electronic shipping manifest to the state and carry a physical copy with each shipment.

I. A medical marijuana testing center is a facility, or a portion, of another facility-type that conducts Potency Analysis, Pesticide, Residual Solvent, and Microbiological Screening on medical marijuana.

5.42.030 Definitions.

Words and phrases not specifically defined in this Code shall have the meaning ascribed to them as defined in the following sources:

- A. The Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5); and
- B. The Medical Marijuana Program Act (California Health and Safety Code Sections 11362.7 through 11362.83); and
- C. The California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008; and
- D. The Medical Marijuana Regulation and Safety Act of 2015 (enacted by Assembly Bill 243, Assembly Bill 266, and Senate Bill 643).

5.42.040 City Council Review and Approval.

- A. The issuance or renewal of a regulatory permit as required by this chapter shall be subject to the prior review and approval by the city council.
- B. In addition to the requirements set forth in this chapter, as a condition of issuance or renewal of a regulatory permit as required by this chapter, the city council may impose such additional terms and conditions on the issuance or renewal of the regulatory permit and the operation of the facility as the city council deems appropriate.
- C. The development agreement and operations plan required by this chapter and the design and layout of a medical marijuana facility authorized under this chapter, shall be subject to the review and approval of the city council prior to the issuance or renewal of a regulatory permit under this chapter.
- D. If the city manager or designee revokes a regulatory permit as allowed by this chapter, as soon thereafter as is reasonable under the circumstances, the city council shall be informed of such revocation and the city council shall review and approve such revocation. If the city council does not approve the revocation, the city manager or designee shall reinstate such regulatory permit upon such additional terms and conditions as the city council deems appropriate.
- E. Any permit contemplated or required in herein chapter, despite provisions in §17.02.060 to the contrary, will be entirely within jurisdiction of City Council.

5.42.050 Regulatory Permit Required.

A. Prior to initiating operations and as a continuing requisite to operating a medical marijuana facility, the persons or legal representative of the persons wishing to operate a medical marijuana facility shall first obtain a regulatory permit from the city manager or designee under the terms and conditions set forth in this chapter.

B. Each regulatory permit shall expire one year from its date of issuance. The date of issuance may be effective upon an applicant obtaining a certificate of occupancy in the event of new construction for a licensee under this chapter, at the discretion of the City. Renewal of regulatory permits shall be as provided for in section 5.42.120 of this chapter.

C. Regulatory permits are not transferrable and any attempt to assign or transfer such permits shall render the permit null and void.

D. The number of each type of medical marijuana facility permitted in the city may be limited or restricted by resolution of the city council.

E. If the number of each type of medical marijuana facility permitted in the city is limited, applications for the required regulatory permit may be submitted during those applications periods as may be designated from time to time by the city manager or designee. Each application submitted and deemed complete by the city during the application period will be evaluated for priority for processing based on certain criteria set forth in a Priority Point System approved by the city manager or designee. It is permissible for Priority Point System to provide additional point values to City of Hollister residents. All applications so evaluated and scored will be ranked from the most to the least points. Applications for any available regulatory permit will be processed based on this ranking. Once all available regulatory permits have been issued, the remaining applicants will be placed on a wait list, ranked from the most to the least points.

F. The legal representative shall file an application for a regulatory permit with the city manager or designee upon forms provided by the city and shall pay an “application fee” and a “processing fee” as required by this chapter and as established by resolution adopted by the city council as amended from time to time. A separate application shall be made for each type of medical marijuana facility, i.e., dispensary, cultivation, manufacturing, testing, distributing and transporting facility, for each license classification specified in sections 19300.7 and 19332(g) of the California Business and Professions Code; and for each location at which a medical marijuana facility will operate. An application for a regulatory permit for each type of medical marijuana facility shall include, but shall not be limited to, the following information:

1. The legal name, and any other names, under which the facility will operate.
2. The address of the location and the on-site telephone number, if known, of the medical marijuana facility.

3. The following information for each owner (defined as any person having an economic interest in the medical marijuana facility and/or real property holding company upon which the medical marijuana business is operating), officer, director, and manager of the medical marijuana facility:

- a. Complete legal name and any alias(es), address, and telephone number;
- b. Date and place of birth;
- c. Copy of a valid California government issued photo identification card or license;
- d. If required, copy of the owner's and manager's medical marijuana identification card or copy of the attending physician's recommendation for each owner and manager;
- e. Applicant's seller's permit number or indication that the applicant is currently applying for a seller's permit.
- f. A list of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the conviction(s) and, the circumstances thereof;
- g. One set of fingerprints in a form acceptable to the chief of police;
- h. A detailed explanation of the owner's or manager's involvement with any other medical marijuana facility, including, but not limited to, the name and address of the medical marijuana facility; the capacity in which the owner or manager is or was involved with the medical marijuana facility; whether the medical marijuana facility is or was the subject of any criminal investigation or prosecution, civil investigation, administrative action or civil lawsuit; whether the owner or manager or the medical marijuana facility with which the owner or manager is or was associated has ever been denied, or is in the process of being denied registration, a permit, a license or any other authorization required to operate a medical marijuana facility in any other city, county or state; and whether the owner or manager or the medical marijuana facility with which the owner or manager is or was associated has ever had a registration, license, permit or any other authorization required to operate a medical marijuana facility in any other city, county or state, suspended or revoked, and the reasons therefore; and
- i. A detailed explanation of the owner's or manager's involvement with any other retail business in the City of Hollister, including, but not limited to, the name and address of such business; the type of business; the capacity in which the owner or manager is or was involved with the business; whether the business is or was the subject of any criminal investigation or prosecution, civil investigation, administrative action or civil lawsuit; whether an owner or manager of the business with which the owner or manager is or was associated has ever been

denied, or is in the process of being denied registration, a permit, a license or any other authorization required to operate a business requiring licensing through the State of California in any other city, county or state; and whether an owner or manager of the business with which the owner or manager is or was associated has ever had a registration, license, permit or any other authorization required to operate a business that requires a license in the State of California, or any other city, county or state, suspended or revoked, and the reasons therefore.

4. An operations plan which shall be in conformance with the requirements of this chapter and shall include, at a minimum:

a. A list of the names, addresses, telephone numbers, and responsibilities of each owner and manager of the facility.

b. The hours and days of operation for the facility.

c. For medical marijuana dispensary applications only, whether delivery service of medical marijuana to any location outside the medical marijuana facility will be provided and the extent of such service.

d. A site plan and floor plan of the facility denoting the layout of all areas of the medical marijuana facility, including, as applicable, storage, cultivation, reception/waiting, dispensing, manufacturing, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.

e. A security plan, including lighting, alarms, fencing, and video cameras, to ensure the safety of persons, and to protect the premises from theft, vandalism, and fire. The security plan shall address both interior and exterior areas of the facility and its premises.

f. The medical marijuana cultivation and manufacturing procedures to be utilized at the facility, including, as applicable, a description of how chemicals and fertilizers will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; track and trace program and procedures; quality control procedures; and testing procedures.

g. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical marijuana product.

h. Procedures for inventory control to prevent diversion of medical marijuana to nonmedical use, employee screening, storage of medical marijuana, personnel policies, and recordkeeping procedures.

i. An odor management plan detailing the reasonable steps that will be taken by facility to ensure that the odor of medical marijuana and other physical impacts on neighboring properties will be minimized.

- j. Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of this chapter.
5. The name and address of the owner and lessor of the premises and a copy of the lease or other such proof of the legal right to occupy and use the premises and a statement from the owner or agent of the owner of the real property where the facility will be located demonstrating the landowner has acknowledged and consented to permit dispensary, cultivation, distribution, or manufacturing activities to be conducted on the property by the applicant.
6. The name and account number of all savings accounts, checking accounts, investment accounts and trusts associated with the operation of the facility.
7. Provide evidence that the proposed location is located beyond at least a 600-foot radius from a school.
8. Authorization for the city manager or designee to seek verification of the information contained within the application, including, but not limited to, a criminal history investigation by the chief of police with the California Department of Justice and any other law enforcement agencies.
9. Until such time as the licensing regulations promulgated under the Medical Marijuana Regulation and Safety Act are implemented and become operative, or are revised by state Legislature or electors, evidence that the organization, 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, all such entities agree to operate under such terms and conditions outlined in their operations plan as approved.
10. Evidence that a minimum of 75 percent of the owners, officers, directors, and managers of the applicant organization are residents of the State of California and have been for at least three years immediately preceding the date of the application.
11. A statement in writing by the applicant that he or she will, to the extent allowed by law, give preference in employee hiring to residents of the city.
12. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is complete, true and accurate.
13. Any such additional and further information as is deemed necessary by the city manager or designee to administer this section or to show that the medical marijuana facility and its ownership and operation is in compliance with the provisions of this chapter.

5.42.060 Background Check.

All applicants for a regulatory permit for a medical marijuana facility, including any owner or manager responsible for the day-to-day operations and activities of the medical marijuana facility, and every employee or individual member of the medical marijuana facility who participates in the dispensing, cultivation, processing, manufacturing, or transporting of medical marijuana or who participates in the daily operations of the medical marijuana facility shall be required to submit to a Fingerprint-Based Criminal History Records Check conducted by the city police department.

5.42.070 Grounds for Denial.

A. The city manager or designee may reject an application upon making any of the following findings:

1. The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;
2. The medical marijuana facility's related cooperative or collective, if applicable, is not properly organized in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines and any other applicable law, rules and regulations;
3. If applicable, the applicant is not a primary caregiver or qualified patient or the legal representative of the medical marijuana facility;
4. The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;
5. The medical marijuana facility or its location is in violation of any building, zoning, health, safety, or other provision of this code, or of any state or local law which substantially affects the public health, welfare, safety, or morals, or the facility or its location is not permitted in the proposed area, or the issuing or continuation of a regulatory permit would be contrary to the public health, welfare, safety, or morals;
6. The applicant, or any of its officers, directors, owners, managers, or employees is under eighteen (18) years of age;
7. 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 licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license 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 licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement;

8. The applicant, or any of its officers, directors, owners, or managers, is a licensed physician making patient recommendations for medical marijuana;

9. The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial medical cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.

10. The applicant did not pay to the city the required application and processing fees as set forth in section 5.42.080 of this chapter.

B. The city manager or designee may place reasonable conditions upon registration if grounds exist for denial of the registration and those grounds may be removed by the imposition of those conditions.

5.42.080 Fees and Charges.

A. Prior to operating in the city, the operator of each medical marijuana facility shall timely and fully pay all fees associated with the registration of that facility. The fees shall be as set forth in the schedule of fees and charges established by resolution of the city council, including, but not limited to the following:

B. “Application fee” for accepting a registration application; due and payable in full at the time a registration application is submitted;

C. “Processing fee” for the cost to the city of processing a registration application and reviewing, investigating and scoring each application in accordance with the Priority Point System to determine eligibility for issuance of a regulatory permit; due and payable in full at the time a registration application is submitted;

D. “Permit issuance fee” for the cost to the city of preparing a development agreement, city council review and approval of the development agreement and the regulatory permit, and preparation and issuance of the regulatory permit as authorized by the city council, due and payable in full at the time the city issues a regulatory permit;

E. “Annual operating fee” for the cost to the city of operating a medical marijuana regulatory program; due and payable in four (4) equal quarterly installments commencing at the time the city issues a regulatory permit, and due thereafter every ninety (90) days;

F. “Amended registration fee” for the cost to the city of reviewing amendments or changes to the registration form previously filed on behalf of the medical marijuana facility; due and payable in full at the time amendments or changes to a registration form are submitted to the city;

G. “Regulatory permit renewal fee” for the cost to the city of processing an application to renew a regulatory permit; due and payable in full at the time application is made to renew a regulatory permit; and

H. Any fees for inspection or investigation that are not included within the other fees associated with registration; due and payable in full upon request of the city.

5.42.090 Development Agreement.

Prior to operating in the city and as a condition of issuance of a regulatory permit, the operator of each medical marijuana facility may enter into a development agreement with the city setting forth the terms and conditions under which the medical marijuana facility will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare.

5.42.100 Cessation of Operations.

In the event a medical marijuana facility that receives a regulatory permit ceases to operate for any reason, the city manager or designee shall consider the next qualified applicant on the waiting list and, at the discretion of the city manager, provide an opportunity for new applicants to be considered for a permit.

5.42.110 Change in Location; Updated Registration Form.

A. Any time the dispensing, cultivation, or manufacturing location specified in the regulatory permit is changed, the applicant shall re-register with the city manager. The process and the fees for re-registration shall be the same as the process and fees set forth for registration in sections 5.42.050 and 5.42.080 of this chapter.

B. Within fifteen calendar days of any other change in the information provided in the registration form or any change in status of compliance with the provisions of this chapter,

including any change in the medical marijuana facility's ownership or management members, the applicant shall file an updated registration form with the city manager for review along with a registration amendment fee, as set forth in section 5.42.080 of this chapter.

5.42.120 Renewal or Revocation of Regulatory Permit.

A. No regulatory permit issued under this chapter may be renewed unless:

1. A new registration form has been filed with the city manager as set forth in section 5.42.050 of this chapter a minimum of sixty (60) days prior to the expiration date of the regulatory permit;
2. The annual renewal registration fee, as set forth in section 5.42.080 of this chapter, has been paid to the city; and
3. The medical marijuana facility and its owners and managers all meet the requirements of this chapter for registration.

B. The city manager or designee may elect not to renew a regulatory permit issued under this chapter if:

1. The medical marijuana facility and its owners and managers have not complied at all times with all the requirements for registration as set forth in this chapter;
2. Any of the conditions or circumstances of sections 5.42.070.A or 5.42.240.D, singularly or in combination, of this chapter have occurred; or
3. The city manager or designee is aware of any other facts or circumstances which indicate that renewal of the regulatory permit will be detrimental to the health, safety, or welfare of the residents of the city.

C. The city manager or designee may revoke a regulatory permit issued under this chapter, upon such notice as deemed appropriate by the city manager or designee, if:

1. The medical marijuana facility and its owners and managers have not complied at all times with all the requirements for registration as set forth in this chapter;
2. Any of the conditions or circumstances of sections 5.42.070.A or 5.42.240.D, singularly or in combination, of this chapter have occurred; or
3. The city manager or designee is aware of any other facts or circumstances which indicate that continued operation of the medical marijuana facility will be detrimental to the health, safety, or welfare of the residents of the city.

5.42.130 Limitations on City’s Liability.

A. To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this chapter or the operation of any medical marijuana facility approved pursuant to this chapter.

B. As a condition of approval of a regulatory permit as provided in this chapter, the applicant or its legal representative shall:

1. Execute an agreement indemnifying the city from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the medical marijuana facility or the prosecution of the medical marijuana facility or its owners, managers, directors, officers, employees, or its qualified patients or primary caregivers for violation of federal or state laws;
2. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee;
3. Name the city as an additionally insured on all city required insurance policies;
4. Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a regulatory permit; and
5. 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 related to the city’s approval of a regulatory permit. 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.

5.42.140 Additional Terms and Conditions.

Based on the information set forth in the application, the city manager or designee may impose reasonable terms and conditions on the proposed operations of the medical marijuana facility in addition to those specified in this chapter.

5.42.150 Signage.

Notwithstanding section 17.20 of this code, exterior signage for the facility shall be limited to one exterior building sign not to exceed fifteen square feet in area, and door and/or window signage not to exceed ten square feet in area; such signs shall not be directly illuminated. Signage shall otherwise be reviewed and approved by the city in accordance with chapter 17.20 of this code.

5.42.160 Cultivation, Dispensary, Manufacturing, Distribution, Transportation and Testing Locations.

- A. A medical marijuana dispensary, including “virtual dispensary” delivery services or facility may be located in any General Commercial, North Gateway Commercial, West Gateway, Industrial Business Park, Airport Support, Industrial, Mixed Use, or Downtown Commercial and Mixed Use zoning districts, and Airport, West Gateway and Northern Overlays.
- B. A medical marijuana cultivation facility may be located in General Commercial, North Gateway Commercial, West Gateway, Industrial Business Park, Airport Support, Agriculture, Industrial, or Mixed Use zoning district, and Airport, West Gateway and Northern Overlays.
- C. A medical marijuana manufacturing facility may be located in any General Commercial, North Gateway Commercial, West Gateway, Industrial Business Park, Airport Support, Agriculture, Industrial, or Mixed Use zoning district, and Airport, West Gateway and Northern Overlays.
- D. A medical marijuana testing facility may be located in any General Commercial, North Gateway Commercial, West Gateway, Industrial Business Park, Airport Support, Agricultural Industrial, or Mixed Use zoning district, and Airport, West Gateway and Northern Overlays.
- E. A medical marijuana distribution facility may be located in any General Commercial, Northern Gateway Commercial, West Gateway, Industrial Business Park, Industrial, Airport Support or Airport Overlay zoning district, and Airport, West Gateway and Northern Overlays.
- F. A medical marijuana transportation facility may be located in any General Commercial, Northern Gateway Commercial, West Gateway, Industrial Business Park, Industrial, Airport Support or Airport Overlay zoning district, and Airport, West Gateway and Northern Overlays.
- G. A permitted medical marijuana facility shall operate at a single location only. At the discretion of the city manager or designee, multiple buildings on the same or adjacent site may be considered a single medical marijuana facility operating at a single location.
- H. No medical marijuana dispensary or cultivation facility shall be located within 600 feet of a school. For the purposes of this section, “school” means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.
- I. All medical marijuana cultivation shall be conducted only in the interior of enclosed structures, facilities and buildings, and all cultivation operations including all marijuana plants at any stage of growth shall not be visible from the exterior of any structure, facility or building containing the cultivation of medical marijuana. Greenhouse cultivation will not be considered visible, if reasonable steps are taken to screen, shield, darken, obscure or render opaque to view the marijuana.
- J. Designation of zoning districts does not give owner or lessor of real property any rights to operate under this Chapter, or provide that any permit applied for under this Chapter shall be allowed. The City shall consider the existing surrounding uses in analyzing impacts of facility, and can deny use in any zoning district if City feels impacts on existing conforming uses are

unreasonable. The herein Chapter is intended to allow for activities and uses that are unique and whose effect on the surrounding environment cannot be determined prior to being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing it to established development standards and individual aspects of application.

5.42.170 Dispensing of Medical Marijuana.

A. Medical marijuana shall be sold, transferred, dispensed, or otherwise distributed to qualified patients and primary caregivers only from a medical marijuana dispensary, including delivery only dispensary. No sales, transfers, dispensing, or distribution of any kind to the public shall be from a cultivation or manufacturing facility.

B. Medical marijuana dispensaries shall sell, transfer, dispense, or otherwise distribute medical marijuana only to qualified patients and primary caregivers.

C. Medical marijuana sales, transfers, dispensing, or distribution to qualified patients and primary caregivers shall only occur inside the premises of the medical marijuana dispensary facility. The foregoing notwithstanding, delivery services may be provided by the medical marijuana dispensary as provided for in section 5.42.170 of this chapter.

D. No medical marijuana sale, transfer, dispensing, or distribution of any kind shall be made to a person under the age of eighteen (18), and no such person shall be allowed in any medical marijuana facility or at its location.

E. Until such time as state licenses are required pursuant to section 19320 of the California Business and Professions Code, no medical marijuana shall be provided to any persons other than the individual cooperative or collective members of the medical marijuana dispensary of which the qualified patient or primary caregiver is a member.

F. No medical marijuana provided to a primary caregiver may be provided by the primary caregiver to any person other than the primary caregiver's qualified patient for whose care the primary caregiver is responsible.

G. No medical marijuana shall be provided to any qualified patient or primary caregiver more than once per day.

H. Until such time as state licenses are required pursuant to section 19320 of the California Business and Professions Code, no cooperative or collective shall allow more medical marijuana or plants per member, other than the amounts permitted pursuant to state law, to be stored, provided, or cultivated at the collective's premises and/or location.

5.42.180 Delivery of Medical Marijuana.

A. A medical marijuana dispensary may operate a delivery service subject to the requirements of section 19340 of the California Business and Professions Code. Delivery, as

defined therein, means the commercial transfer of medical marijuana or medical marijuana products from a dispensary to a qualified patient or primary caregiver. Any Delivery service operating in City must obtain a City Business license under Title 5 of the Municipal Code.

B. If medical marijuana dispensary operating a delivery service is based in City, it shall obtain a license to operate as a medical marijuana dispensary under this Chapter.

C. Medical marijuana deliveries to qualified patients or primary caregivers shall only be made by and from a medical marijuana dispensary.

D. Medical marijuana deliveries to qualified patients or primary caregivers shall only be during the normal operating hours of the medical marijuana dispensary during which it is open to qualified patients and primary caregivers; or if a delivery only dispensary, the operating hours in license.

E. A list of the names and cellular telephone contact numbers for all employees of a medical marijuana dispensary delivering medical marijuana or medical marijuana products shall be provided to the city police department. Such list shall at all times be kept current and up to date.

5.42.190 Packaging of Medical Marijuana.

A. Prior to delivery or sale at a medical marijuana dispensary, medical marijuana products shall be packaged and labeled as required by section 19347 of the California Business and Professions Code and applicable requirements and regulations issued by the state pursuant thereto. In addition to those packaging and labeling requirements, all medical marijuana products shall be packaged in an opaque childproof container which shall contain a label or be accompanied by a leaflet or insert that states:

1. The complete legal name of the qualified patient who will be using the medical marijuana;
2. The name, address and telephone number of the medical marijuana dispensary facility;
3. The amount of medical marijuana in the container; and
4. The date the medical marijuana was provided to the qualifying patient or primary caregiver.

B. If edible medical marijuana products are present on site or offered for distribution or sale at a medical marijuana dispensary facility, the medical marijuana dispensary facility shall first secure any approval from the County of San Benito Health Department required for handling food products.

C. Edible products distributed or sold by any medical marijuana facility shall not be produced, manufactured, stored, or packaged in private homes.

D. All edible medical marijuana products shall be individually wrapped at the original point of preparation.

5.42.200 Medical Marijuana Facility Operations.

A. Cash and in-kind contributions, reimbursements, and reasonable compensation for the growth, cultivation, and provision of medical marijuana shall be allowed; provided that they are in strict compliance with state law. All such cash and in-kind amounts and items shall be fully documented in accordance with section 5.42.220 of this chapter.

B. Medical marijuana dispensary facilities may only be open to qualified patients and primary caregivers between the hours of 7:00 a.m. and 9:00 p.m. and may operate as many as seven days per week. Medical marijuana cultivation, manufacturing, and dispensary facilities shall not otherwise be open to the public.

C. The sale, dispensing, or consumption of alcoholic beverages on or about the medical marijuana facility or in the parking area for the facility is prohibited.

D. Medical marijuana may only be inhaled, smoked, eaten, ingested, vaped, or otherwise used or consumed on the premises of licensed dispensary if dispensary has so requested in its application, and conditions on license consider patient confidentiality, designated locations and do not have detrimental effect on City or facility. No marijuana consumption of any kind is allowed in the parking areas of the premises.

E. Facility operator will report any loitering within one hundred feet of the premises. The loitering by persons outside the facility, either on the premises or within one hundred feet of the premises, is prohibited.

F. Qualified patients and primary caregivers purchasing or otherwise receiving medical marijuana from a medical marijuana dispensary shall sign an agreement with the facility that states that the person purchasing or otherwise receiving medical marijuana shall not sell, transfer, or otherwise distribute medical marijuana to any person other than a qualified patient or primary caregiver and shall not use medical marijuana for other than medicinal purposes.

G. The medical marijuana dispensary shall not sell, transfer, or otherwise distribute medical marijuana to any person violating any provision of this chapter.

H. A copy of the regulatory permit issued by the city and any licenses or certifications issued by the state of California, and any conditions thereof, shall be posted on the premises in a prominent place, readily viewable by any member of the general public.

I. Consistent with the “Memorandum for all United States Attorneys,” issued by the U. S. Department of Justice, from James M. Cole, Deputy Attorney General (known as the “Cole Memo”), the medical marijuana facility shall take all necessary and reasonable steps to prevent:

1. The distribution of marijuana to minors;
2. Revenue from the sale or distribution of marijuana from going to criminal enterprises, gangs and cartels;
3. The diversion of marijuana from California to any other state;
4. State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
5. Violence and the use of firearms in the cultivation, manufacture, and distribution of marijuana;
6. Drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
7. Growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
8. Preventing marijuana possession or use on federal property.

Any violation of this provision shall result in the immediate suspension of any permit authorized under this chapter, and pending investigation and a hearing, shall result in revocation of the permit at the election of the city manager or designee.

5.42.210 Public Health and Safety.

- A. Each medical marijuana facility shall operate in a reasonable manner such that the effects on the health or safety of nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts cultivation, manufacture, dispensing, delivery, or transporting of medical marijuana or medical marijuana products are minimized.
- B. The cultivation, manufacture, dispensing, delivery, and transporting of medical marijuana or medical marijuana products shall not create hazards due to the use or storage of materials, processes, products, chemicals, fertilizers, or wastes.
- C. The interior and exterior of the medical marijuana facility, including driveways, sidewalks, parking strips, fire access roads and streets on or adjacent to the premises shall be kept in a clean and safe condition.
- D. Exterior lighting on the premises and location shall ensure the safety of the public and the members and employees of the facility while not disturbing surrounding residential or commercial areas.

5.42.220 Records.

A. Medical marijuana facilities shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all medical marijuana products throughout the distribution chain until purchase by or distribution to a qualified patient or primary caregiver. The inventory control and reporting system shall comply with the track and trace program required by section 19335 of the California Business and Professions Code and regulations issued pursuant thereto.

B. Medical marijuana facilities shall have an electronic point of sale system that produces historical transactional data for review by the city manager or designee for compliance and auditing purposes.

C. Each medical marijuana facility shall maintain at the premises all records and documents required by this chapter and all the information and records listed below and as otherwise required by applicable state law or regulation:

1. The name, address, and telephone number(s) of the owner, landlord and/or lessee of the location;

2. The following information concerning each qualified patient or primary caregiver to whom medical marijuana is dispensed through a permitted medical marijuana dispensary:

a. Name, address, telephone number, and a confidential member number unique to that individual which is used solely for the log identified in subsection C.9. below;

b. A copy of a valid government issued photo identification card or license; and

c. A copy of the qualified patient's identification card or the attending physician's recommendation for the patient.

3. The name, address, and telephone number of each primary caregiver to whom medical marijuana is dispensed through a permitted medical marijuana dispensary, along with a copy of the written documentation provided by each qualified patient designating the caregiver as his or her primary caregiver;

4. The name, business address, and telephone number of each attending physician who provided a physician's recommendation to any qualified patient to whom medical marijuana is dispensed through a permitted medical marijuana dispensary;

5. The records of all qualified patients with a valid identification card and primary caregivers with a valid identification card may be maintained by the medical marijuana dispensary using only the identification card number issued by the state pursuant to

California Health and Safety Code Section 11362.7 et seq., in lieu of the information required by sections 5.42.220.C.2.a. through c., C.3, and C.4 of this chapter.;

6. Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the medical marijuana facility or received by the city through its audit, inspection, and compliance enforcement activities authorized pursuant to this chapter, are confidential and shall not be disclosed pursuant to the California Public Records Act except as necessary for authorized employees of the city to perform official duties pursuant to this chapter or as otherwise required by law.

7. Up-to-date information for all savings accounts, checking accounts, investment accounts and trusts associated with the operation of the medical marijuana facility;

8. Complete and up-to-date records regarding the amount of medical marijuana cultivated, produced, manufactured, harvested, stored, or packaged at each medical marijuana facility;

9. Until such time as state regulations are implemented under the track and trace program required by section 19335 of the California Business and Professions Code, complete and up-to-date records regarding medical marijuana transfers throughout the distribution chain from cultivation, to manufacturing, to its dispensing location, including the date and time of the transfer; the name and address of the cultivation and manufacturing facility and the name and address of the supplier if different from the cultivation or manufacturing facility; the amount, form, type, batch and lot number of marijuana transferred; the time of departure from the cultivation or manufacturing facility; the time of arrival at the dispensing location; the names of the employees transporting the product; and the name of the employee who received the product at the dispensing location;

10. Complete and up-to-date records documenting each transfer of medical marijuana from the medical marijuana dispensing location to qualified patients and primary caregivers including the amount provided, the form or product category in which the medical marijuana was provided, the date and time provided, the name of the employee making the transfer, the qualified patient or primary caregiver number to whom it was provided, and the amount of any related donation or other monetary transaction;

11. All receipts of the medical marijuana facility, including but not limited to all contributions and all expenditures incurred by the medical marijuana facility for the cultivation, manufacture, dispensing, transportation, and delivery of medical marijuana;

12. A copy of the annual audit reports required pursuant to section 5.42.230 of this chapter;

13. Proof of completed registration with the city manager in conformance with this chapter;

14. Records demonstrating compliance with state and federal rules and regulations regarding reporting and taxation of income received; and

15. All medical marijuana facilities shall perform an inventory on the first business day of each month and shall record the total quantity of each form of marijuana on the premises.

D. All records required by this section shall be maintained by the medical marijuana facility for a period of seven years and shall be made available to the city manager and any city official charged with enforcing the provisions of this code upon request.

5.42.230 Financial Statements.

No later than sixty (60) days after licensees' close of business year (calendar or fiscal), each medical marijuana facility shall file with the city manager a summary of its financial operations for the previous calendar year, completed in accordance with generally accepted auditing and accounting principles. The statement shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to this chapter. The information contained in the statement shall be made available to the city manager in standard electronic format as designated by the city manager.

5.42.240 Community Relations.

A. Each medical marijuana facility shall provide the city manager or designee with the name, telephone number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the medical marijuana facility or refer members of the public who may have any concerns or complaints regarding the operation of the medical marijuana facility. Each medical marijuana facility shall also provide the above information to all businesses and residences located within 100 feet of the medical marijuana facility.

B. During the first year of operation of a medical marijuana facility authorized under this chapter, the owner, manager, and community relations representative from each such medical marijuana facility shall attend a monthly meeting with the city manager and/or designee to discuss costs, benefits and other community issues arising as a result of implementation of the medical marijuana regulatory permit program authorized by this chapter. After the first year of operation, the owner, manager, and community relations representative from each such medical marijuana facility shall meet with the city manager and/or designee when and as requested by the city manager or designee.

5.42.250 Compliance.

A. All medical marijuana facilities shall pay any applicable sales, use, business or other tax, and all license, registration, or other fees pursuant to federal, state, and local law.

B. All medical marijuana facilities shall fully comply with all the provisions of the Compassionate Use Act of 1996, the Medical Marijuana Regulatory and Safety Act, any subsequently enacted state law or regulatory, licensing, or certification requirement, all applicable provisions of this code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval of the regulatory permit.

C. Nothing in this chapter shall be construed as authorizing any actions which violate state or local law with regard to the cultivation, transportation, manufacture, provision, sale, transfer, or disposition of medical marijuana.

5.42.260 Inspections and Enforcement.

A. The city manager, police chief, finance director, fire chief, development services director, or their designees shall have the right to enter all medical marijuana facilities from time to time unannounced during the facility's hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this chapter, to inspect and copy records required to be maintained under this chapter, or to inspect, view, and copy recordings made by security cameras, all without requirement for a search warrant, subpoena, or court order.

B. Nothing in this chapter requires the disclosure of any private medical record or confidential information contained in such medical record.

C. Operation of a medical marijuana facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the Municipal Code and shall be enforced pursuant to the provisions of this code.

D. The city manager or designee may summarily suspend or revoke a medical marijuana regulatory permit, or disqualify an applicant from the registration process, or elect not to renew a regulatory permit if any of the following, singularly or in combination, occur:

1. The city manager or designee determines that the medical marijuana facility has failed to comply with any requirement of this chapter or any condition of approval or a circumstance or situation has been created that would have permitted the city manager or designee to deny the regulatory permit under section 5.42.060 of this chapter or elect not to renew or revoke the regulatory permit under section 5.42.100 of this chapter;
2. The medical marijuana facility has conducted itself or is being conducted in a manner that creates or results in a public nuisance;
3. The medical marijuana facility ceased operations for more than 90 calendar days, including during change of ownership proceedings;
4. Ownership is changed without the new owners applying for and securing a regulatory permit under this chapter;
5. The medical marijuana facility relocates to a different location or premises; and

6. The medical marijuana facility fails to allow inspection and/or copying of the security recordings, the activity logs and records required under this chapter, or the premise by authorized city officials.

5.42.270 Appeals.

Any decision regarding or pertaining to the regulatory permit process set forth in this chapter, or any action taken by the city manager or designee pursuant hereto, may be appealed to the city council. Such appeal shall be taken by filing with the city clerk, within ten (10) days after notice of the action or decision complained of has been issued, a written statement setting forth the grounds for the appeal. The city clerk shall transmit the written statement to the city council and at its next regular meeting the council shall set a time and place for a hearing on the appeal. Notice of the time and place of such hearing shall be mailed to the appellant. The decision of the city council on such appeal shall be final and binding on all parties concerned.

5.42.280 Violations.

- A. Any violation of any of the provisions of this chapter is unlawful and a public nuisance.
- B. Any violation of any of the provisions of this chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.
- C. In lieu of issuing a misdemeanor citation, the city may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars (\$1,000.00) for each violation of this ordinance.
- D. A separate offense occurs for each day any violation of this chapter is continued and/or maintained.
- E. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law.

5.42.290 Implementation Procedures.

A. The city manager or designee shall develop written regulations governing the implementation of the medical marijuana facility regulatory permit process authorized by this chapter. Such written regulations shall be approved by the city council before they shall become effective. The city council may impose such conditions of approval as it deems appropriate.

B. Regulations for dispensary, cultivation, or manufacturing permits may be developed and approved separately or jointly. The city council may approve regulations for one or several types of permits and the regulations for each type of permit shall operate independently of and not be dependent on the approval of regulations for any other type of permit authorized by this chapter.

C. Applications for a regulatory permit authorized by this chapter shall not be accepted by the city manager or designee, nor a regulatory permit issued, until the written implementing regulations required under this section have been approved by the city council for the type of medical marijuana facility permit for which application is sought.

Section 3. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 4. EXECUTION AND CERTIFICATION

The City Clerk is directed to do all things necessary to cause the execution of this ordinance immediately upon its adoption and shall thereafter certify to the passage of this ordinance and cause the same to be published and posted according to law.

Section 5. EFFECTIVE DATE

Pursuant to California Government Code section 36937, this ordinance shall take effect thirty (30) days after its final passage and adoption by the City Council.

INTRODUCED at a regular meeting of the City Council of the City of Hollister held on the ___ day of _____, 2016.

ADOPTED as an ordinance of the City Council of the City of Hollister at a regular meeting of the City Council held on the ___ day of _____, 2016, by the following vote:

AYES, and in favor thereof, Council Members: , , Councilmembers

NOES, Council Members: Councilmember ___

ABSENT, Council Members: None

ABSTAIN, Council Members: None

Mayor
City of Hollister

ATTEST:

City Clerk
City of Hollister