

ORDINANCE NO. 3289

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULLERTON,
CALIFORNIA, AMENDING TITLES 3 AND 15 OF THE FULLERTON
MUNICIPAL CODE REGULATING COMMERCIAL CANNABIS BUSINESSES
CITYWIDE

LRP-2020-0009
APPLICANT: CITY OF FULLERTON

RECITALS:

WHEREAS, on October 9, 2015, Governor Brown signed three Bills into law (AB266, AB 243 and SB 643), which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA") and which established a comprehensive state licensing scheme for commercial uses related to medicinal Cannabis.

WHEREAS, in November 2016, the voters passed Proposition 64 or the Adult Use of Marijuana Act ("AUMA"), which established a similar state licensing scheme for adult use (i.e., non-medicinal) marijuana facilities.

WHEREAS, after the passage of the AUMA, the Legislature adopted and the Governor signed into law SB 94, which is known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (the "MAUCRSA").

WHEREAS, the MAUCRSA effectively consolidates the regulatory scheme provided for by the MMRSA (medicinal marijuana) with the regulatory scheme provided for by the AUMA (non-medicinal marijuana) to provide for one licensing structure for all Cannabis related uses.

WHEREAS, under the MAUCRSA, cities retain their ability to regulate medicinal and adult use commercial Cannabis related uses.

WHEREAS, pursuant to Fullerton Municipal Code (FMC) Section 15.72.020.B, the City Council of the City of Fullerton adopted a Resolution of Intention on October 15, 2019 authorizing a Zoning Ordinance (Title 15) amendment to consider the develop regulations pertaining to commercial cannabis businesses citywide.

WHEREAS, the City of Fullerton Planning Commission held a duly noticed public hearing on September 2, 2020 to consider and make recommendations on the amendments to Title 15 of the Fullerton Municipal Code.

WHEREAS, the purpose of the proposed amendments to the Fullerton Municipal Code are to implement the provisions of the MAUCRSA to accommodate the needs of medically ill persons in need of cannabis for medicinal purposes as recommended by their health care providers and to provide access to same.

WHEREAS, the proposed amendments to the Fullerton Municipal Code are also intended to provide access to adult-use cannabis for persons aged 21 and over as authorized by MAUCRSA, while imposing sensible regulations on the use of land to protect the City's residents, neighborhoods and businesses from potential negative impacts.

WHEREAS, the requirement of all commercial cannabis operators to obtain and renew a permit to operate within the City of Fullerton for the cultivation, processing, manufacturing, testing, sale, delivery, distribution and transportation of cannabis and cannabis products under an approved regulatory process will protect the health, safety and welfare of the residents of the City of Fullerton and be consistent with state law.

WHEREAS, the City Council desires to allow certain cannabis related uses in limited areas within the City subject to specified requirements which are intended to mitigate potential negative impacts, prevent cannabis from reaching minors or the illicit market, preserve public health and safety, protect the environment and promote economic and employment opportunities.

WHEREAS, the proposed amendments are Categorical Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3).

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF FULLERTON, CALIFORNIA, ORDAINS AS FOLLOWS:

1. In all respects as set forth in the Recitals.
2. The City Council finds as follows:

Finding: That the proposed Zoning Ordinance Amendment is consistent with the objectives of the Zoning Ordinance and General Plan.

Fact: The amendment is authorized by FMC Chapter 15.72.020.B. The City Council adopted a Resolution of Intention on October 15, 2019 to amend the Municipal Code to regulate commercial cannabis activities citywide.

Fact: The proposed amendments are consistent with Goal 9 of the Fullerton Plan: Long-term fiscal strength and stability that has a foundation in local economic assets and adapts to dynamic market conditions. The commercial cannabis industry is an emerging business type in California following the legalization of adult use cannabis in 2016. Allowing and regulating commercial cannabis represents an adaptation to the dynamic market condition for this type of use.

Fact: The proposed amendments are consistent with Policy 10.13 Manufacturing Diversification - Support regulations for diversifying the City's manufacturing base and facilitating investment in the City's industrial areas that will result in maintaining or growing local jobs and creating an environment that is attractive to high tech, research and development, business incubators, manufacturers, transportation and warehouse logistics companies, services and other emerging industries. By allowing and regulating manufacturing, indoor cultivation, distribution / transportation and testing of this emerging industry the City is increasing the diversity of allowable industrial uses.

Finding: That the proposed Zoning Ordinance promotes the public health, safety and welfare of the community.

Fact: The proposed amendments implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of

medically ill persons in need of cannabis for medicinal purposes as recommended by their health care providers, and to provide access to same.

Fact: The proposed amendments to the Fullerton Municipal Code are also intended to provide access to adult-use cannabis for persons aged 21 and over as authorized by MAUCRSA while imposing sensible regulations on the use of land to protect the City's residents, neighborhoods and businesses from disproportionately negative impacts.

Fact: The requirement of all commercial cannabis operators to obtain and renew annually a permit to operate a cannabis business within the City of Fullerton for the cultivation, processing, manufacturing testing, sale, delivery, distribution and transportation of cannabis and cannabis products under an approved regulatory process will protect the health, safety and welfare of the residents of the City of Fullerton and to enforce rules and regulations consistent with state law.

Fact: The proposed amendments include a process and penalties for operators who do not comply with the development and operational standards applicable to their cannabis license, concluding with the denial or revocation of their Commercial Cannabis Permit.

THEREFORE, the City Council of the City of Fullerton does hereby APPROVE LRP-2020-0009 to modify Fullerton Municipal Code Titles 3 and 15 as follows:

SECTION 1: Title 3 of Fullerton Municipal Code (FMC) is hereby amended to include a new Chapter 3.88 as follows:

Sections:

- 3.88.010 Purpose and Intent.
- 3.88.020. Legal Authority.
- 3.88.030. Commercial Cannabis Activities Prohibited Unless Specifically Authorized.
- 3.88.040. Compliance with State and Local Laws.
- 3.88.050. Definitions.
- 3.88.060. Permit Required to Engage in Commercial Cannabis Business.
- 3.88.070. Cannabis Employee Background Check Required.
- 3.88.080. Personnel Prohibited from Holding a License or from Employment with a Cannabis Business Permittee.
- 3.88.090. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.
- 3.88.100. Initial Application Procedure.
- 3.88.110. Commercial Cannabis Business Permit Selection Process.
- 3.88.120. Expiration of Commercial Cannabis Business Permits.
- 3.88.130. Renewal of Commercial Cannabis Business Permits.
- 3.88.140. Revocation of Commercial Cannabis Business Permit.
- 3.88.150. Effect of State License Suspension, Revocation, or Termination.
- 3.88.160. Appeals.
- 3.88.170. Written Request for Appeal.
- 3.88.180. Appeal Hearing Process.
- 3.88.190. Change in Location; Updated Registration Form.
- 3.88.200. Transfer of Cannabis Business Permit.
- 3.88.210. City Business License.
- 3.88.220. Building Permits and Inspection.

- 3.88.230. Reserved.
- 3.88.240. Reserved.
- 3.88.250. Location of Cannabis Businesses by Type.
- 3.88.260. Limitation on City's Liability
- 3.88.270. Records and Recordkeeping.
- 3.88.280. Security Measures.
- 3.88.290. Restriction on Alcohol, Tobacco Sales and Onsite Consumption of Cannabis.
- 3.88.300. Fees and Charges.
- 3.88.310. General Operating Requirements at Cannabis Businesses/Facilities.
- 3.88.320. Future Amendments to General Operating Requirements.
- 3.88.330. Specific Operating Requirements for Retail Facilities.
- 3.88.340. Operating Requirements for Non-Store Front Retailer.
- 3.88.350. Non-Store Front Retailer Vehicle Requirements.
- 3.88.360. Specific Operating Requirements for Transporters/Distributors.
- 3.88.370. Operating Requirements for Testing Labs.
- 3.88.380. Operating Requirements for Cannabis Manufacturing (non-volatile solvents)
- 3.88.390. Operating Requirements for Out-of-City Delivery Services.
- 3.88.400. Permissible Delivery Locations and Customers.
- 3.88.410. Labor Peace Agreements.
- 3.88.420. Community Relations.
- 3.88.430. Reserved.
- 3.88.440. Permit Holder Responsible for Violations.
- 3.88.450. Inspection and Enforcement.
- 3.88.460. Reserved.
- 3.88.470. Violations Declared a Public Nuisance.
- 3.88.480. Each violation a separate offense.
- 3.88.490. Criminal Penalties.
- 3.88.500. Remedies Cumulative and Not Exclusive.

Section 3.88.010. Purpose and Intent.

- A. It is the purpose of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes as recommended by their health care provider and to provide access to same.
- B. It is the intent of this Chapter to regulate the commercial cultivation, processing, manufacturing testing, sale, delivery, distribution and transportation of cannabis and cannabis products in a responsible manner to protect the health, safety and welfare of the residents of the City of Fullerton and to enforce rules and regulations consistent with state law.

Section 3.88.020. Legal Authority.

- A. Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the MAUCRSA, or any subsequent state legislation regarding same, the City of Fullerton is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity.

- B. Any standards, requirements and regulations regarding health and safety, security and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Fullerton to all commercial cannabis activity.
- C. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City and are in addition to any permits, licenses and approval required under state, City or other law.

Section 3.88.030. Commercial Cannabis Activities Prohibited Unless Specifically Authorized.

Except as specifically authorized in the Fullerton Municipal Code, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Business and Professions Code Section 26090(e)) of cannabis or cannabis product is expressly prohibited in the City of Fullerton.

Section 3.88.040. Compliance with State and Local Laws.

- A. It is the responsibility of the owners and operators of the commercial cannabis business to ensure that it is operating in a manner compliant with all applicable state and local laws in addition to operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business by the City.
- B. All commercial cannabis operators shall obtain and renew annually a permit to operate within the City of Fullerton. Nothing in this Chapter is intended to authorize the possession, use or provision of cannabis for purposes that violates state law.

Section 3.88.050. Definitions.

- A. All definitions pertaining to cannabis regulation that appear in Business and Professions Code Section 26001, are hereby incorporated by reference. Definitions appearing in this ordinance are in addition to state law or are outside the scope of Section 26001:
 - 1. CANNABIS CULTIVATION means any activity involving the planting, growing, harvesting, drying, curing, grading or trimming of cannabis as defined in Business and Professions Code Section 26001.
 - 2. CANNABIS RELATED USE AND/OR ACTIVITY shall include the dispensing, cultivation, manufacture, processing, storing, testing, labeling, relabeling, packaging, repackaging, transporting, delivery, distribution, provision or sale, or any combination thereof, of cannabis, either medicinal or recreational, except as set forth in California Business and Professions Code Section 19319, related to qualifying patients.
 - 3. CANOPY shall have the same meaning as that appearing in Title 3, Section 8000(f) of the California Code of Regulations.
 - 4. CAREGIVER or PRIMARY CAREGIVER has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

5. **COMMERCIAL CANNABIS BUSINESS** means any business or operation which engages in medicinal or adult-use commercial cannabis activity.
6. **COMMERCIAL CANNABIS BUSINESS PERMIT** means a regulatory permit issued by the City of Fullerton pursuant to this Chapter to a commercial cannabis business and is required before any commercial cannabis activity may be conducted in the City.
7. **COMMUNITY BENEFITS** means a component of all Commercial Cannabis businesses which specifies how the business engages with the community through participation in non-profits, volunteerism, in-kind donations, sponsorship of community events, support, financial or otherwise, for special community events, afterschool programs, youth centers, Boys and Girls Clubs, local schools whether public or private, school athletic programs, school clubs, community centers, senior centers and senior living facilities and parks and recreation.
8. **DISPENSING** means any activity involving the retail sale of cannabis or cannabis products from a retailer.
9. **LABOR PEACE AGREEMENT** means an agreement as set forth in Section 26001 of the Business and Professions Code.
10. **MANUFACTURED CANNABIS** means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.
11. **MANUFACTURING SITE** means a location that produces, prepares, propagates or compounds cannabis or cannabis products, directly or indirectly, by any extraction methods and is owned and operated by a person issued a valid commercial cannabis permit for manufacturing from the City of Fullerton and a valid state license as required for manufacturing of cannabis products.
12. **NON-VOLATILE SOLVENT** means any solvent used in the extraction process that is not a volatile solvent as defined by state law. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide (CO₂) used for extraction and ethanol used for extraction or post-extraction processing.
13. **PATIENT** of **QUALIFIED PATIENT** shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.22.
14. **PERSON WITH AN IDENTIFICATION CARD** shall have the meaning given that term by California Health and Safety Code Section 11362.7.
15. **PROCESSING FACILITY** means a cultivation site that conducts only trimming, drying, curing, grading, packaging or labeling of cannabis and non-manufactured cannabis products.
16. **RETAILER** shall have the same meaning as the definition appearing in Section 26070(a)

(1) of the Business and Professions Code.

17. REVIEW CRITERIA means the specified, objective standards by which commercial cannabis applications shall be reviewed and scored to determine the most desirable commercial cannabis business applicant/operator.
18. STATE LICENSE means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity.
19. TOPICAL CANNABIS means a product intended for external application and/or absorption through the skin. Topical cannabis is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
20. CANNABIS TRANSPORT means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA and can only be performed by licensed distributors and does not include deliveries of cannabis or cannabis products.
21. VOLATILE SOLVENT means a solvent as defined by Health and Safety Code Section 11362.3(b) (3).
22. YOUTH CENTER means any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:
 - a. Private youth membership organizations or clubs facilities (e.g. Boys and Girls Club, Boy Scouts, Girls Scouts)
 - b. Social service teenage club facilities for minors (under 18 years of age)
 - c. Parks, playgrounds or recreational areas specifically designed to be used by children/teens which has play equipment installed, including grounds designed for athletic activities on either public or private property.
 - d. Public Community Centers or Libraries

Section 3.88.060. Permit Required to Engage in Commercial Cannabis Business.

- A. No person may engage in any commercial cannabis business or in any commercial cannabis activity within the City of Fullerton including manufacture, processing, laboratory testing, transporting, dispensing, distribution or sale of cannabis or a cannabis product unless the person / entity:
 1. Has a valid Commercial Cannabis Business Permit from the City of Fullerton and
 2. Has a valid State of California Seller's Permit and
 3. Is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activities, including the duty to obtain any required state licenses.

Section 3.88.070. Cannabis Employee Background Check Required.

- A. Any person who is an employee or who otherwise works within a commercial cannabis business must be legally authorized to do so under applicable state law.

- B. Commercial cannabis business owners, operators, investors and managers shall be required to provide the Chief of Police with evidence of the completion of a criminal background check for all persons in their employ.
- C. The criminal background checks completed by commercial cannabis business employers must at a minimum identify the following:
 - 1. Whether the individual applying for employment has ever been convicted of a violent felony as defined by California Penal Code 667.5 or equivalent offenses in other states.
 - 2. Whether the individual applying for employment has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; or
 - 3. Whether the individual applying for employment has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, not including cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.
- D. Evidence of a conviction of any the offenses enumerated in this Section shall be grounds for denial of employment. Employers who wish to hire an individual notwithstanding this rule shall apply to the Chief of Police, who at their discretion may issue a written waiver.
- E. Violation of this section may be grounds for immediate suspension of the Commercial Cannabis Business Permit, pending a hearing before the City Manager or their designee and the Chief of Police within 30 calendar days for a final determination on the status of the background check.

Section 3.88.080. Personnel Prohibited from Holding a License or from Employment with a Cannabis Business Permittee.

- A. Any person, including but not limited to any individual, firm, partnership, joint-venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, in which any of the following actions or notices have been issued for non-compliance, shall be prohibited from holding a Commercial Cannabis Business Permit or from employment with a cannabis business in the City of Fullerton:
 - 1. The applicant has been denied a license or has had a license suspended or revoked by any City, County, City and county or any other state cannabis licensing authority;
 - 2. The applicant was notified that it was conducting commercial cannabis activity in violation of Chapter 3.88 or other City of Fullerton ordinances, codes and requirements, and failed to cure the violation in a timely manner as determined by the City Manager;
 - 3. Evidence that the applicant is delinquent in payment of federal, state or local taxes and/or fees, and took no steps to cure the delinquency when notified by the appropriate agencies;

4. As of the adoption of this ordinance applicant was conducting commercial cannabis activity in the City of Fullerton in violation of local and state law.
- B. No person shall be issued a Commercial Cannabis Business Permit who enters into a written agreement to lease, sublease, or any other agreement for any terms of use of the premises granted by a property owner, commercial broker or any third party, that is in violation of Section 3.88.060 unless that property is leased at fair market value.
1. Any such lease, sublease or agreement shall not contain terms or conditions requiring the Commercial Cannabis Business Permit licensee to pay the property owner, commercial broker, or any third party a percentage of gross receipts, royalties, equity, or other unreasonable compensation as determined by the City Manager.

Section 3.88.090. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.

- A. This Section is only intended to create a maximum number of commercial cannabis businesses that may be issued permits to operate in the City under each category. Nothing in this Chapter creates a mandate that the City Council must issue any or all of the Commercial Cannabis Business Permits if it is determined that the applicants do not meet the standards which are established in the application requirements or further amendments to the application process or that the City Council upon further deliberation determines that the issuance of any or all Commercial Cannabis Business Permits will impact the public health, safety, welfare or other policy concerns which may be detrimental in the issuance of these permits.
- B. The number of each type of Commercial Cannabis Business Permits that shall be permitted to operate in the City are as follows:
1. Cultivation. There shall be a maximum of five (5) indoor cultivation facilities permitted in the City (State License Types: 1A, 2A or 3A).
 2. Manufacturing. There shall be a maximum of five (5) manufacturing (Non-Volatile Solvents) facilities permitted in the City (State License Type: 6).
 3. Retail (storefront and non-storefront). There shall be a maximum of five (5) retail facilities in the City.
 4. Distribution/Transportation. There shall be a maximum of five (5) distribution / transportation facilities permitted in the City.
 5. Microbusinesses. There shall be a maximum of two (2) microbusinesses permitted in the City.
 6. Testing. There shall be no limit in the number of testing facilities permitted in the City.
- C. At any time the City Council may reassess the number of Commercial Cannabis Business Permits which are authorized for issuance in each category referenced in the subsection above. The City Council at its discretion, may determine that the number of Commercial Cannabis Business Permits should be reduced, provided the amount of permits issued has

not yet reached its maximum, stay the same, or be expanded in any category by the City Council.

Section 3.88.100. Initial Application Procedure.

- A. Upon or thereafter the effective date of this ordinance, the City Manager, or their designee shall prepare written procedures to govern the application process and the manner in which the decision will ultimately be made regarding the issuance of any Commercial Cannabis Business Permits.
- B. The City Manager, or their designee shall prepare as part of the application documents a listing of application Review Criteria based on a point system tied to a set of objective standards/requirements in order to determine the most desirable cannabis business applications received. The City Manager or their designee shall be authorized to prepare the necessary forms, develop any necessary rules to the application submittal process, solicit applications and conduct initial evaluations of the applications received.
- C. At the time of filing, each applicant shall pay a non-refundable application fee established by resolution of the City Council, to cover all costs incurred by the City in the application review process.
- D. All applications for a Commercial Cannabis Business Permit shall contain information related to the following categories:
 - 1. Business plan;
 - 2. Physical design and concept;
 - 3. Security plan;
 - 4. Experience.
- E. All applications must identify the physical location where the cannabis business will occur and include a notarized Property Owner Authorization form which acknowledges and consents to the operation of a cannabis business at this location.
- F. The City's Reservation of Rights. The City reserves the right to reject any or all applications. Prior to permit issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California state law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to a failure to comply with other requirements in this Chapter, an application may be rejected for any of the following reasons:
 - 1. The application was received after the designated time and date of the submittal deadline.
 - 2. The application did not contain the required elements, exhibits, or was not organized in the required format.
 - 3. The application was considered substantially incomplete based on the submittal requirements specified.

Section 3.88.110. Commercial Cannabis Business Permit Selection Process.

- A. There shall be a 30-day application submittal period to be determined by the City Manager, or designee. Subsequent Commercial Cannabis Business Permit application periods shall commence upon certification by the City Manager, or designee, that additional Cannabis Licenses are available and shall close thirty days after such certification.
- B. An application evaluation committee composed of at a minimum five individuals with demonstrated experience in either city government, legal or the cannabis industry, with no business interests in the City of Fullerton nor a part of any application before the City shall be appointed by the City Manager to review and score each application based on the established Review Criteria. The specific criteria and weighting (points per criteria) for each license type will be determined prior to the commencement of the initial screening application period and posted publically. Each application will be independently scored by the evaluation committee members.
- C. The evaluation committee shall be authorized, but not required, to conduct interviews with cannabis applicants as part of the selection process to further assess the qualifications, experience, business plan or any other aspects of the application submitted.
- D. The points awarded by the application evaluation committee shall be totaled and averaged (mean) for each application. The applications shall then be ordered from highest to lowest based on their scores within the license type category they have applied for.
- E. The City Council shall hold a noticed public meeting to certify the selection process and the resulting ranked list of top applicants in each license type category.
- F. Applicants that have been notified by the City that they are top ranking application shall have twelve (12) months from the date of notification in order to obtain their corresponding cannabis license from the state, as well as any other required permits from the city or other agencies (i.e., Health Department, Seller's Permit) prior to operating a cannabis business in the city.
- G. Minor Site Plan Required. Prior to issuance of a Commercial Cannabis Permit, top applicants in each license category (or applicants applying for vacated licenses) based on the evaluation process referenced in this Section are required to obtain a Minor Site Plan pursuant to FMC Chapter 15.47.
- H. If a top ranking applicant in any of the license type categories has not secured the necessary permits from the state, or other agencies, nor submitted the necessary applications for a Minor Site Plan to the City within twelve (12) months of notification that they were one of the top ranking applicants, their ability to obtain a Commercial Cannabis Business Permit shall automatically terminate.

- I. In the event that a top applicant is unable to meet the requirements of this section within the twelve (12) month period the City Manager shall cause to open a new application period to accept new applications pursuant to this Chapter for review and selection.
- J. Issuance of a Commercial Cannabis Business Permit does not create a land use entitlement. The Commercial Cannabis Business Permit shall be valid for twelve (12) months from the date issued and shall expire unless renewed as provided herein.
- K. No permittee may begin operations unless and until all state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with, until a state license is available and obtained by the permitted operator as set forth in Section 3.88.060.
- L. Notwithstanding anything in this Chapter to the contrary, the City reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a commercial cannabis permit until a permit is actually issued, and then only for the duration of the permits term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.
- M. Each person granted a Commercial Cannabis Business Permit shall be required to pay a permit fee established by resolution of the City Council, to cover the costs of administering the Commercial Cannabis Business Permit program.

Section 3.88.120. Expiration of Commercial Cannabis Business Permits.

Each Commercial Cannabis Business Permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Commercial Cannabis Business Permits may be renewed as provided in Section 3.88.130.

Section 3.88.130. Renewal of Cannabis Business Permits.

- A. An application for renewal of a Commercial Cannabis Business Permit shall be filed at least thirty (30) calendar days prior to the expiration date of the current permit.
- B. The City Manager or their designee shall prepare the necessary application forms required for the renewal of a Commercial Cannabis Business Permit.
- C. The applicant shall pay a fee in an amount established by resolution of the City Council to cover the costs associated with the processing of the permit renewal, including any required inspections.
- D. An application for renewal of a Commercial Cannabis Business Permit may be rejected if any of the following exists:
 - 1. The application is filed less than thirty (30) days before its expiration.

2. The Commercial Cannabis Business Permit is suspended or revoked at the time of the application.
3. The commercial cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.
4. The permittee fails to provide records indicating compliance with the Community Benefits, local hiring, social equity or any other component within its application proposal and fails to cure this deficiency in a timely manner.
5. The permittee fails or is unable to renew its State of California cannabis license.
6. If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, other City Codes, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the Commercial Cannabis Business Permit.
7. The City Manager or their designee is authorized to make all decisions concerning the renewal of a Commercial Cannabis Business Permit. In making the decision, the City Manager or their designee is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare.
8. Appeals from the decision of the City Manager or their designee shall be processed pursuant to Sections 3.88.160 through 3.88.180.
9. If a renewal application is denied, the applicant may appeal that denial to the City Council pursuant to Section 3.88.160 through 3.88.180.
10. A renewal application appeal that is denied are prohibited from reapplying within one (1) year from the date of the denial of the appeal.

Section 3.88.140. Revocation of Commercial Cannabis Business Permit.

Commercial Cannabis Business Permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to Sections 3.88.130 or 3.88.200, or pursuant to any policy, procedure or regulation in this Chapter.

Section 3.88.150. Effect of State License Suspension, Revocation, or Termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial cannabis business to operate within the City of Fullerton.

Section 3.88.160. Appeals.

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager or their designee, the appeal shall be processed as prescribed in this Chapter.

Section 3.88.170. Written Request for Appeal.

- A. Within ten (10) calendar days after the date of a decision of the City Manager or their designee to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may

appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.

- B. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council.

Section 3.88.180. Appeal Hearing Process.

- A. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the City.
- B. The appeal hearing shall be held within thirty (30) calendar days from the date the appeal is received. The City shall notify the appellant of the time and location of the appeal hearing at least ten (10) calendar days prior to the date of the hearing.
- C. At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- D. If the decision of the City Council is to grant the appeal, then the applicant may move forward to the next step of the application or renewal process.
- E. If the decision of the City Council is to deny the appeal, the decision of the City Council shall be final.

Section 3.88.190. Change in location; updated registration form.

- A. Any time the dispensing, cultivating, manufacturing, transportation and distribution or testing location specified in the Commercial Cannabis Business Permit is changed, the applicant shall be required to re-register with the City Manager or their designee. The process and the fees for re-registration shall be the same as the process and fees set forth in Sections 3.88.200 and 3.88.270.
- B. Within fifteen (15) calendar days of any other change in the information provided in the application form or any change in status of compliance with the provisions of this Chapter, including any change in the commercial cannabis business ownership or management members, the applicant shall file an updated application form with the City Manager or their designee for review along with a registration amendment fee, as set forth in Sections 3.88.200 and 3.88.270.

Section 3.88.200. Transfer of Cannabis Business Permit.

- A. The owner of a Commercial Cannabis Business Permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to the permit from the City Manager or their designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager or their designee in accordance with all provisions of this Chapter (as though the transferee were applying for an original Commercial Cannabis Business Permit). The proposed transferee's application shall be accompanied by a transfer fee in an amount set by resolution of the City Council.

- B. The City Manager or their designee shall conduct an investigation to determine whether the transferee passed the background check required for permittees and meets all other requirements of this Chapter and notify the transferee in writing of the City's determination.
- C. Commercial cannabis business permits issued through the grant of a transfer by the City Manager or their designee shall be valid for the same period as the originally issued Commercial Cannabis Business Permit and shall be subject to the same renewal requirements as specified in this Chapter.
- D. Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the City Manager or their designee through the transfer process contained in this Section. Failure to comply with this provision may be grounds for permit revocation.
- E. A permittee may change the form of business entity without applying to the City Manager or their designee for a transfer of permit, provided that:
 - 1. The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
 - 2. If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and in compliance with Section 3.88.200, provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity.
 - 3. Although a transfer is not required pursuant to subsection (1) and (2), the permit holder is required to notify the City Manager in writing of the change within ten (10) calendar days of the change. Failure to comply with this provision may be grounds for permit revocation.
- F. No Commercial Cannabis Business Permit may be transferred when the City Manager or their designee has notified the permittee that the permit has been or may be suspended or revoked.
- G. Any attempt to transfer a Commercial Cannabis Business Permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed as grounds for revocation of the permit.

Section 3.88.210. City Business License.

Prior to commencing operations, a commercial cannabis business shall obtain a City of Fullerton business license.

Section 3.88.220. Building Permits and Inspection.

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes, but

is not limited to, obtaining any required permit(s), the Fullerton Fire Department approvals, Health Department approvals and other applicable zoning approvals.

Section 3.88.230. RESERVED.

Section 3.88.240. RESERVED.

Section 3.88.250. Location of Cannabis Businesses by Type.

A. Cannabis businesses permitted to engage in Distribution, Manufacturing, Microbusiness, Retail (Storefront), Retail (Non-Storefront), Testing Labs, for cannabis and cannabis products are subject to the following zoning and locational requirements:

1. Retail Cannabis may be located in the following zones: C-M (Commercial, Manufacturing), G-C General Commercial, M-P (Manufacturing Park) or M-G (Manufacturing General), and must meet all requirements for development in these zones. The retail cannabis businesses must also meet all of the following distance requirements:
 - a. It shall be no closer than eight-hundred (800) feet from any parcel containing any of the following:
 - i. A school whether public, private, or charter, including pre-school, transitional kindergarten, and K-12; or
 - ii. A commercial daycare center licensed by the State, County or City that is in existence at the time the Commercial Cannabis Business Permit is issued; or
 - iii. A Youth Center as that term is defined in this Chapter that is in existence at the time the Commercial Cannabis Business Permit is issued.
 - b. It shall be no closer than three-hundred feet (300) from another retail cannabis location as measured from the nearest point of the building of one retail cannabis business to the nearest point of the building of the other.
 - c. The distance measurements contained in subsection (a) shall be the horizontal distance measured in a straight line from the nearest property line of those parcels in Section 3.88.250.A.1.a to the nearest point of the building or tenant space (if within a multi-tenant building) in which the cannabis business is located.
 - d. There shall be no more than two (2) retail licenses issued per City Council District.
 - e. There shall be no more than three (3) retail licenses issued which are located south of Chapman Avenue / Malvern Avenue.
2. Cannabis Distribution, Manufacturing, Cultivation and Microbusinesses may be located in the following zones: C-M (Commercial, Manufacturing), M-P (Manufacturing, Park) or M-G (Manufacturing, General), and must meet all of the requirements for development in these zones. The cannabis businesses must also meet all of the following distance requirements:
 - a. It shall be no closer than eight-hundred (800) feet from any parcel containing any of the following:

- i. A school whether public, private, or charter, including pre-school, transitional kindergarten, and K-12; or
 - ii. A commercial daycare center licensed by the State, County or City that is in existence at the time the Commercial Cannabis Business Permit is issued; or
 - iii. A Youth Center as that term is defined in this Chapter that is in existence at the time the Commercial Cannabis Business Permit is issued.
- b. The distance measurements contained in subsection (a) above shall be the horizontal distance measured in a straight line from the nearest property line of those parcels in Section 3.88.250.A.2.a to the nearest point of the building or tenant space (if within a multi-tenant building) in which the cannabis business is located.

Section 3.88.260. Limitations on City's Liability.

- A. To the fullest extent permitted by law, the City of Fullerton shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Business Permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business.
- B. As a condition to the approval of any Commercial Cannabis Business Permit, the applicant shall be required to meet all of the following conditions:
1. Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Fullerton, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the commercial cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents.
 2. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Manager.
 3. Reimburse the City of Fullerton for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City of Fullerton may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit, or related to the City's approval of a commercial cannabis activity. The City of Fullerton may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Section 3.88.270. Records and Recordkeeping.

- A. Each owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of

the renewal of a Commercial Cannabis Business Permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or their designee.

- B. Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
- C. All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth in the MAUCRSA.
- D. Each commercial cannabis business shall allow the City of Fullerton officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than forty-eight (48) hours after written receipt of the City's request, unless otherwise stipulated by the City.

Section 3.88.280. Security Measures.

- A. A permitted commercial cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. These security measures shall include, but may not be limited to the following:
 - 1. Alarm system (perimeter, fire, and panic buttons);
 - 2. Remote monitoring of alarm systems by licensed security professionals;
 - 3. Perimeter lighting systems (including motion sensors) for after-hours security;
 - 4. Perimeter security and lighting as approved by the Police Chief and Director of Community and Development Department or their designee.
 - 5. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
 - 6. All cannabis and cannabis products shall be stored and secured in accordance with the requirements specified by the State Bureau of Cannabis Control. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

7. 24-hour security surveillance cameras to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Fullerton Police Department. Video recordings shall be maintained for a minimum of 90 days and shall be made available to the City Manager or their designee upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.
 8. Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California.
 9. Panic buttons shall be installed in all commercial cannabis businesses with direct notification to the Fullerton Police Department dispatch and shall be configured to immediately alert dispatch for the Fullerton Police Department.
 10. Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
 11. Security personnel shall be on-site 24 hours a day or alternative security as authorized by the City Manager or their designee, and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel. Firearms may be carried by security personnel while they are on duty if authorized by the Chief of Police.
 12. Entrance areas are to be under the control of a designated responsible party that is either; (a) an employee of the commercial cannabis business; or (b) a licensed security professional.
- B. Each commercial cannabis business shall identify a designated security representative to the City of Fullerton, who shall be reasonably available to meet with the City Manager or their designee regarding any security related measures. The designated security representative shall, on behalf of the commercial cannabis business, maintain a copy of the current security plan on the premises of the business, to present to City Officials upon request that meets the following requirements:
1. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
 2. Identifies all Managers of the commercial cannabis business and their contact phone numbers.
 3. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24-hours a day, seven days a week, and provides contact information for each licensed security company.
 4. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the commercial cannabis business, the parking lot, and any adjacent property under the business' control.
 5. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are free of individuals loitering or causing a disturbance and are cleared of employees and their vehicles after closing.

- C. As part of the application and permitting process each commercial cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, any hazardous materials that may be used by the business, and any currency in compliance with State law.
1. The commercial cannabis business shall cooperate with the City whenever the City Manager or their designee makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- D. A commercial cannabis business shall notify the City Manager or their designee within forty-eight (48) hours after discovering any of the following:
1. Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
 2. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial cannabis business.
 3. Any other breach of the adopted security plan.
- E. The Community and Economic Development Director or their designee may require implementation of additional or amended security requirements once operations begin in order to maintain the health, safety and general welfare of the surrounding community.

Section 3.88.290. Restriction on Alcohol, Tobacco Sales and Onsite Consumption of Cannabis.

- A. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of a commercial cannabis business.
- B. No person shall cause or permit the sale or tobacco products on or about the premises of a commercial cannabis business.
- C. No person shall consume cannabis, cannabis products, tobacco or alcohol on the premises of any commercial cannabis business.

Section 3.88.300. Fees and Charges.

- A. All commercial cannabis businesses authorized to operate pursuant to this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with City with respect to any reasonable request to audit the commercial cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.
- B. Prior to commencing operation in the City and as a condition of issuance of a Commercial Cannabis Business Permit, the operator of each cannabis facility shall enter into an Development Agreement with the City setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and

other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety and welfare.

Section 3.88.310. General Operating Requirements at Cannabis Businesses/Facilities.

- A. Cannabis shall not be consumed by any employee or patron on the premises of any commercial cannabis business.
- B. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a Commercial Cannabis Business Permit, or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- C. Each commercial cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City.
- D. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- E. Emergency Contact. Each commercial cannabis business shall provide the City Manager or their designee with the name and contact information of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- F. Signage and Notices. All signage associated with a commercial cannabis business shall comply with the following:
 - 1. No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building.
 - 2. Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - 3. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including the public right-of-way.
 - 4. Signage shall not depict any image of cannabis or cannabis products. No banners, flags, festoon flags, billboards or other prohibited signs may be used at any time.
 - 5. In accordance with state law and regulations or as stipulated in the City of Fullerton Commercial Cannabis Business Permit, holders of a Commercial Cannabis

Business Permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any commercial cannabis business located in the City of Fullerton utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising. These requirements do not limit the ability of a commercial cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.

G. Minors not permitted to enter.

1. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a mobile delivery service.
2. Notwithstanding Section 3.88.310, persons aged 18 to 20 years shall be allowed on the premises of a commercial cannabis business if they can produce a physician's recommendation. In that event, such persons can lawfully purchase cannabis for the sole purpose of addressing the medical need that is the subject of the physician's recommendation.
3. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.

H. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business.

I. Display of Permit and City Business License. The original copy of the Commercial Cannabis Business Permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the commercial cannabis business in a location readily visible to the public.

J. No person shall be issued a permit to operate a commercial cannabis business or a related work permit unless they have first cleared the background check, as determined by the Chief of Police or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Fullerton to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.

K. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises. The cannabis business shall promptly notify the Fullerton Police Department if anyone continues to loiter around the building or premises after all reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.

Section 3.88.320. Future Amendments to General Operating Requirements.

The City Manager or their designee may develop other commercial cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

Section 3.88.330. Specific Operating Requirements for Retail Facilities.

- A. Retailers shall verify the age and all necessary documentation of each individual to ensure the customer is not under the age of eighteen (18) years. If the potential customer is 18 to 20 years old, retailer shall confirm the customer's possession of a valid doctor's recommendation and/or Health and Safety Code Section 11362.71 identification card (Medical Marijuana Card). For adult-use purchases, retailers shall verify that all customers are 21 years of age or older for the purchase of cannabis or cannabis products.
- B. Individuals must show their government-issued identification, and, in the case of medical cannabis facilities, their physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71 in order to gain access into the retailer. The government-issued identification and, if applicable, doctor's recommendation or cannabis card must also be shown at the point of sale station at the time of purchase. Doctor recommendations may not to be obtained or provided at the retail location.
- C. Operating hours of the Storefront Retailer License shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.
- D. A retail cannabis business shall occupy a space no greater than 15,000 square feet in size. Total square footage shall consist of gross square footage of either the building (free-standing) or leased tenant space within a multi-tenant building.
- E. Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.
- F. Retailers, and microbusinesses which include a retail component, shall only serve customers who are within the licensed premises, or at a delivery address that meets the requirements of this subsection.
- G. Retailers or microbusinesses which include a retail component shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.
- H. No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.
- I. All cannabis goods sold by a retail business shall be contained in child-resistant packaging.
- J. Retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.

- K. Microbusiness – Retail Activity. All manufacturing, distribution, and retail activities performed by a licensee under a Type 12-Microbusiness permit shall occur on the same licensed premises. Areas of the premises for manufacturing shall be separated from the distribution and retail areas by a wall and all doors between the areas shall remain closed when not in use.

Section 3.88.340. Operating Requirements for Non-Store Front Retailer.

- A. Non-Store Front Retailer (Delivery) License Owners and Operators are required to verify the age and the necessary documentation of each customer to ensure the customer is not under the age of 21 or under the age of eighteen (18) years with a valid doctor's recommendation. Doctor recommendations are not to be obtained or provided at the retail location.
- B. All Store Front Retailers, Non-Store Front Retailers (delivery) and Microbusinesses which conduct deliveries into or within the City of Fullerton shall be required to obtain a permit from the City of Fullerton in order to conduct retail sales regardless if they are located in the City or another local jurisdiction.
- C. Operating hours of the Non-Store Front Retailer License shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.
- D. The commercial cannabis Non-Store Front Retailer may only have on-site that quantity of cannabis and cannabis products reasonably anticipated to meet two-week demand for which they may need to be readily available for sale.

Section 3.88.350. Non-Store Front Retailer Vehicle Requirements.

- A. Prior to commencing operations, a cannabis Non-Store Front Retailer shall provide the following information to the City:
1. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
 2. The year, make, model, color, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
 3. Proof of insurance as required for any and all vehicles being used to deliver cannabis goods.
 4. The licensee shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
 5. The licensee shall provide the City with any changes to the information required by this section in writing within thirty (30) calendar days.

Section 3.88.360. Specific Operating Requirements for Transporters/Distributors.

- A. A distributor shall not store non-cannabis goods or non-cannabis accessories that are to be sold to another party on any licensed premises. Additionally, a distributor shall not distribute non-cannabis goods or non-cannabis accessories at a licensed premise. For the purposes of this section, non-cannabis goods are any goods that do not meet the definition of cannabis goods as defined in Section 5000(c) of the California Code of Regulations.

- B. After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's licensed premises to select a representative sample for laboratory testing.
- C. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- D. The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provisions within the California Code of Regulations.
- E. A distributor shall not transport cannabis or cannabis products to a licensed retail facility until and unless it has verified that the cannabis or cannabis products have been tested and certified by a testing lab as being in compliance with state health and safety requirements pursuant to Sections 5705, 5710 and 5714 of the California Code of Regulations.

Section 3.88.370. Operating Requirements for Testing Labs.

- A. Testing Labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to state and local law. Each Testing Lab shall be subject to additional regulations as determined from time to time as more regulations are developed under this Chapter and any subsequent State of California legislation regarding the same.
- B. Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- C. All cannabis testing laboratories performing testing shall obtain and maintain accreditation as required by state law.
- D. Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.
- E. Except as provided by state law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- F. A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing lab shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.

Section 3.88.380. Operating Requirements for Cannabis Manufacturing (Non-Volatile Solvents).

- A. Cannabis manufacturing shall only be permitted pursuant to Section 3.88.010 of this code or any subsequent created manufacturing state license as defined in MAUCRSA and may be permitted to operate only within those zones specified in Section 3.88.250 of the City of Fullerton Municipal Code.
- B. Any compressed gases used in the manufacturing process shall not be stored on any property within the City of Fullerton in containers that exceeds the amount which is approved by the Fullerton Fire Department and authorized by the Commercial Cannabis Business Permit. Each site or parcel subject to a Commercial Cannabis Business Permit shall be limited to a total number of tanks as authorized by the Fullerton Fire Department on the property at any time.
- C. Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, or other methods without employing volatile solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- D. If an extraction process uses a professional grade closed loop CO₂ gas extraction system every vessel must be certified by the manufacturer for its safe use as referenced in 3.88.380.E.
- E. Certification from an engineer licensed by the State of California, or by a certified industrial hygienist, must be provided to the Community and Economic Development Department for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
 - 1. The American Society of Mechanical Engineers (ASME);
 - 2. American National Standards Institute (ANSI);
 - 3. Underwriters Laboratories (UL); or
 - 4. The American Society for Testing and Materials (ASTM)
 - 5. The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.
 - 6. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Fire Department and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.
 - 7. Cannabis Manufacturing Facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
 - 8. Cannabis Manufacturing Facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.

9. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
10. Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

Section 3.88.390. Operating Requirements for Out-of-City Delivery Services.

- A. Prior to commencing operations, a cannabis out-of-city delivery service shall comply with the following requirements:
 1. Obtain from the City a permit authorizing the delivery of cannabis and cannabis products within the City limits. A copy of this permit shall be retained by all drivers.
 2. The retail business operating the delivery service shall provide the City Manager with evidence of a valid state license for a commercial cannabis business on whose authorization the delivery service is performing the delivery function.
 3. The retail business operating the delivery service shall furnish to the City Manager the year, make, model, color, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.

Section 3.88.400. Permissible Delivery Locations and Customers.

- A. Cannabis delivery businesses located outside of the City permitted to engage in delivery of cannabis and cannabis products inside the City of Fullerton are subject to the following requirements:
 1. A licensed cannabis business shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency.
 2. A licensed cannabis business shall comply with all requirements of state and local law pertaining to the cannabis permit and all subsequent policies, procedures and regulations which may be amended by the City Manager from time to time in order to enforce this Chapter.
 3. Any kiosk, I-Pad, tablet, smartphone, fixed location or technology platform, whether manned or unmanned, other than at a retail location permitted by the city, that facilitates, directs, or assists the retail sale or delivery of cannabis or cannabis products is prohibited and shall be a violation of this Chapter.

Section 3.88.410. Labor Peace Agreements.

Labor Peace Agreement. For any commercial cannabis business with ten (10) or more employees, the business owner shall attest that they have entered into a labor peace agreement and provide a copy of the agreement to the City prior to commencing operation. This attestation is not required for Cannabis Business Permit renewal or change of ownership applications provided the original Labor Peace Agreement remains in effect.

Section 3.88.420. Community Relations.

- A. Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall

also provide the community relations contact information to all businesses and residences located within one hundred (100) feet of the cannabis business.

- B. During the first 12-months of operation, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Chapter shall attend meetings with the City Manager or their designee, and other interested parties as deemed appropriate by the City Manager or their designee, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the City Manager or their designee.
- C. Commercial cannabis businesses to which a permit is issued pursuant to this Chapter shall develop a City approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

Section 3.88.430. RESERVED

Section 3.88.440. Permit Holder Responsible for Violations.

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

Section 3.88.450. Inspection and Enforcement.

- A. The City Manager, or their designee charged with enforcing the provisions of the City of Fullerton Municipal Code, or any provision thereof, may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
- B. It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law.

Section 3.88.460. RESERVED.

Section 3.88.470. Violations Declared a Public Nuisance.

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

Section 3.88.480. Each Violation a Separate Offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Fullerton. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Fullerton may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the City, pending a hearing before the City Manager, or his/her designee(s).

Section 3.88.490. Criminal Penalties.

Each and every violation of the provisions of this Chapter may in the discretion of the District Attorney or City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the County jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 3.88.500. Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SECTION 2: Title 15 of Fullerton Municipal Code (FMC) is hereby amended as follows:

Chapter 15.04.040 shall be amended as follows:

CANNABIS RELATED USE AND/OR ACTIVITY shall include the dispensing, cultivation, manufacture, processing, storing, testing, labeling, relabeling, packaging, repackaging, transporting, delivery, distribution, provision, or sale, or any combination thereof, of cannabis, either medicinal or recreational, except as set forth in California Business and Professions Code Section 19319, related to qualifying patients.

Chapter 15.30.030.2 shall be amended as follows:

Permitted Uses in the G-C Zoning District.

A. The following uses are permitted in the G-C zoning district:

1. Retail and service uses (subject to further conditions for those listed below)
2. Automotive wholesaler or broker with no car display
3. Retail (Storefront and Non-Storefront) Cannabis business subject to FMC 3.88
4. Club or lodge, without living quarters
5. Communication facility, non-commercial subject to FMC 15.55.020.C
6. Copy shop, retail
7. Financial institution
8. Fitness facility, small

9. Furniture upholstery shop
10. Home improvement center; hardware store
11. Internet or cyber café, including computer lounge or internet arcade subject to FMC 15.30.040.H
12. Nursery
13. Office, general
14. Office, medical
15. Personal service facilities (includes barbershops, beauty shops, etc.)
16. Pharmacy
17. Poolroom subject to FMC 3.54
18. Public amusement room subject to FMC 3.54
19. Recycling facility: Reverse vending subject to FMC 15.30.090.A
20. Restaurant, without on-site alcohol sales or entertainment
21. Satellite dish antennae subject to 15.55.020.C
22. Special event subject to FMC 15.58
23. Studio
24. Tattoo parlor subject to FMC 15.55.020.E
25. Temporary commercial use subject to FMC 15.55.020.D
26. Theater, live and movie, excluding drive-in theaters and adult uses.
27. Tutoring Center.

Chapter 15.30.030.4 shall be amended as follows:

A. The following uses are permitted in the C-M zoning district:

1. Automotive parts, including installation
2. Automotive wholesaler or broker with no car display
3. Cannabis Cultivation Subject to Chapter 3.88 of the FMC
4. Cannabis Manufacturing Subject to Chapter 3.88 of the FMC
5. Cannabis Distribution/Transportation Subject to Chapter 3.88 of the FMC
6. Cannabis Retail (Non-Storefront) Subject to Chapter 3.88 of the FMC
7. Cannabis Testing Subject to Chapter 3.88 of the FMC
8. Cannabis Microbusiness Subject to Chapter 3.88 of the FMC
9. Car rental agency with 10 or less vehicles
10. Communication facility, non-commercial subject to FMC 15.55.020.C
11. Copy shop, retail
12. Copy shop, industrial
13. Emergency shelter for homeless subject to FMC 15.42
14. Furniture refinishing shop
15. Furniture upholstery shop
16. Fitness facility, small
17. Home improvement center; hardware store
18. Interior designer office including showroom and sales
19. Internet or cyber café, including computer lounge or internet arcade subject to FMC 15.30.040.H
20. Manufacturing, processing, assembling of materials and products along with offices and storage incidental thereto as well as sales and repairs of products manufactured and materials directly related thereto
21. Massage establishment subject to FMC 3.24

22. Micro-brewery, with tasting room(s), or tap room(s) not to exceed a total of 1,000 square feet of indoor area subject to the approval of an Administrative Restaurant Use Permit
23. Multi-service center for homeless subject to FMC 15.42
24. Personal service facilities (includes barbershops, beauty shops, etc.)
25. (Reserved)
26. Poolroom subject to FMC 3.54
27. Public amusement room subject to FMC 3.54
28. Recording studio
29. Recycling facility: Reverse vending subject to FMC 15.30.090.A
30. Restaurant, with on-site alcohol sales subject to FMC 15.31 and FMC 15.71
31. Satellite dish antennae subject to FMC 15.55.020.C
32. Special event subject to FMC 15.58
33. Studio
34. Tattoo parlor subject to FMC 15.55.020.E
35. Temporary commercial use subject to FMC 15.55.020.D
36. Tutoring Center.

Chapter 15.40.020.A shall be amended as follows:

Table 15.40.020.A Permitted Uses		
Classified Uses	NAICS**	M-P or M-G Zone
Cannabis Distribution / Transportation		X ²
Cannabis Manufacturing		X ²
Cannabis Cultivation		X ²
Cannabis Testing		X ²
Cannabis Microbusiness		X ²
<p><u>Notes:</u> X denotes that the use is permitted. NP: denotes that the use is not permitted. MSP denotes that the use is permitted with the approval of a Minor Site Plan in accordance with Chapter 15.47 of this title. CUP denotes that the use is permitted with the approval of a Conditional Use Permit in accordance with Chapter 15.70 of this title. ¹ Permitted in the Emergency Shelter Overlay Zone, pursuant to Chapter 15.42 ² Subject to compliance with Chapter 3.88 of the Fullerton Municipal Code</p>		

Chapter 15.47.060.A shall be amended as follows:

The following criteria shall be used to review and evaluate the appropriateness of a Site Plan and shall form the basis for a recommendation on the plan.

A. General:

1. Creating a development that is pleasant in character and is harmonious with the past development of Fullerton.
2. Minimizing the disruption of existing natural features such as trees and other vegetation and natural ground forms.

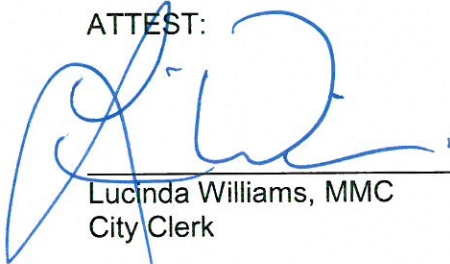
3. Illustrating a design compatibility with the desired developing character of the surrounding area.
4. Recognizing views, climate and the nature of outside activities in the design of exterior spaces.
5. Preserving public views and scenic vistas from unreasonable encroachment.
6. Odors generated by the subject use shall be adequately filtered so as not to impact adjacent businesses or properties.

ADOPTED BY THE FULLERTON CITY COUNCIL ON NOVEMBER 17, 2020.



Jennifer Fitzgerald
Mayor

ATTEST:



Lucinda Williams, MMC
City Clerk

December 2, 2020
Date

City of Fullerton
ORDINANCE CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF FULLERTON)

ORDINANCE NO. 3289

I, Lucinda Williams, City Clerk and ex-officio Clerk of the City Council of the City of Fullerton, California, hereby certifies that the whole number of the members of the City Council of the City of Fullerton is five and that the City Council introduced by title only and waived further reading of the above and foregoing Ordinance No. 3289 at the October 6, 2020 City Council regular meeting and was adopted at the November 17, 2020 City Council regular meeting by the following vote:

COUNCIL MEMBER AYES: Flory, Silva, Zahra

COUNCIL MEMBER NOES: Fitzgerald, Whitaker

COUNCIL MEMBER ABSTAINED: None

COUNCIL MEMBER ABSENT: None



Lucinda Williams, MMC
City Clerk