

Gloria Olmos, Mayor
Manuel Acosta, Mayor Pro Tem
Richard Angel, Councilmember
Hector Delgado, Councilmember
Gracie Retamoza, Councilmember



Rene Salas, Interim City Manager
Donna G. Schwartz, City Clerk
Anthony R. Taylor, City Attorney

CITY OF SOUTH EL MONTE

**CALL AND NOTICE OF
SPECIAL MEETING**

CALLED BY MAYOR GLORIA OLMOS

NOTICE IS HEREBY GIVEN that a Special Meeting of the City Council of the City of South El Monte will be held on Tuesday August 2, 2022 at City Hall in the Council Chambers, 1415 Santa Anita Avenue, South El Monte, CA 91733

AGENDA

August 2, 2022, 6:00 PM
1415 Santa Anita Avenue, South El Monte, CA 91733

*****SPECIAL NOTICE REGARDING COVID-19*****

On September 16, 2021, Governor Newsom signed AB 361, which modified the Brown Act to allow for teleconferencing participation at local legislative body public meetings during a proclaimed state of emergency. Pursuant to Government Code Section 54953(e) as amended by AB 361, City Council is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically available to all members of the public seeking to observe and to address the local legislative body. Public participation will be allowed via the information below.

PUBLIC COMMENT

To participate during public comment via teleconference, see below:

Link: <https://us02web.zoom.us/j/86581711880>

Webinar ID: 865 8171 1880

Or Call In: 1 669 900 6833, when prompted, enter 86581711880#

AMERICANS WITH DISABILITIES ACT

In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call the City Clerk's office at (626) 579-6540 ext. 3280 or ext. 3220 at least 72 hours prior to the meeting.

LIVE STREAMING OF MEETINGS

The City of South El Monte live streams the City Council Meetings over the Internet at <https://www.cityofsouthelmonte.org/129/City-Council-Agendas-Minutes> after the meetings, recordings are immediately posted. NOTE: Your attendance at this public meeting may result in the streaming and recording of your image and/or voice.

GENERAL COMMENT

Members of the public wishing to submit a general comment or a comment on an agenda item, can email dschwartz@soelmonte.org or call (626) 579-6540 ext. 3280 to leave a voicemail message. All comments received an hour before the scheduled meeting will be read during public comment and made part of the record.

MEETINGS

The City Council holds regular meetings on the second and fourth Tuesday of every month. Regular meetings start at 6 p.m. in the Council Chambers at City Hall, 1415 Santa Anita Avenue, South El Monte, California. Special and Adjourned Regular meetings start time are to be determined.

POSTING LOCATIONS OF AGENDA AND/OR CANCELLATION NOTICES

Regular meeting agendas will be posted at least 72 hours before the meeting (GC 54954(a)(1)).

Agenda and Cancellation Notices can be viewed online and are also posted at the following three (3) locations: City Hall located at 1415 Santa Anita Avenue, Senior Center located at 1556 Central Avenue and the Community Center located at 1530 Central Avenue, South El Monte, California.

VIEWING OF AGENDA PACKETS

Full agenda packet can be viewed either at www.cityofsouthelmonte.org/129/City-Council-Agendas-Minutes or in the City Clerk's Office during normal business hours Monday through Thursday 7:00 a.m. to 5:30 p.m. Closed on Fridays and major holidays.

ISSUES RELATED TO AGENDA

For issues related to the agenda, including a disability-related accommodation necessary to participate in this meeting, please contact:

Donna G. Schwartz, CMC, City Clerk
Ph (626) 579-6540 ext. 3280
Cell (626) 274-4842

Paola Lara, Deputy City Clerk
Ph (626) 579-6540 ext. 3220
Cell (626) 374-1998

AGENDA BEGINS ON THE FOLLOWING PAGE

1. ROLL CALL

Councilmembers: Angel, Delgado, Retamoza, Mayor Pro Tem Acosta and Mayor Olmos

2. APPROVAL OF THE AGENDA AND WAIVER OF FULL READING OF ORDINANCES

By motion of the City Council, this is the time to notify the public of any changes to the agenda, remove items from the consent calendar for individual consideration and/or rearrange the order of the agenda.

3. PUBLIC COMMENT

Speakers may provide public comments on any matter within the subject matter jurisdiction of the City Council, including items on the agenda. Each speaker will be limited to five minutes. Unless a majority of the Council objects, the Mayor may provide speakers more or less time to speak. All comments or queries shall be addressed to the Council as a body and not to any specific member thereof. Pursuant to Government Code Section 54954.2(a)(2), the Ralph M. Brown Act, no action or discussion by the City Council shall be undertaken on any item not appearing on the posted agenda, except to briefly provide information, ask for clarification, provide direction to staff, or schedule a matter for a future meeting.

4. CONSENT CALENDAR

Items on the consent calendar are considered to be routine and customary and are enacted by a single motion with the exception of items previously removed by a member of the City Council during "Approval of the Agenda" for individual consideration. Any items removed shall be individually considered immediately after taking action on the Consent Calendar.

4.a. CONSIDERATION AND APPROVAL OF RESOLUTION NO. 22-66, PROCLAIMING A LOCAL EMERGENCY PERSISTS AND AUTHORIZING THE USE OF REMOTE TELECONFERENCE MEETING PROCEDURES BY THE CITY'S LEGISLATIVE BODIES AS AUTHORIZED BY GOVERNMENT CODE SECTION 54953(e) ET SEQ. FOR THE PERIOD OF AUGUST 2, 2022 THROUGH AUGUST 31, 2022

On September 16, 2021, Governor Newsom signed AB 361 into law. AB 361 was made effective October 1, 2021. Pursuant to AB 361, staff recommends consideration of Resolution No. 22-66, proclaiming a local emergency persists and authorizing the use of remote meeting procedures by the City's legislative bodies, which can include meetings held via a virtual platform (e.g. Zoom), for the period of August 2, 2022 through August 31, 2022.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 22-66, proclaiming a local emergency persists and authorizing the use of alternative meeting procedures by the City's legislative bodies, such as utilizing a virtual platform (e.g. Zoom) for the period from August 2, 2022 through August 31, 2022.

CONSENT CALENDAR (CONTINUED)

4.b. CONSIDERATION AND APPROVAL OF RESOLUTION NO. 22-67, ADOPTING AND APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF SOUTH EL MONTE AND THE SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION (SEMEMTA)

The Memorandum of Understanding (MOU) between the City of South El Monte and the South El Monte Executive Management Team Association (SEMEMTA) for the period beginning July 1, 2022 and ending June 30, 2024 has been agreed to subject to City Council approval.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 22-67, approving the MOU between the City of South El Monte and SEMEMTA.

5. GENERAL BUSINESS

5.a. CONSIDERATION AND APPROVAL OF RESOLUTIONS, SUBMITTING A CITY BALLOT MEASURE THAT, IF APPROVED BY THE VOTERS, WOULD REGULATE ILLEGAL AND LEGAL CANNABIS USES IN THE CITY AND TAX THE SAME; OR, ALTERNATIVELY, PROVIDE DISCUSSION AND DIRECTION ON A ILLEGAL AND LEGAL CANNABIS LAND USE ORDINANCE

This item is presented for the City Council to consider three options: (1) approval for submittal to the voters of a City ballot measure for the regulation of illegal and legal cannabis uses in the City that (if directed by Council) will be considered by the voters at the November 2022 election, (2) discussion and direction concerning an illegal and legal cannabis land use ordinance, or (3) take no action.

RECOMMENDED ACTION: The City Attorney recommends that City Council select Option 1, Submit the Measure without alteration to the voters at a general municipal election on November 8, 2022, by adopting Resolutions No. 22-68, Calling for a General Municipal Election and Submitting a City Measure to the Voters; Resolution No. 22-69, Authorizing Direct Arguments in Favor and Against the City Measure and Directing the City Attorney to Draft an Impartial Analysis; and Resolution No. 22-70, Authorizing Rebuttal Arguments for City Cannabis Measure.

6. ADJOURNMENT

I Donna G. Schwartz, hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted not less than 72 hours at the following locations: City of South El Monte City Hall, Senior Center and Community Center and made available at www.cityofsouthelmonte.org on this 1st day of August 2022.



City Clerk, CMC



City Council Agenda Report

Agenda Item No. 4.a.

DATE: August 2, 2022

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rene Salas, Interim City Manager

SUBMITTED BY: Anthony R. Taylor, City Attorney

SUBJECT: CONSIDERATION AND APPROVAL OF RESOLUTION NO. 22-66, PROCLAIMING A LOCAL EMERGENCY PERSISTS AND AUTHORIZING THE USE OF REMOTE TELECONFERENCE MEETING PROCEDURES BY THE CITY'S LEGISLATIVE BODIES AS AUTHORIZED BY GOVERNMENT CODE SECTION 54953(e) *ET SEQ.* FOR THE PERIOD OF AUGUST 2, 2022 THROUGH AUGUST 31, 2022

SUMMARY: On September 16, 2021, Governor Newsom signed AB 361 into law. AB 361 was made effective October 1, 2021. Pursuant to AB 361, staff recommends consideration of Resolution No. 22-66, proclaiming a local emergency persists and authorizing the use of remote meeting procedures by the City's legislative bodies, which can include meetings held via a virtual platform (e.g. Zoom), for the period of August 2, 2022 through August 31, 2022.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 22-66, proclaiming a local emergency persists and authorizing the use of alternative meeting procedures by the City's legislative bodies, such as utilizing a virtual platform (e.g. Zoom) for the period from August 2, 2022 through August 31, 2022.

FISCAL IMPACT: None.

DISCUSSION: In March 2020, at the onset of the COVID-19 pandemic, Governor Newsom proclaimed a State of Emergency in California, and issued Executive Order N-25-20 to facilitate the ability of legislative bodies to meet using virtual platforms to comply with health orders. Since that time, several other Executive Orders have been issued that further modified the requirements related to the conduct of teleconference meetings and the right of public participation during the State of Emergency. The Executive Orders collectively operated to remove certain requirements for teleconference meetings, including that each teleconference location be accessible to the public, and that members of the public be able to address the legislative body at each teleconference location.

The Executive Orders allowed the City Council and each of the City's legislative bodies, commissions, and committees subject to the Brown Act to modify how meetings were conducted to protect the health and safety of the legislative bodies, staff, and the public, while ensuring transparency and accessibility for open and public meetings. However, those executive orders expired on October 1, 2021.

On September 16, 2021, Governor Newsom signed AB 361 into law. AB 361 was made effective October 1, 2021, to correspond to the timing of expiration of the executive orders.

AB 361 allows legislative bodies to continue to utilize remote/virtual platforms for meetings during a State of Emergency proclaimed by the Governor, provided that one of the following three criteria is met with respect to the meeting:

- i) State or local officials have imposed or recommended measures to promote social distancing;
- ii) The legislative body is meeting for the purpose of determining, by majority vote, whether as a result of the State of Emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- iii) The legislative body has previously determined, by majority vote, that, as a result of the State of Emergency, meeting in person would present imminent risks to the health or safety of attendees.

These provisions of AB 361 are effective until January 1, 2024. This means these provisions may be invoked any time there is a proclaimed State of Emergency by the Governor (e.g., wildfires) and the City Council can make at least one of the enumerated findings.

On October 26, 2021, City Council adopted Resolution No. 21-69 proclaiming a local emergency persists and authorizing the use of remote teleconference procedures by the City's legislative bodies for the period of October 26 through November 25, 2021. To avoid a lapse in time between meetings and the effective date of Resolution No. 21-69, on November 9, 2021, City Council adopted Resolution No. 21-72 proclaiming a local emergency persists and authorizing the use of remote teleconference procedures by the City's legislative bodies for the period of November 9 through December 9, 2021. Since then, City Council has adopted the following resolutions authorizing the same: Resolution No. 21-78 adopted on December 14, 2021 for the period of December 14, 2021 through January 12, 2022; Resolution No. 22-02 adopted on January 11, 2022 for the period of January 11, 2022 through February 9, 2022; Resolution No. 22-11 adopted February 8, 2022 for the period of February 8, 2022 through March 9, 2022; Resolution No. 22-18 adopted March 8, 2022 for the period of March 8, 2022 through April 6, 2022; Resolution No. 22-23 adopted April 12, 2022 for the period of April 12, 2022 through May 12, 2022; Resolution No. 22-33 adopted May 10, 2022 for the period May 10, 2022 through June 8, 2022; Resolution No. 22-39 adopted June 14, 2022 for the period of June 14, 2022 through July 13, 2022; and Resolution No. 22-54 adopted July 12, 2022 for the period of July 12, 2022 through August 10, 2022.

In large part due to the Omicron variant, there has been a sharp surge of Covid-19 cases since December 2021. The CDC indicators and thresholds measuring community transmission of COVID-19 within the County of Los Angeles continue to be at a substantial level. The Omicron variant is the predominant strain in Los Angeles County and spreads more easily than the original virus. While the Omicron BA.1 variant is

currently the dominant variant in Los Angeles County, there is a gradual increase in the level of the BA.2 subvariant in the County. The BA.2 subvariant is highly transmissible, and has become the dominant variant in many countries, including some that are facing renewed surges in cases and increased hospitalizations.

In light of the continuing COVID-19 emergency, and the continued threats to health and safety posed by indoor meetings with large attendance, staff recommends adoption of the proposed resolution making the findings required to invoke AB 361. Doing so will allow the meetings of the City Council and each of the City's legislative bodies to continue to occur by teleconference, without adhering to the teleconferencing requirements set out in Government Code Section 54953(b)(3) that would otherwise apply absent invocation of AB 361.

Continued reliance on AB 361 will require adoption of a new resolution making the required findings every 30 days.

ATTACHMENT(S):

- A. Resolution No. 22-66

RESOLUTION NO. 22-66

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL
PROCLAIMING A LOCAL EMERGENCY PERSISTS AND
AUTHORIZING THE USE OF REMOTE TELECONFERENCE
MEETING PROCEDURES BY THE CITY'S LEGISLATIVE
BODIES, AS AUTHORIZED BY GOVERNMENT CODE
SECTION 54953(e) *ET SEQ.*, FOR THE PERIOD OF AUGUST
2, 2022 THROUGH AUGUST 31, 2022

WHEREAS, the City Council of the City of South El Monte is committed to preserving and nurturing public access, transparency, observation and participation in its meetings and the meetings of each of its legislative bodies (as that term is defined in Government Code section 54952, including commissions, boards and committees subject to the Brown Act); and

WHEREAS, all meetings of the City's legislative bodies are open and public, as required by the Ralph M. Brown Act, codified as Government Code section 54950 *et seq.*, so that any member of the public may attend, participate, and observe the City's legislative bodies conduct their business; and

WHEREAS, the Brown Act, as amended by Assembly Bill 361 (2021), amending Government Code section 54953(e) *et seq.*, allows for remote teleconferencing observation and participation in meetings by members of a legislative body and members of the public, without compliance with the requirements of Government Code section 54953(b)(3) regarding, subject to the existence of certain conditions; and

WHEREAS, the initial required condition is a declaration of a state of emergency by the Governor pursuant to the California Emergency Services Act, Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state and within the boundaries of the City, as provided in Government Code section 8558; and

WHEREAS, on March 4, 2020, pursuant to Government Code section 8625, Governor Newsom declared the existence of a state of emergency for the State of California, in response to the outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19); and

WHEREAS, also on March 4, 2020, the County of Los Angeles followed suit and declared the existence of a state of emergency for the County of Los Angeles; and

WHEREAS, on March 12, 2020, out of an abundance of caution to protect the health, safety, and welfare of the community, the Mayor of the City of South El Monte proclaimed a local emergency due to the public health threat caused by COVID-19; and

WHEREAS, the Mayor's proclamation found that conditions of extreme peril to the safety of persons and property have arisen within the City as a result of the COVID-19 virus and that these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, on March 16, 2020, the City's Director of Emergency Services declared a local emergency for the City pursuant to Chapter 2.32 of the South El Monte Municipal Code, finding that conditions of extreme peril to the safety of persons and property have arisen within the City as a result of the COVID-19 virus and that these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, on March 17, 2020, the City Council adopted Resolution No. 20-24, ratifying the proclamation of a local emergency in response to COVID-19; and

WHEREAS, Government Code section 54953(e) further requires that state or local officials have imposed or recommended measures to promote social distancing; or, the legislative body of the City finds that meeting in person would present imminent risk to the health and safety of attendees; and

WHEREAS, the State of California and County of Los Angeles Department of Public Health officials have imposed or recommended measures to promote social distancing, County officials are requiring masking in an effort to slow the continuously high level of transmission of COVID-19 throughout Los Angeles County, and the Centers for Disease Control and Prevention ("CDC") continue to recommend physical distancing; and

WHEREAS, in large part due to the Omicron variant, there has been a sharp surge of Covid-19 positive cases since December 2021. The CDC indicators and thresholds measuring community transmission of COVID-19 within the County of Los Angeles continue to be at a substantial level. The Omicron variant is the predominant strain in Los Angeles County and spreads more easily than the original virus. While the Omicron BA.1 variant is currently the dominant variant in Los Angeles County, there is a gradual increase in the level of the BA.2 subvariant in the County. The BA.2 subvariant is highly transmissible, and has become the dominant variant in many countries, including some that are facing renewed surges in cases and increased hospitalizations; and

WHEREAS, the Council hereby finds that such emergency conditions persist in the City, such that meeting in person for the meetings of the legislative bodies of the City would present imminent risk to the health and safety of attendees as a result of the increased risk of the spread of the COVID-19 virus among those in attendance; and

WHEREAS, the Council hereby finds that the state of emergency due to the COVID-19 virus and the conditions related thereto has caused, and will continue to cause, conditions of extreme peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and thereby affirms, authorizes, and proclaims that the existence of a local emergency persists throughout the City, and ratifies the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, the Council hereby finds that, as a consequence of the existing local emergency, the legislative bodies of the City shall conduct their meetings without compliance with Government Code section 54953(b)(3), and shall instead comply with the remote teleconference meeting requirements as authorized by Government Code section 54953(e) *et seq.*; and

WHEREAS, the Council affirms that the City will allow for observation and participation by Councilmembers, members of the City's legislative bodies, and the public by allowing public participation and comment in real time via Zoom or by telephone, as well as allowing limited in-

person attendance for certain legislative bodies of the City, as will be duly indicated in the agendas of the legislative bodies, respectively, in an effort to protect the constitutional and statutory rights of all attendees.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section 1. The Recitals set forth above are true and correct and are incorporated herein Resolution by reference.

Section 2. The Council hereby recognizes and affirms the existence and conditions of a state of emergency as proclaimed by the Governor, the existence of emergency conditions in the City, and affirms, authorizes, and proclaims that the existence of a local emergency persists throughout the City.

Section 3. The Council hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Further, the Council finds that holding the meetings of the City's legislative bodies in person with no limitations to attendance would present imminent risk to the health and safety of attendees as a result of the increased risk of the spread of the COVID-19 virus among those in attendance, and that the State of California and County of Los Angeles Department of Public Health officials have imposed or recommended measures to promote social distancing in connection with the COVID-19 emergency, as required by Government Code section 54953(e) *et seq.*

Section 5. The Interim City Manager and legislative bodies of the City are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings via teleconference in accordance with Government Code section 54953(e) *et seq.* and other applicable provisions of the Brown Act.

Section 6. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) August 31, 2022, or (ii) such time the Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies (as that term is defined in Government Code §54952, including commissions, boards and committees subject to the Brown Act) of the City may continue to teleconference without compliance with Government Code section 54953(b)(3).

PASSED, APPROVED AND ADOPTED this 2nd day of August, 2022.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 22-66, was duly passed and approved by the City Council of the City of South El Monte at a special meeting of said Council held on the 2nd day of August, 2022, and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk



City Council Agenda Report

Agenda Item No. 4.b.

DATE: August 2, 2022

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rene Salas, Interim City Manager

SUBMITTED BY: William Fox, Interim Finance Director

SUBJECT: CONSIDERATION AND APPROVAL OF RESOLUTION NO. 22-67, ADOPTING AND APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF SOUTH EL MONTE AND THE SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION (SEMEMTA)

SUMMARY: The Memorandum of Understanding (MOU) between the City of South El Monte and the South El Monte Executive Management Team Association (SEMEMTA) for the period beginning July 1, 2022 and ending June 30, 2024 has been agreed to subject to City Council approval.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 22-67, approving the MOU between the City of South El Monte and SEMEMTA.

FISCAL IMPACT: The fiscal impact covers two fiscal years and will be accounted for in both the 2022-23 fiscal year budget as well as the 2023-24 fiscal year budget. The fiscal impact of the first year is \$47,300 and \$30,000 in the second year, for a two-year total of \$77,300. The costs will be budgeted within the General Fund and Special Revenue funds where employees charge their time.

DISCUSSION: The City and SEMEMTA have come to an agreement based on negotiations regarding the previous 2020-2022 MOU. The attached MOU covers fiscal years 2022-2024 and reflects the changes that have been made.

- 1st Contract Year Cost of Living Adjustment of 5%, retroactively applied back to July 1, 2022.
- 2nd Contract Year Cost of Living Adjustment of 3%.
- Juneteenth Day will be earned as a Floating Holiday.
- A one-time five percent (5%) equity adjustment will be provided to employees identified in the classification and compensation study as being five percent or greater underpaid. This is for the three positions of Accounting Manager,

Recreation Supervisor, and Senior Services Supervisor. This adjustment will be retroactively applied back to July 1, 2022.

- The parties agree to the right to meet and confer on the results and implementation of the classification and compensation study during the term of the agreement.
- Bonus totaling \$2,500 is to be paid in two separate installments as follows: at the beginning of the first contract year at \$1,250 and the beginning of the second contract year at \$1,250.
- Employees leaving during the first year of the agreement are subject to paying back 100% of the education funds paid by the City. In the event an employee leaves during year two of the agreement, 50% of the funds paid by the City will be reimbursed by the employee back to the City.

ATTACHMENT(S):

- A. Resolution No. 22-67
- B. Redlined MOU
- C. Final MOU

ATTACHMENT A

RESOLUTION NO. 22-67

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL ADOPTING AND APPROVING THE TERMS AND PROVISIONS OF THE 2022-2024 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SOUTH EL MONTE AND THE SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION

WHEREAS, the City of South El Monte ("City") is a general law city and a public agency as defined in Government Code Section 3501(c); and

WHEREAS, Teamsters Local 911 is the Joint majority representative employee organization for the City's recognized employee bargaining unit, the South El Monte Executive Management Team Association (SEMEMTA) and is a recognized employee organization within the meaning of Government Code Section 3501 (b); and

WHEREAS, the previous two-year Memorandum of Understanding between the City and SEMEMTA had an effective date of July 1, 2020 and expires on June 30, 2022; and

WHEREAS, representatives of the City and representatives of SEMEMTA met and conferred in good faith on a successor agreement on the terms and conditions of employment, within the meaning of Government Code Section 3505, by and between the City and members of SEMEMTA for fiscal years 2022-2022; and

WHEREAS, on July 27, 2022, members of SEMEMTA ratified the 2022-2024 Memorandum of Understanding prepared to memorialize the deal points agreed upon by the parties.

NOW, THEREFORE, BE IT RESOLVED that by the adoption of the Resolution, the City of South El Monte hereby approves:

SECTION 1. That pursuant to Government Code Section 3505.1, as the terms of the "Memorandum of Understanding Between the City of South El Monte and the South El Monte Executive Management Team Association, July 1, 2022 -June 30, 2024 ("2022-2024 Memorandum of Understanding"), attached hereto and incorporated herein as Exhibit A, were reached by representatives of the City and SEMEMTA, representatives of the City and SEMEMTA have jointly prepared the 2022-2024 Memorandum of Understanding, which agreement is not binding until approved by the City Council of the City and the members of SEMEMTA.

SECTION 2. That the 2022-2024 Memorandum of Understanding, which has been approved by SEMEMTA, is hereby adopted by the City of South El Monte for fiscal years 2022-2024.

SECTION 3. That all provisions contained in the 2022-2024 Memorandum of Understanding attached hereto shall, where any conflict exists, supersede all previously adopted memoranda of understanding between SEMEMTA and the City.

SECTION 4. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 2nd day of August, 2022.

Donna G. Schwartz, City Clerk

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 22-67, was passed and approved by the City Council of the City of South El Monte at an adjourned regular meeting of said Council held on the 2nd day of August, 2022 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

ATTACHMENT B

MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF SOUTH EL MONTE AND THE
SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION, FOR THE
PERIOD BEGINNING JULY 1, ~~2020-2022~~
AND ENDING JUNE 30, ~~2022-2024~~



Formatted: Font color: Blue

Formatted: Font color: Red, Strikethrough

Formatted: Not Strikethrough

Formatted: Font color: Red

PREAMBLE

Pursuant to Chapter 10 (Section 3500 et seq.) of Division 4, Title 1 of the Government Code and the Employer-Employee Relations Resolution of the City of South El Monte, the matters within the scope of representation that are set forth in this Memorandum of Understanding have been discussed by the representatives of the City of South El Monte ("City") and representatives of the South El Monte Executive Management Team Association ("Association" or "SEMEMTA").

The matters within the scope of representation that are set forth in this Memorandum of Understanding have been discussed in good faith and agreed to by the City and the Association as constituting an equitable adjustment to present wages, hours and other terms and conditions of employment as evidenced by the signatures of the duly authorized representatives of the City and the Association.

The provisions of the City's Personnel Rules and/or Municipal Code shall be modified as follows for those employees subject to this Memorandum of Understanding.

TABLE OF CONTENTS

	Page
Article I: Definitions of Terms.....	4
Article II: Compensation.....	5
Article III: Leave Procedures.....	6
Article IV: Insurance and Retirement Benefits.....	8
Article V: City Rights.....	11
Article VI: Other Matters Within the Scope of Representation.....	12
Article VII: Modification and Duration.....	13
Article VIII: Personnel Rules/Municipal Code Modifications.....	14
Article IX: Termination Procedures.....	17
Article X: Disciplinary Procedures.....	17
Article XI: Appeal Procedures.....	19
Article XII: Grievance Procedures.....	21
Attachment A: Fiscal Year 2020 <u>2022-224</u> Compensation Schedule.....	27

Formatted: Font: Bold, Font color: Red

Formatted: Font color: Red

ARTICLE I

DEFINITION OF TERMS

The following terms, whenever used in this Memorandum of Understanding, shall have the meaning set forth in this article.

SECTION 1 – ADVANCE WRITTEN NOTICE: A request for leave submitted on a recognized leave form of the City and approved by City Manager.

SECTION 2 – ANNIVERSARY DATE: The date of full-time employment, reinstatement, or promotion that is observed on an annual basis for salary increases and benefits.

SECTION 3 – BUSINESS DAY: Business day shall mean days that are neither weekends nor holidays. Work day shall mean the same as business day.

SECTION 4 - CLASSIFICATION: A position or positions assigned to the same job title.

SECTION 5 - DAY: Day shall mean calendar days except, where specified in this agreement.

SECTION 6 – EMPLOYEE: An individual compensated through the City payroll and appointed to one of the classifications represented by the Association as set forth in Attachment A.

SECTION 7 – LEAVE: An authorized absence from work.

SECTION 8 – PAY RATE: The regular monthly or hourly rate of pay that is assigned to an employee.

SECTION 9 - POSITION: The duties and responsibilities assigned to an employee within a classification.

SECTION 10 – SENIORITY: The total time employed as a full-time employee of the City.

SECTION 11 – SERVICE: Employment with the City.

ARTICLE II
COMPENSATION

SECTION 1 – PREPARATION OF COMPENSATION PLAN: The City Manager shall be responsible for the maintenance of the City's compensation plan. The compensation schedule shall contain a list of the job classifications represented by the Association and their pay rates and is attached hereto as Attachment A, B, C, and D.

SECTION 2 – ESTABLISHMENT OF PAY RATES: Upon appointment, an individual shall be assigned to a step on the salary range established for the classification. An employee will be eligible for an increase at first satisfactory evaluation (at or following six months of service for new-hire probationary employees hire prior to adoption of this agreement). Effective adoption of this agreement an employee will be eligible for an increase at or following 12 months of service.

SECTION 3 – WAGES: General salary increases are as follows:

- A. Effective July 1, ~~2020~~ 2022, salary ranges will be increased by ~~1.5%~~ 5%.
- B- Effective July 1, ~~2021-2023~~, salary ranges will be increased by ~~1.5%, 3%~~.

Formatted: Font color: Red, Strikethrough

Formatted: Not Strikethrough

SECTION 4 – LONGEVITY PAY: Except as provided below, bargaining unit employees shall not be eligible for longevity pay.

- A. An employee appointed to a full-time position in this bargaining unit before October 11, 2011 and who is not receiving longevity pay on the date October 11, 2011 shall be eligible to receive longevity pay calculated from date of hire, as long as said employee is performing at a satisfactory, or above, level as follows:
 - 1. Completion of the fifteenth (15) years of continuous service as a full-time employee: two and one-half percent (2½ %) of base salary.
 - 2. Completion of the twenty (20) years of continuous service as a full-time employee: two and one-half percent (2½ %) of base salary.
- B. Employees who, on October 11, 2011, are receiving longevity pay at a rate greater than three percent (3%) of base salary shall continue to receive such percentage of longevity pay, but shall not be eligible for any increase in such longevity pay percentage.
- C. Employees who, on October 11, 2011, are receiving longevity pay at a rate of three percent (3%) of base salary shall continue to receive such percentage of longevity pay and shall be eligible for an increase in such longevity pay percentage under subsection A.2., upon meeting its requirements. Thus, the maximum rate of total longevity pay for employees covered by this subsection C is five and one-half percent (5½ %).

D. An individual appointed to a full-time position in this bargaining unit after October 11, 2011 will not be eligible for longevity pay.

SECTION 5 – BILINGUAL SKILL PAY: Effective 11/1/10, the parties agree to suspend bilingual skill pay indefinitely.

SECTION 6 – PERFORMANCE REVIEW: Employees shall be evaluated at least once on an annual basis. Increases in pay shall be determined by the City Manager based on performance.

SECTION 7 – OVERTIME COMPENSATION: The City shall provide non-exempt employees with compensation or compensatory time off in lieu of compensation for overtime worked subject to the provisions of the Fair Labor Standards Act. Department Heads and mid-managers are exempt employees.

SECTION 8 – MEAL ALLOWANCE: An employee recalled to work due to an emergency shall be reimbursed for the actual cost of meal purchased by the employee up to a maximum of \$10.00. The employee must submit a receipt for the meal in order to be entitled to reimbursement.

SECTION 9 – ALLOWANCE FOR MILEAGE: The City shall reimburse employees for use of their personal vehicles for official City business to match the amount allowed by the regulations of the Internal Revenue Service.

SECTION 10 – CALL BACK: Non-exempt employees who are called back to work after completion of their regular shift shall receive three (3) hours of compensation or compensatory time off in lieu of compensation, or time actually worked, whichever is greater. This section shall not apply to any employee designated as an exempt employee under the Fair Labor Standards Act. Department Heads and mid-managers are exempt employees.

SECTION 11 – ONE-TIME Equity Adjustment:- There is a one-time five percent (5%) equity adjustment for employees identified in the classification and compensation study as being under paid by 5% or more. This adjustment is retroactively applied back to July 1, 2022. The City and Association agree the right to meet and confer on the results of the implementation of the classification and compensation study during the term of the agreement.

SECTION 12 – ONE TIME BONUS: A One-time bonus of \$2,500 is to be paid at the beginning of first contract year of \$1,250 and at the beginning of the second contract year of \$1,250.

Formatted: Underline

Formatted: Font color: Red

Formatted: Font color: Red

Formatted: Underline, Font color: Red

ARTICLE III

LEAVE PROCEDURES

SECTION 1 – HOLIDAY:

A. Employees shall be provided with the following holidays with pay subject to the provisions of the South El Monte Municipal Code.

1. New Year's Day
2. Martin Luther King Day
3. Presidents' Day
4. Cesar Chavez Day
5. Memorial Day
6. Independence Day
7. Labor Day
8. Columbus Day
9. Veterans' Day
10. Thanksgiving Day
11. Christmas Day
12. Employee's Birthday
- 12-13. Juneteenth Day

Formatted: Font: 11 pt

Cesar Chavez Day and Juneteenth Day will be earned as ~~a~~ Floating Holidays. With prior approval, employees may use the Cesar Chavez Floating Holiday and Juneteenth Day on the day of the Cesar Chavez birthday celebration and Juneteenth Day celebration or any other scheduled workday. ~~The-Each~~ holiday must be used in the calendar year granted. It may not be accrued or carried over to a subsequent year and is not subject to cash payment at termination.

SECTION 2 – ADMINISTRATIVE LEAVE: Management and Mid-Management employees shall not be entitled to any compensation for overtime work pursuant to Article II, Section 7. Management and Mid-Management employees will be granted forty (40) hours of administrative leave per fiscal year, which shall be credited to the employee on the date of their appointment prorated on an hourly basis for that fiscal year and on the first day of the fiscal year. Additional administrative leave may be granted at the discretion of the City Manager.

Administrative leave must be used within the fiscal year it is credited or it is forfeited. Upon termination of employment, Management and Mid-Management employees shall not be entitled to any compensation for accrued administrative leave.

Employees must provide the City Manager with a written request for the use of administrative leave utilizing the established leave request form in advance of the date and/or time which the employee intends to use the administrative leave.

SECTION 3 – MILITARY LEAVE: The City shall grant military leave to employees as required by law. All employees entitled to military leave shall give the City Manager an opportunity within the limits of military regulations to determine when such leave shall be taken.

SECTION 4 – TIME OFF FOR VOTING: The City shall provide employees with time off for voting subject to the following conditions:

- A. When an employee claims not to have sufficient time outside of working hours to vote at a statewide election, the employee may, without loss of pay, with the approval of the City Manager, take off enough working hours which when added to the voting hours available outside of working hours will enable the employee to vote. The City Manager may not authorize an employee to take off more than two (2) hours from work. Time off for voting shall be at the beginning or end of a work period, whichever time allows the employee the most time for voting and the least time off from work.
- B. If the employee knows or has reason to believe that time off for voting will be necessary on election day, the employee shall notify the City Manager of that fact at least two (2) work days in advance.

SECTION 5 – BEREAVEMENT LEAVE: The City Manager shall grant an employee bereavement leave for a period not exceeding three (3) work days for deaths within the employee's immediate family. Immediate family is defined as any relative by blood or marriage who is a member of the employee's household, and the employee's spouse, registered domestic partner, parents or step-parents; spouse's parents or step-parents; brothers, step-brothers or half-brothers; sisters, step-sisters or half sisters; employee's grandparents; spouse's grandparents; grandchildren; aunts and uncles, in-laws, regardless of the residence of the deceased.

SECTION 6 – TIME OFF FOR JURY DUTY: The City shall grant up to twenty-two (22) business days off to an employee required to serve on jury duty with compensation at the employee's existing pay rate. The employee will remit to the City any money paid to him/her by the court for jury service.

SECTION 7 – FAILURE TO RETURN FROM LEAVE: An employee who fails to return to work within three working days after the conclusion of a leave provided for under this Article or a vacation leave without an authorized extension of such leave shall be considered to have voluntarily resigned from City service.

ARTICLE IV

INSURANCE AND RETIREMENT BENEFITS

SECTION 1 – HEALTH BENEFITS: The City, on a conditional basis, will make available to all members subject to the Memorandum of Understanding, enrollment in the Public Employees' Retirement System Medical and Hospital Care Plan (PERS Plan).

The Association on behalf of itself and all members of the designated appropriate bargaining unit acknowledges, understands and agrees the City is conditioning its willingness to allow employees to enroll in the PERS Plan on the basis the City retains the sole and absolute discretion to withdraw from the PERS Plan without meeting and conferring with the Association and without the agreement of the Association should anything occur that would modify the premium contribution format described in Section

2 of this Article. Should the City withdraw from the PERS Plan for the aforesaid reason, the City shall meet and confer with the Association related to a replacement Medical and Hospital Care Plan, pursuant to Article VII, Section 1 of this Memorandum of Understanding.

The City will meet and confer with the Association prior to determining whether to increase the City's contributions towards the PERS Reserve Fund charges or the PERS Administrative charges upon receiving written notification of any increases in those charges.

The City shall continue to make available to employees and their eligible dependents the City's current group dental and vision care plans or other plans of equal benefit.

The City will meet and confer with the Association to review alternative affordable dental and vision plans when the Association presents such plans to the City.

If an employee does not enroll in any medical insurance plan offered by the City, the employee shall receive a deferred compensation payment of \$100 per month. To be eligible for the \$100 deferred compensation payment, the employee must submit to the City written proof of duplicate medical insurance coverage or compelling evidence that enrollment in a medical insurance plan would violate the employee's religious beliefs.

SECTION 2 – CITY CONTRIBUTIONS: The City for the term of this agreement and only while the City participates in the PERS Plan, shall make the following contributions towards the cost of medical insurance for active employees:

For all active employees who join the PERS Plan, the City will contribute directly to PERS an amount to be applied to the applicable PERS Plan monthly premium. The City's contribution will be equal to the monthly premium rate established by Kaiser Permanente for its Family Health Plan.

SECTION 3 – VISION AND DENTAL INSURANCE: The City shall pay the monthly vision and dental insurance premiums for employees and their eligible dependents. The City and the Association agree to develop a labor-management committee to evaluate efficiency of current vision, dental and other City paid benefits. Committee will determine if any recommendations for future changes are to be communicated to the City Manager.

SECTION 4 – NOTIFICATION OF INCREASE IN PREMIUM: The City shall advise the Association in writing of increases in medical insurance premiums and the effective date of the increase within two weeks of receiving notice of the increase.

SECTION 5 – LIFE INSURANCE, ACCIDENTAL DEATH INSURANCE AND LONG-TERM DISABILITY INSURANCE: The City shall pay one hundred percent (100%) of the cost for each employee in providing term life insurance equal to the employee's annual salary, accidental death and dismemberment insurance equal to the employee's annual salary, and long-term disability insurance equal to two-thirds (2/3) of the

employee's monthly salary. The long-term disability insurance plan shall provide a thirty (30) day benefit exclusion and benefit payments until the age of seventy (70) years.

SECTION 6 – PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS): The City shall include eligible employees in the Public Employees' Retirement System 2.5% at 55 plan, with the highest year and social security offset or the Public Employees' Retirement System 2% at 60 plan, depending upon the employee's hire date. Effective upon completion of the process required by CalPERS, the City will not pay a portion of an employee's contribution to the applicable Public Employees' Retirement System plan.

SECTION 7 – EMPLOYEE REQUIRED PERS CONTRIBUTION:

- A. For those employees covered by the 2.5% at 55 PERS retirement plan, the City will no longer pay a portion of the required PERS employee contribution. The employee will be required to pay the maximum individual employee contribution of eight percent (8%).
- B. For those employees covered by the 2% at 60 PERS retirement plan, the City will no longer pay a portion of the required PERS employee contribution. The employee will be required to pay the maximum individual employee contribution of seven percent (7%).
- C. For employees covered by the 2% at 62 PERS retirement formula, effective January 1, 2013 Public Employees' pension Reform Act of 2013 (PEPRA) prohibited employers from paying any portion of a "new member's" member contribution rate, the employee will be required to pay the maximum individual employee contribution of six-point two five percent (6.25%).

SECTION 8 – RETIREE HEALTH BENEFITS:

- A. The City will contribute \$1.00 per month towards PERS Medical and Hospital Care plan premium costs of annuitants. This amount will be upwardly adjusted by five percent (5%) of the amount of the City's direct contribution for active employees on an annual basis, or such other amount required by statute, until the contributions are equal.
- B. Employees fifty (50) years of age and older, who retire under PERS, shall be eligible to continue in the City's group medical, dental and vision care plans until age sixty-five (65), contingent upon the health provider's acceptance of the individual. The full cost of any insurance selected by the retiree shall be borne by the retiree. As long as the retiree is enrolled in an insurance plan his/her eligible dependents may also enroll in the insurance plans as provided above. The retiree and/or dependent shall pay the cost of dependent insurance benefits. During the term of this

agreement and while the City participates in the PERS medical and hospital care program, the City will contribute an amount toward the PERS medical premium for eligible annuitants that is equal to the amount required under the Public Employees Medical and Hospital Care Act and the City's resolution electing coverage under that act.

SECTION 9 – EMPLOYER MATCHING RETIREMENT PROGRAM: The City and the Association agree, in accordance with applicable Internal Revenue Service rules and regulations to identify and establish a program for individual Retirement Savings Account (RSA) that will allow pre-tax contributions. The purpose of the RSA is to provide for a supplemental retirement program. Upon identification and establishment

of an RSA, eligible employees will have the option of contributing pre-tax earnings into the RSA. To be eligible for the RSA, individual employees must have fifteen (15) years or more of City service. The City will match up to fifty dollars (\$50) per month of the individual employees' contributions to the RSA.

ARTICLE V

CITY RIGHTS

SECTION 1 – EXCLUSIVE RIGHTS AND AUTHORITY:

- A. In order to ensure that the City is able to carry out its functions and responsibilities imposed by law, the City has and will retain the exclusive right to manage and direct the performance of City services and the work force performing such services. Therefore, the following matters shall not be subject to the meet and confer process but shall be within the exclusive authority of the City. The consideration of the merits, necessity, or organization of any service activity conducted by the City shall include but not be limited to the City's right to:
1. Determine issues of public policy;
 2. Determine and change the facilities, methods, means, and personnel by which the City operations are to be conducted;
 3. Expand or diminish services;
 4. Determine and change the number of locations, relocations, and types of operations and the processes and materials to be employed in carrying out all City functions, including but not limited to the right to subcontract any work or operation;

5. Determine the size and composition of the work force to assign work to employees in accordance with requirements as determined by the City, and to establish and change work assignments;
 6. Determine job classifications;
 7. Appoint, transfer, promote, demote and lay off employees for lack of work or other appropriate reasons;
 8. Initiate disciplinary action for legitimate reasons;
 9. Determine policies, procedures and standards for selection, training and promotion of employees;
 10. Establish employee performance standards, including but not limited to quality and quantity standards;
 11. Maintain the efficiency of governmental operations;
 12. Exercise complete control and discretion over the organization and the technology of performing its work and services;
 13. Establish reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of City services;
 14. Determine any and all necessary actions to carry out its missions in emergencies.
- B. The exclusive decision-making authority of the City Council and City Manager on matters involving City rights and authority shall not be in any way, directly or indirectly, subject to the grievance procedure. The employee may grieve the impact of the exercise of exclusive City rights and authority that directly relate to matters within the scope of representation.

ARTICLE VI

OTHER MATTERS WITHIN THE SCOPE OF REPRESENTATION

SECTION 1 – MEET AND CONFER IN GOOD FAITH - SCOPE: The City shall not be required to meet and confer in good faith on any subject preempted by federal or state law. The City shall meet and confer in good faith with the Association on all matters related to salaries, fringe benefits and other terms and conditions of employment. The City agrees to provide the Association or its designee, at no cost, each draft City budget as it is presented for review, the adopted City budget, and the annual audit. All other documents shall be made available pursuant to the provisions of the Public Records Act.

SECTION 2 – PURCHASE OF HOME OFFICE EQUIPMENT: The City will advance up to \$3,000 to an employee for the purpose of acquiring a personal computer and appurtenant types of office equipment which the employee will utilize at his/her home to facilitate work production and create the potential for employee trip reduction through telecommunications. More than one such advance may be made, but at no time may the combined total of all outstanding advances exceed \$3,000. Funds will be advanced only after the need for the equipment is verified and approved by the City Manager and a reimbursement agreement, approved by the City Attorney, is executed.

SECTION 3 – REIMBURSEMENT FOR DAMAGE TO EMPLOYEE VEHICLES: The City agrees to reimburse employees in an amount not to exceed two hundred dollars (\$200) per fiscal year for damages due to or caused by vandalism to the employee's vehicle while on City property during the employee's working hours. In order to be eligible for reimbursement, the employee must submit an incident report and a Sheriff's report to the City Manager and Risk Manager regarding the incident causing the damage to the vehicle.

SECTION 4 – EDUCATION REIMBURSEMENT: The City shall reimburse employees for the cost of all books and tuition incurred by the employee while attending an accredited educational institution for those courses directly related to the employee's scope of employment or which are contained within an approved curriculum of study that is directly related to the employee's scope of employment. Tuition shall be reimbursed at rates up to the tuition rates of the California State University system. The City shall reimburse the employee for all classes the employee completes with a grade of "C" or better provided the employee provides a list of classes prior to each quarter or semester; provides verification of the cost for tuition and books; and provides a certification of completion. Upon completion of receiving a community college degree, Bachelor's degree, Master's degree, or certificate program, the employee agrees to remain employed with the City during the terms of this agreement. In the event the employee leaves during the 1st year of this agreement, 100% of the funds paid by the City is reimbursable back to the City. In the event the employee leaves during year 2 of this agreement, 50% of the funds paid by the city will be reimbursed by the employee back to the city.

Formatted: Body Text, Justified, Indent: Left: 0", Space After: 0 pt, Line spacing: single

SECTION 5 – AFTER-SCHOOL PROGRAM ALLOWANCE: The City shall reserve a combined total of ten (10) slots at 50% of the regular rate in the After-School Program and Extended Day Care programs for use by employees for the care of their children or children for whom they are the primary caretaker. Should more than ten (10) of said children seek enrollment at any one time, priority for enrollment shall be based on the employee's seniority.

An employee enrolling any child other than their natural, adopted or stepchild, shall be required to execute an "Affidavit of Eligibility" declaring under penalty of perjury that the child being enrolled is a member of their household and that they provide fifty percent (50%) or more of the child's financial support and maintenance.

SECTION 6 – DEFERRED COMPENSATION: The City shall contribute, beginning July 1, 2015 three hundred dollars (\$300.00) per month to the deferred compensation plan on behalf of each bargaining unit employee.

ARTICLE VII

MODIFICATION AND DURATION

SECTION 1 – MODIFICATION AND WAIVER: The City and the Association agree that this Memorandum of Understanding contains all of the covenants, stipulations, and agreements of the parties. The City and the Association understand that provisions contained in the Municipal Code, personnel rules, or administrative orders that directly relate to matters within the scope of representation are a part of this Memorandum of Understanding. Except as otherwise provided, the City and the Association agree, understand and reserve the right, upon mutual agreement, to meet and confer in good faith with respect to any subject or matter covered in this Memorandum of Understanding.

SECTION 2 – SEVERABILITY: Notwithstanding any other provisions of this Memorandum of Understanding, in the event that any article, section, or subsection of this Memorandum of Understanding shall be declared invalid by any court or by any state or federal law or regulation, or should a decision by any court or any state or federal law or regulation diminish the benefits provided by this Memorandum of Understanding, or impose additional obligations on the City, the City and the Association shall meet and confer on the affected article, section, or subsection. In such event, all other articles, sections or subsections of this Memorandum of Understanding not affected shall continue in full force and effect.

SECTION 3 – DURATION:

- A. This Memorandum of Understanding shall be binding on the City and the Association when approved and adopted by the City Council.

Except as otherwise provided herein, this Memorandum of Understanding shall be in full force and in effect from July 1, ~~2020-2022~~ and shall remain in full force and in effect until and including June 30, ~~2022-2024~~.

Formatted: Font color: Blue, Strikethrough

SECTION 4 – EMPLOYEE RIGHTS: The City and the Association recognize the right of employees to form, join and participate in lawful activities of employee organizations, and the equal alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall exert pressure upon nor discriminate against an employee in the exercise of these alternative rights.

- A. Employees in positions contained within the Association's bargaining unit shall not be able to represent themselves for the purposes of negotiating revisions to the terms of this agreement.

- B. No employee will be interfered with, intimidated, coerced, restrained or discriminated against by any employee organization because of the exercise of his/her employment rights.
- C. Employees may discuss matters regarding items contained in this Memorandum of Understanding or conditions of employment with the officers of the Association for clarification or assistance during off-duty hours or during lunch hours and breaks or upon authorization according to administrative orders.

ARTICLE VIII

PERSONNEL RULES/MUNICIPAL CODE MODIFICATIONS

The provisions of the City's Personnel Rules and/or Municipal Code shall be modified as follows for those employees subject to this Memorandum of Understanding.

SECTION 1 – WORKING HOURS: The City shall continue a 4/40-work week for all employees. City Hall's general office hours are Monday through Thursday, 7:00 a.m. to 5:30 p.m.

SECTION 2 – VACATION LEAVE:

- A. Employees may accrue up to a maximum of 320 hours of unused vacation leave. Upon reaching 320 hours, employees shall earn no additional vacation accrual until their balance of accrued but unused vacation leave is reduced below 320 hours. Upon a written administrative determination of the City Manager that work demands prevent an employee from using vacation time on a timely basis, the City Manager may permit an employee to exceed the maximum accrual cap by a specified amount and for a specified time, not to exceed 40 hours of vacation time and six (6) months. The City Manager may also require a plan designed to bring the employee back into compliance with vacation accrual limitations. It is the responsibility of each employee to arrange for timely use or, to the extent available, cash conversion of vacation time well in advance of reaching the maximum accrual limit.
- B. All employees who have accrued in excess of 250 hours will be paid for the excess vacation on a dollar for-dollar basis on June 30, or the last day in which City Hall is open prior to June 30 if June 30 is on a day in which City Hall is closed. Cash out request forms are due to the Finance Department no later than two business days prior to when checks will be issued to eligible City employees. Additionally, employees can be paid for the excess vacation on December 31, or the last day in which City

Hall is open prior to December 31 if December 31 falls on a day in which City Hall is closed. Cash out request forms are due to the Finance Department no later than two business days prior to when checks will be issued to eligible City employees:

1. Employee must have taken minimum hours of vacation in the fiscal year so that at the end of the fiscal year the vacation accrual does not exceed 320 hours.
 2. The pay out must otherwise comply with reasonable rules and procedures established by the City Manager.
- C. If vacation time is not taken due to administration determination, the employee shall be entitled to the stated cash-out provisions, as determined by the City Manager in his or her sole discretion.
- D. Employees appointed to a full-time position in this bargaining unit after October 11, 2011 shall be credited with vacation leave at the following rates based upon the length of service:
1. Eight (8) hours per month or ninety-six (96) hours per year (accrued at the rate of 3.692 for 26 pay periods annually) during the first five (5) years of service;
 2. Ten (10) hours per month or one hundred twenty (120) hours per year (accrued at the rate of 4.615 for 26 pay periods annually) during the sixth (6th) through the tenth (10th) years of service;
 3. Twelve (12) hours per month or one hundred forty-four (144) hours per year (accrued at the rate of 5.538 for 26 pay periods annually) during the eleventh (11th) through fifteenth (15th) years of service;
 4. Thirteen (13) hours per month or one hundred fifty-six (156) hours per year (accrued at the rate of 6.000 for 26 pay periods annually) during the sixteenth (16th) through the twentieth (20) years of service; and
- E. Employees appointed to a full-time position in this bargaining unit before October 11, 2011 shall be credited with vacation leave at the following rates based upon the length of service:
1. With the leave accruals in Article VIII, Section 2, Item D, numbers 1 – 4; and
 2. Sixteen (16) hours and forty (40) minutes (16.66 hours) per month or one hundred ninety-nine point two (199.92) hours per year (accrued at the rate of 7.689_hours bi-weekly for 24 of the 26 pay periods annually) after the twenty-first year and following years of service.
- F. City Hall will be closed on all workdays between the Christmas Eve and New Year Holidays. Except as otherwise determined by the City Manager, City services will be suspended and employees will not be scheduled to work during this time. Employees shall be allowed to utilize

available vacation hours or compensatory leave to remain in paid status while City services are suspended during this time.

SECTION 3 – HOLIDAY LEAVE: If a holiday falls on a day on which an employee is not scheduled to work, that employee shall be entitled to a floating holiday which must be utilized within one year of its accrual.

SECTION 4 – SICK LEAVE: Bargaining unit members will be subject to the following sick leave policy:

- A. Employees may accrue an unlimited number of sick leave hours.
- B. All employees who have accrued in excess of 330 hours may opt to be paid for up to 80 hours on a dollar for-dollar basis one-time per fiscal year during the payroll that includes March 31st;
- C. Employees leaving City employment shall be eligible to receive monetary compensation for any unused sick leave. The value of the accrued sick leave shall be calculated based on the employee's anniversary date as illustrated in the chart below:

Years of Service	Value of Sick Leave
5 – 10 years	10%
11 – 15 years	15%
16 years and above	20%

ARTICLE IX

TERMINATION PROCEDURES

SECTION 1 – RESIGNATION: An employee absent from work without authorization for three consecutive working days or more, shall be considered to have voluntarily resigned from City service.

ARTICLE X

DISCIPLINARY PROCEDURES

SECTION 1 – LEGITIMATE REASON FOR DISCIPLINARY ACTION: Disciplinary action consists of the discharge, involuntary demotion or suspension of an employee. An employee shall not be discharged, involuntarily demoted or suspended except for a legitimate reason. A legitimate reason for disciplinary action may include, but shall not be limited to the following:

- 1. Violation of administrative orders;
- 2. Failure to properly perform assigned duties;

3. Theft of City property;
4. Insubordination;
5. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
6. Unauthorized absence from employment;
7. Tardiness;
8. Failure to maintain satisfactory working relationships with other employees or the public;
9. Reporting for work, or being at work under the influence of or in possession of alcohol, or non-prescribed controlled substances;
10. Improper use of City funds;
11. Unauthorized use of City property;
12. Failure to properly care for City property;
13. Misstatement of a material fact;
14. Failure to maintain any employment qualification;
15. Willful falsification of any City report or record;
16. Failure to comply with health and safety standards;
17. Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the City.

SECTION 2 – DISCIPLINING AUTHORITY: The City Manager or his/her designee shall have the responsibility to institute a disciplinary action, to schedule and conduct any pre-disciplinary conference and to impose disciplinary action.

SECTION 3 – NOTICE OF DISCIPLINE: Except as otherwise provided in the Personnel Rules, prior to imposing any disciplinary action, the Disciplining Authority shall notify the employee in writing of the nature of the proposed disciplinary action and its proposed effective date; the reason for the proposed disciplinary action; any specific charges against the employee; of the employee's right to receive copies of the written documents and materials upon which the proposed disciplinary action is based; and of the employee's right to respond to the charge, either orally or in writing.

SECTION 4 – REPRESENTATION: If an employee requests or is required to meet with the City Manager, a Department Head or any supervisor, and such meeting involves the

possible imposition of disciplinary action against the employee, the employee, upon request, shall be entitled to have one representative present at such meeting.

SECTION 5 – EMERGENCY SUSPENSION: When the Disciplining Authority determines that an employee's conduct threatens or has caused injury to persons or property, or presents the possibility for additional misconduct, the Disciplining Authority may impose a suspension against the employee, effective immediately, until a pre-disciplinary conference is conducted pursuant to the Personnel Rules.

Within three (3) business days of such emergency suspension, the Disciplining Authority shall issue the employee the written notification specified in Section 3, above. The Disciplining Authority, unless otherwise requested by the employee, shall conduct a pre-disciplinary conference in not less than ten (10) days after the effective date of the emergency suspension.

The imposition of an emergency suspension against an employee does not preclude the Disciplining Authority from imposing a more severe disciplinary action against the employee receiving an emergency suspension.

The appeal rights of an employee receiving an emergency suspension shall be governed by the procedures provided for in the Personnel Rules for employees disciplined in a non-emergency situation.

SECTION 6 – REPRIMAND: A reprimand is a written criticism of an employee's work performance or conduct and may be issued to an employee in accordance with administrative orders. While a reprimand in and of itself is not a disciplinary action, it may form the basis of subsequent disciplinary action.

SECTION 7 – ORAL WARNING: An oral warning is a private conference between an employee and a Supervisor or Disciplining Authority at which the employee is informed of a deficiency in performance or conduct and advised as to corrective action which should be taken to improve the performance or conduct in question. A confidential written record shall be made of such a conference and a copy given to the employee. The written record, while not disciplinary action, may form the basis of subsequent disciplinary action.

ARTICLE XI **APPEAL PROCEDURES**

SECTION 1 – REQUEST FOR DISCIPLINARY HEARING: Employees shall have the right to appeal the imposition of disciplinary action. When an employee requests a disciplinary hearing, the request shall be in writing, signed by the employee, and presented to the City Manager within ten (10) days after the effective date of the imposition of the disciplinary action. Any such request shall be addressed to the City Manager and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary hearings shall be conducted in private unless the employee requests, in writing, a public hearing. If the employee fails

to request a disciplinary hearing within the prescribed time, the employee shall have waived the right to a hearing and all rights to further appeal of the disciplinary action.

SECTION 2 – SCHEDULING OF DISCIPLINARY HEARING: The City Manager shall schedule any disciplinary hearing within a reasonable time after the filing of the employee's request, considering the availability of a hearing officer and the convenience of the employee and the witnesses.

SECTION 3 – HEARING OFFICER: The City Manager may be the Hearing Officer for a disciplinary hearing or the City Manager may designate any third party as the Hearing Officer.

SECTION 4 – REPRESENTATION AT DISCIPLINARY HEARING: At the disciplinary hearing, the employee may appear personally and may be represented by counsel or other representative. The employee and the City shall have the right to produce and confront witnesses, and to present any relevant oral or documentary evidence.

SECTION 5 – BURDEN OF PROOF AND EVIDENCE: The City shall have the burden of proof at the disciplinary hearing and shall be required to prove the charges against the employee by a preponderance of the evidence. The disciplinary hearing shall not be conducted according to the technical rules of evidence.

SECTION 6 – CONDUCT OF DISCIPLINARY HEARING: The conduct of the disciplinary hearing shall be under the control of the Hearing Officer with due regard for the rights and privileges of the parties. The City Manager shall promulgate reasonable rules and regulations governing the conduct of the disciplinary hearings. The rules and regulations shall be available to employees. During the examination of a witness, the Hearing Officer may exclude from the hearing any and all other witnesses. The Hearing Officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of documents.

SECTION 7 – HEARING OFFICER'S DECISION: Within a reasonable time after the disciplinary hearing, the Hearing Officer shall issue a written decision containing findings of fact and conclusions of law. The Hearing Officer shall have the authority to affirm, revoke or reduce the disciplinary action imposed against the employee. Except as otherwise provided for in this Memorandum of Understanding, the Hearing Officer's decision constitutes a final resolution of any disciplinary action and no further appeal shall be permitted within the City's administrative process.

SECTION 8 – APPEAL OF HEARING OFFICER'S DECISION: If the disciplinary action reviewed by the Hearing Officer constitutes discharge or a suspension of more than ten (10) working days, the City or the employee may request an appeal hearing before the City Council to review the Hearing Officer's decision. If the employee fails to request an appeal hearing within the prescribed time, the employee shall have waived the right to an appeal hearing and all rights to further appeal of the disciplinary action.

SECTION 9 – REQUEST FOR APPEAL HEARING: When an employee requests an appeal hearing, the request shall be in writing, signed by the employee and filed with

the City Council within ten (10) business days after the notification of the Hearing Officer's decision. The appeal shall be addressed to the City Council and shall identify the decision appealed from the grounds for the appeal and the relief requested by the employee. All appeal hearings shall be conducted in private unless the employee requests, in writing, a public hearing. The City Council shall schedule any appeal hearing within a reasonable time and conduct any appeal hearing within fifteen (15) business days after the filing of the appeal.

SECTION 10 – REPRESENTATION AT APPEAL HEARING: At the appeal hearing, the employee may appear personally and may be represented by counsel or other representative. The employee and the City shall have the right to present oral and written arguments to the City Council.

SECTION 11 – CITY COUNCIL'S DECISION: The decision of the City Council shall be in writing and contain findings of fact and conclusions of law within ten (10) working days following the hearing. The City Council may affirm, revoke or reduce the decision of the Hearing Officer. Except as otherwise provided for in this Memorandum of Understanding, the City Council's decision shall constitute a final resolution of any disciplinary action and no further appeal shall be permitted within the City's administrative process.

SECTION 12 – BINDING ARBITRATION: If the decision of the City Council constitutes the discharge of an employee or the suspension of an employee for more than ten (10) working days, the SEMEMTA president, or his/her designee, may request that the City Council's decision be submitted to arbitration as provided within Personnel Rule XIV, Section 5.

ARTICLE XII

GRIEVANCE PROCEDURES

SECTION 1 – PURPOSE OF GRIEVANCE PROCEDURES: The grievance procedures shall be used to resolve employee complaints concerning the express terms and conditions of employment with the City. Article XIII, Grievance Procedures, shall not apply to any classification, position or employment covered by this MOU that is included in the unclassified service, or that is otherwise excluded from the classified service. The grievance procedures shall not be used for:

- A. The resolution of any complaint concerning any disciplinary action; or
- B. The resolution of any complaint concerning any aspect of the employment examination process.

SECTION 2 – MATTERS SUBJECT TO GRIEVANCE PROCEDURE:

- A. A violation of a specific term of this Memorandum of Understanding between the City and the Association;
- B. Improper application of rules, regulations and procedures;
- C. Unfair treatment, including coercion, restraint or reprisal;
- D. The impact of a reduction in force action (layoff);
- E. Promotion procedures unfairly implemented;
- F. Discrimination because of race, religion, color, creed, disability, sex, marital status, national origin or sexual orientation; or
- G. Any other matter affecting the terms and conditions of employment.

SECTION 3 – GENERAL PROCEDURES:

- A. Any grievance not filed or appealed to the next step within the time limits established in the grievance procedures shall be deemed settled on the basis of the last decision and not subject to further appeal or reconsideration.
- B. Failure by City to reply to a grievance within the time limits established in the grievance procedures shall automatically grant the right to process the grievance to the next level.
- C. By mutual agreement and for good cause, any level of review, or any time limits established in these procedures, may be waived or reasonably extended in writing at any step in the grievance procedure.
- D. By mutual agreement, the grievance may revert to a prior level for reconsideration.
- E. If a grievance is returned to the employee for insufficiency, the City will state in writing the reasons for the return. If the grievance was timely filed initially, new time limits for filing a revised grievance shall commence in accordance with Section 5 (B) of these procedures.
- F. The settlement of any specific complaint(s) or grievance(s) shall not constitute a precedent for settlement of complaints or grievances, nor for the interpretation of this Memorandum of Understanding to other individuals or circumstances.

SECTION 4 – RIGHTS, RESPONSIBILITIES AND RESTRICTIONS:

- A. Employees have the right to the assistance of a representative of their choice in the preparation of their written grievance and to represent them

in formal or informal grievance meetings. The grievant may be required by either party to be present in any or all meetings, related to their grievance.

- B. An employee selected as a representative in a grievance must obtain the permission of his/her supervisor to be absent from his/her duties to attend a grievance meeting. The employee representative shall provide his/her supervisor with reasonable advance notice to ensure that his/her absence will not interfere with City operations.
- C. Grievances may be submitted on City time. In scheduling the time, place and duration of any grievance meeting, the operational needs of the City shall be of paramount consideration. Neither the grievant nor the City shall lose their rights because of limitations in scheduling meetings or limitations placed on the release of an employee representative due to the operational needs of the City.
- D. Only a person selected by a grievant and made known to the City prior to a scheduled formal grievance shall have the right to represent or advocate as an employee's representative.
- E. Only persons who have direct, first-hand knowledge of the event(s) giving rise to the grievance may be called as witnesses.
- F. Supervisors and department heads have the responsibility to inform an employee of any limitation of their authority to fully resolve a grievance. Employees have the responsibility to state clearly and concisely the specific action(s) being grieved, the article(s) allegedly violated, and the specific remedy requested.

SECTION 5 – GRIEVANCE PROCEDURES:

- A. Informal Discussion of Grievance: Within seven (7) business days from the occurrence of the matter on which a complaint is based, or within seven (7) business days from his/her knowledge of such occurrence, an employee shall informally discuss the matter with their immediate supervisor. If after such a discussion, the grievance has not been satisfactorily resolved, the employee shall have the right to file a formal grievance.
- B. First Level of Review: Within seven (7) business days after the informal discussion of the grievance with the employee's immediate supervisor, the employee shall have the right to file a formal written grievance with the employee's immediate supervisor. All formal grievances shall comply with the requirements of Section 4.G, above. Within seven (7) business days of receiving a formal written grievance, the immediate supervisor shall render a decision in writing to the employee on the original copy of the grievance. Should the grievance contain more than one issue, the grievant may

accept any decision in part, and may continue the grievance process until all issues are resolved.

- C. Second Level of Review: Within seven (7) business days from his/her receipt of the immediate supervisor's written decision, and using the returned original copy of the grievance form, the employee may appeal the supervisor's decision to the City Manager, using the original copy of the grievance form. Within ten (10) business days from receipt of the employees' grievance, the City Manager or his/her designee who has not been involved in the grievance in the prior two (2) levels shall review the grievance and render a written decision and the reasons therefore to the employee. The decision of the City Manager shall conclude the administrative procedures for the grievance. Again, should the grievance be partially resolved at this level, the grievant may accept the partial resolution and continue the grievance process until all issues are resolved.

SECTION 6 – BINDING ARBITRATION:

- A. Within twenty (20) business days from the receipt of the written decision of the City Manager or his/her designee, or should the City Manager or his/her designee fail to render a decision within the time period provided by these procedures, the SEMEMTA president or his/her designee, may request that a grievance be submitted to arbitration as provided for hereinafter.
- B. Only those grievances that directly concern or involve the interpretation or application of the specific terms and conditions of this Memorandum of Understanding may be submitted to arbitration hereunder. In no event shall such arbitration extend to:
1. The interpretation, application, merits or legality of any federal, state or local law or ordinance, including specifically all ordinances adopted by the City Council.
 2. The interpretation, application, merits or legality of the exercise of the City's exclusive rights and authorities as specified in Article V of this Memorandum of Understanding.
- C. In the event SEMEMTA desires to request that a grievance, which meets the requirements of Section 6.B hereof, be submitted to arbitration, it shall, within the time requirements set forth above, transmit a written request to the State Mediation & Conciliation Service with a copy thereof simultaneously transmitted to the City Manager.
- D. The parties shall select a mutually acceptable arbitrator. If the parties cannot agree on an arbitrator, they shall notify the State Mediation & Conciliation Service and request that they provide the parties with a list of five names from which the parties will attempt to mutually select an arbitrator. If the parties cannot mutually agree upon an arbitrator from the

list of arbitrators provided by the State Mediation & Conciliation Service, they will select an arbitrator through an alternate striking of names from that list. The last remaining name on the list will be the selected arbitrator. The party to strike the first name will be determined by chance.

- E. Arbitration of a grievance hereunder shall be limited to the formal grievance as originally filed by the employee to the extent that said grievance has not been resolved. Arbitration hereunder shall be conducted in accordance with applicable rules and procedures adopted or specified by the State Mediation & Conciliation Service unless the parties hereto agree to other rules or procedures for the conduct of such arbitration. The fees and expenses of the arbitrator shall be shared equally by the parties involved. All other expenses including but not limited to fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration will be the responsibility of the party incurring such cost, unless otherwise agreed by the parties. The parties involved shall share the costs of transcripts and similar materials required or requested by the arbitrator equally.
- F. Prior to a hearing by an arbitrator, a representative of the City and the Association shall meet and prepare a joint statement setting forth the issue(s) to be determined which shall be submitted to the arbitrator. In the event the City and the Association cannot agree on the joint statement, each party shall present to the arbitrator, at the hearing, its own submission statement; in which case the arbitrator shall determine which of the submitted issues are to be resolved.
- G. The decision of the arbitrator resulting from any arbitration of grievances hereunder shall not add to, subtract from, or otherwise modify the terms and conditions of this Memorandum of Understanding.
- H. The decision of the arbitrator shall be binding upon the Association. To the extent the decision and award of the arbitrator does not require action by the City Council, such decision and award shall be binding upon the City. If within sixty (60) business days of receiving notice of a decision and award requiring action by the City Council, such action is not taken, the Association may then resort to a court of competent jurisdiction to pursue whatever other legal remedies are available to it under this Memorandum of Understanding.

THIS MEMORANDUM OF UNDERSTANDING is hereby executed by the authorized representatives of the CITY OF SOUTH EL MONTE and the SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION (“Association” or “SEMEMTA”) and shall become effective when the same has been ratified and adopted by resolution of the City Council of the City of South El Monte.

Representatives of the South El Monte
Executive Management Team Association

Management Representatives of the City
South El Monte

SEMEMTA Representative

Date

~~Rachel Barbosa~~
Rene Salas
Interim City Manager

Date

SEMEMTA Representative

Date

SEMEMTA Representative

Date

ATTACHMENT C

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF SOUTH EL MONTE AND THE
SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION, FOR THE
PERIOD BEGINNING JULY 1, 2022
AND ENDING JUNE 30, 2024**



PREAMBLE

Pursuant to Chapter 10 (Section 3500 et seq.) of Division 4, Title 1 of the Government Code and the Employer-Employee Relations Resolution of the City of South El Monte, the matters within the scope of representation that are set forth in this Memorandum of Understanding have been discussed by the representatives of the City of South El Monte ("City") and representatives of the South El Monte Executive Management Team Association ("Association" or "SEMEMTA").

The matters within the scope of representation that are set forth in this Memorandum of Understanding have been discussed in good faith and agreed to by the City and the Association as constituting an equitable adjustment to present wages, hours and other terms and conditions of employment as evidenced by the signatures of the duly authorized representatives of the City and the Association.

The provisions of the City's Personnel Rules and/or Municipal Code shall be modified as follows for those employees subject to this Memorandum of Understanding.

TABLE OF CONTENTS

	Page
Article I: Definitions of Terms.....	4
Article II: Compensation.....	5
Article III: Leave Procedures.....	6
Article IV: Insurance and Retirement Benefits.....	8
Article V: City Rights.....	11
Article VI: Other Matters Within the Scope of Representation.....	12
Article VII: Modification and Duration.....	13
Article VIII: Personnel Rules/Municipal Code Modifications.....	14
Article IX: Termination Procedures.....	17
Article X: Disciplinary Procedures.....	17
Article XI: Appeal Procedures.....	19
Article XII: Grievance Procedures.....	21
Attachment A: Fiscal Year 2022-24 Compensation Schedule.....	27

ARTICLE I

DEFINITION OF TERMS

The following terms, whenever used in this Memorandum of Understanding, shall have the meaning set forth in this article.

SECTION 1 – ADVANCE WRITTEN NOTICE: A request for leave submitted on a recognized leave form of the City and approved by City Manager.

SECTION 2 – ANNIVERSARY DATE: The date of full-time employment, reinstatement, or promotion that is observed on an annual basis for salary increases and benefits.

SECTION 3 – BUSINESS DAY: Business day shall mean days that are neither weekends nor holidays. Work day shall mean the same as business day.

SECTION 4 - CLASSIFICATION: A position or positions assigned to the same job title.

SECTION 5 - DAY: Day shall mean calendar days except, where specified in this agreement.

SECTION 6 – EMPLOYEE: An individual compensated through the City payroll and appointed to one of the classifications represented by the Association as set forth in Attachment A.

SECTION 7 – LEAVE: An authorized absence from work.

SECTION 8 – PAY RATE: The regular monthly or hourly rate of pay that is assigned to an employee.

SECTION 9 - POSITION: The duties and responsibilities assigned to an employee within a classification.

SECTION 10 – SENIORITY: The total time employed as a full-time employee of the City.

SECTION 11 – SERVICE: Employment with the City.

ARTICLE II

COMPENSATION

SECTION 1 – PREPARATION OF COMPENSATION PLAN: The City Manager shall be responsible for the maintenance of the City's compensation plan. The compensation schedule shall contain a list of the job classifications represented by the Association and their pay rates and is attached hereto as Attachment A, B, C, and D.

SECTION 2 – ESTABLISHMENT OF PAY RATES: Upon appointment, an individual shall be assigned to a step on the salary range established for the classification. An employee will be eligible for an increase at first satisfactory evaluation (at or following six months of service for new-hire probationary employees hire prior to adoption of this agreement). Effective adoption of this agreement an employee will be eligible for an increase at or following 12 months of service.

SECTION 3 – WAGES: General salary increases are as follows:

- A. Effective July 1, 2022, salary ranges will be increased by 5%.
- ~~B.~~ Effective July 1, 2023, salary ranges will be increased by 3%.

SECTION 4 – LONGEVITY PAY: Except as provided below, bargaining unit employees shall not be eligible for longevity pay.

- A. An employee appointed to a full-time position in this bargaining unit before October 11, 2011 and who is not receiving longevity pay on the date October 11, 2011 shall be eligible to receive longevity pay calculated from date of hire, as long as said employee is performing at a satisfactory, or above, level as follows:
 - 1. Completion of the fifteenth (15) years of continuous service as a full-time employee: two and one-half percent (2½ %) of base salary.
 - 2. Completion of the twenty (20) years of continuous service as a full-time employee: two and one-half percent (2½ %) of base salary.
- B. Employees who, on October 11, 2011, are receiving longevity pay at a rate greater than three percent (3%) of base salary shall continue to receive such percentage of longevity pay, but shall not be eligible for any increase in such longevity pay percentage.
- C. Employees who, on October 11, 2011, are receiving longevity pay at a rate of three percent (3%) of base salary shall continue to receive such percentage of longevity pay and shall be eligible for an increase in such longevity pay percentage under subsection A.2., upon meeting its requirements. Thus, the maximum rate of total longevity pay for employees covered by this subsection C is five and one-half percent (5½ %).

- D. An individual appointed to a full-time position in this bargaining unit after October 11, 2011 will not be eligible for longevity pay.

SECTION 5 – BILINGUAL SKILL PAY: Effective 11/1/10, the parties agree to suspend bilingual skill pay indefinitely.

SECTION 6 – PERFORMANCE REVIEW: Employees shall be evaluated at least once on an annual basis. Increases in pay shall be determined by the City Manager based on performance.

SECTION 7 – OVERTIME COMPENSATION: The City shall provide non-exempt employees with compensation or compensatory time off in lieu of compensation for overtime worked subject to the provisions of the Fair Labor Standards Act. Department Heads and mid-managers are exempt employees.

SECTION 8 – MEAL ALLOWANCE: An employee recalled to work due to an emergency shall be reimbursed for the actual cost of meal purchased by the employee up to a maximum of \$10.00. The employee must submit a receipt for the meal in order to be entitled to reimbursement.

SECTION 9 – ALLOWANCE FOR MILEAGE: The City shall reimburse employees for use of their personal vehicles for official City business to match the amount allowed by the regulations of the Internal Revenue Service.

SECTION 10 – CALL BACK: Non-exempt employees who are called back to work after completion of their regular shift shall receive three (3) hours of compensation or compensatory time off in lieu of compensation, or time actually worked, whichever is greater. This section shall not apply to any employee designated as an exempt employee under the Fair Labor Standards Act. Department Heads and mid-managers are exempt employees.

SECTION 11 – ONE-TIME EQUITY ADJUSTMENT: There is a one-time five percent (5%) equity adjustment for employees identified in the classification and compensation study as being under paid by 5% or more. This is for three positions of Accounting Manager, Recreation Supervisor, and Senior Services Supervisor. This adjustment is retroactively applied back to July 1, 2022. The City and Association agree the right to meet and confer on the results of the implementation of the classification and compensation study during the term of the agreement.

SECTION 12 – One-Time Bonus: A One-time bonus of \$2,500 is to be paid at the beginning of first contract year of \$1,250 and at the beginning of the second contract year of \$1,250.

ARTICLE III

LEAVE PROCEDURES

SECTION 1 – HOLIDAY:

A. Employees shall be provided with the following holidays with pay subject to the provisions of the South El Monte Municipal Code.

1. New Year's Day
2. Martin Luther King Day
3. Presidents' Day
4. Cesar Chavez Day
5. Memorial Day
6. Independence Day
7. Labor Day
8. Columbus Day
9. Veterans' Day
10. Thanksgiving Day
11. Christmas Day
12. Employee's Birthday
13. Juneteenth Day

Cesar Chavez Day and Juneteenth Day will be earned as Floating Holidays. With prior approval, employees may use the Cesar Chavez Floating Holiday and Juneteenth Day on the day of the Cesar Chavez birthday celebration and Juneteenth Day celebration or any other scheduled workday. Each holiday must be used in the calendar year granted. It may not be accrued or carried over to a subsequent year and is not subject to cash payment at termination.

SECTION 2 – ADMINISTRATIVE LEAVE: Management and Mid-Management employees shall not be entitled to any compensation for overtime work pursuant to Article II, Section 7. Management and Mid-Management employees will be granted forty (40) hours of administrative leave per fiscal year, which shall be credited to the employee on the date of their appointment prorated on an hourly basis for that fiscal year and on the first day of the fiscal year. Additional administrative leave may be granted at the discretion of the City Manager.

Administrative leave must be used within the fiscal year it is credited or it is forfeited. Upon termination of employment, Management and Mid-Management employees shall not be entitled to any compensation for accrued administrative leave.

Employees must provide the City Manager with a written request for the use of administrative leave utilizing the established leave request form in advance of the date and/or time which the employee intends to use the administrative leave.

SECTION 3 – MILITARY LEAVE: The City shall grant military leave to employees as required by law. All employees entitled to military leave shall give the City Manager an opportunity within the limits of military regulations to determine when such leave shall be taken.

SECTION 4 – TIME OFF FOR VOTING: The City shall provide employees with time off for voting subject to the following conditions:

- A. When an employee claims not to have sufficient time outside of working hours to vote at a statewide election, the employee may, without loss of pay, with the approval of the City Manager, take off enough working hours which when added to the voting hours available outside of working hours will enable the employee to vote. The City Manager may not authorize an employee to take off more than two (2) hours from work. Time off for voting shall be at the beginning or end of a work period, whichever time allows the employee the most time for voting and the least time off from work.
- B. If the employee knows or has reason to believe that time off for voting will be necessary on election day, the employee shall notify the City Manager of that fact at least two (2) work days in advance.

SECTION 5 – BEREAVEMENT LEAVE: The City Manager shall grant an employee bereavement leave for a period not exceeding three (3) work days for deaths within the employee's immediate family. Immediate family is defined as any relative by blood or marriage who is a member of the employee's household, and the employee's spouse, registered domestic partner, parents or step-parents; spouse's parents or step-parents; brothers, step-brothers or half-brothers; sisters, step-sisters or half sisters; employee's grandparents; spouse's grandparents; grandchildren; aunts and uncles, in-laws, regardless of the residence of the deceased.

SECTION 6 – TIME OFF FOR JURY DUTY: The City shall grant up to twenty-two (22) business days off to an employee required to serve on jury duty with compensation at the employee's existing pay rate. The employee will remit to the City any money paid to him/her by the court for jury service.

SECTION 7 – FAILURE TO RETURN FROM LEAVE: An employee who fails to return to work within three working days after the conclusion of a leave provided for under this Article or a vacation leave without an authorized extension of such leave shall be considered to have voluntarily resigned from City service.

ARTICLE IV

INSURANCE AND RETIREMENT BENEFITS

SECTION 1 – HEALTH BENEFITS: The City, on a conditional basis, will make available to all members subject to the Memorandum of Understanding, enrollment in the Public Employees' Retirement System Medical and Hospital Care Plan (PERS Plan).

The Association on behalf of itself and all members of the designated appropriate bargaining unit acknowledges, understands and agrees the City is conditioning its willingness to allow employees to enroll in the PERS Plan on the basis the City retains the sole and absolute discretion to withdraw from the PERS Plan without meeting and conferring with the Association and without the agreement of the Association should anything occur that would modify the premium contribution format described in Section

2 of this Article. Should the City withdraw from the PERS Plan for the aforesaid reason, the City shall meet and confer with the Association related to a replacement Medical and Hospital Care Plan, pursuant to Article VII, Section 1 of this Memorandum of Understanding.

The City will meet and confer with the Association prior to determining whether to increase the City's contributions towards the PERS Reserve Fund charges or the PERS Administrative charges upon receiving written notification of any increases in those charges.

The City shall continue to make available to employees and their eligible dependents the City's current group dental and vision care plans or other plans of equal benefit.

The City will meet and confer with the Association to review alternative affordable dental and vision plans when the Association presents such plans to the City.

If an employee does not enroll in any medical insurance plan offered by the City, the employee shall receive a deferred compensation payment of \$100 per month. To be eligible for the \$100 deferred compensation payment, the employee must submit to the City written proof of duplicate medical insurance coverage or compelling evidence that enrollment in a medical insurance plan would violate the employee's religious beliefs.

SECTION 2 – CITY CONTRIBUTIONS: The City for the term of this agreement and only while the City participates in the PERS Plan, shall make the following contributions towards the cost of medical insurance for active employees:

For all active employees who join the PERS Plan, the City will contribute directly to PERS an amount to be applied to the applicable PERS Plan monthly premium. The City's contribution will be equal to the monthly premium rate established by Kaiser Permanente for its Family Health Plan.

SECTION 3 – VISION AND DENTAL INSURANCE: The City shall pay the monthly vision and dental insurance premiums for employees and their eligible dependents. The City and the Association agree to develop a labor-management committee to evaluate efficiency of current vision, dental and other City paid benefits. Committee will determine if any recommendations for future changes are to be communicated to the City Manager.

SECTION 4 – NOTIFICATION OF INCREASE IN PREMIUM: The City shall advise the Association in writing of increases in medical insurance premiums and the effective date of the increase within two weeks of receiving notice of the increase.

SECTION 5 – LIFE INSURANCE, ACCIDENTAL DEATH INSURANCE AND LONG-TERM DISABILITY INSURANCE: The City shall pay one hundred percent (100%) of the cost for each employee in providing term life insurance equal to the employee's annual salary, accidental death and dismemberment insurance equal to the employee's annual salary, and long-term disability insurance equal to two-thirds (2/3) of the

employee's monthly salary. The long-term disability insurance plan shall provide a thirty (30) day benefit exclusion and benefit payments until the age of seventy (70) years.

SECTION 6 – PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS): The City shall include eligible employees in the Public Employees' Retirement System 2.5% at 55 plan, with the highest year and social security offset or the Public Employees' Retirement System 2% at 60 plan, depending upon the employee's hire date. Effective upon completion of the process required by CalPERS, the City will not pay a portion of an employee's contribution to the applicable Public Employees' Retirement System plan.

SECTION 7 – EMPLOYEE REQUIRED PERS CONTRIBUTION:

- A. For those employees covered by the 2.5% at 55 PERS retirement plan, the City will no longer pay a portion of the required PERS employee contribution. The employee will be required to pay the maximum individual employee contribution of eight percent (8%).
- B. For those employees covered by the 2% at 60 PERS retirement plan, the City will no longer pay a portion of the required PERS employee contribution. The employee will be required to pay the maximum individual employee contribution of seven percent (7%).
- C. For employees covered by the 2% at 62 PERS retirement formula, effective January 1, 2013 Public Employees' pension Reform Act of 2013 (PEPRA) prohibited employers from paying any portion of a "new member's" member contribution rate, the employee will be required to pay the maximum individual employee contribution of six-point two five percent (6.25%).

SECTION 8 – RETIREE HEALTH BENEFITS:

- A. The City will contribute \$1.00 per month towards PERS Medical and Hospital Care plan premium costs of annuitants. This amount will be upwardly adjusted by five percent (5%) of the amount of the City's direct contribution for active employees on an annual basis, or such other amount required by statute, until the contributions are equal.
- B. Employees fifty (50) years of age and older, who retire under PERS, shall be eligible to continue in the City's group medical, dental and vision care plans until age sixty-five (65), contingent upon the health provider's acceptance of the individual. The full cost of any insurance selected by the retiree shall be borne by the retiree. As long as the retiree is enrolled in an insurance plan his/her eligible dependents may also enroll in the insurance plans as provided above. The retiree and/or dependent shall pay the cost of dependent insurance benefits. During the term of this

agreement and while the City participates in the PERS medical and hospital care program, the City will contribute an amount toward the PERS medical premium for eligible annuitants that is equal to the amount required under the Public Employees Medical and Hospital Care Act and the City's resolution electing coverage under that act.

SECTION 9 – EMPLOYER MATCHING RETIREMENT PROGRAM: The City and the Association agree, in accordance with applicable Internal Revenue Service rules and regulations to identify and establish a program for individual Retirement Savings Account (RSA) that will allow pre-tax contributions. The purpose of the RSA is to provide for a supplemental retirement program. Upon identification and establishment

of an RSA, eligible employees will have the option of contributing pre-tax earnings into the RSA. To be eligible for the RSA, individual employees must have fifteen (15) years or more of City service. The City will match up to fifty dollars (\$50) per month of the individual employees' contributions to the RSA.

ARTICLE V

CITY RIGHTS

SECTION 1 – EXCLUSIVE RIGHTS AND AUTHORITY:

- A. In order to ensure that the City is able to carry out its functions and responsibilities imposed by law, the City has and will retain the exclusive right to manage and direct the performance of City services and the work force performing such services. Therefore, the following matters shall not be subject to the meet and confer process but shall be within the exclusive authority of the City. The consideration of the merits, necessity, or organization of any service activity conducted by the City shall include but not be limited to the City's right to:
 - 1. Determine issues of public policy;
 - 2. Determine and change the facilities, methods, means, and personnel by which the City operations are to be conducted;
 - 3. Expand or diminish services;
 - 4. Determine and change the number of locations, relocations, and types of operations and the processes and materials to be employed in carrying out all City functions, including but not limited to the right to subcontract any work or operation;

5. Determine the size and composition of the work force to assign work to employees in accordance with requirements as determined by the City, and to establish and change work assignments;
 6. Determine job classifications;
 7. Appoint, transfer, promote, demote and lay off employees for lack of work or other appropriate reasons;
 8. Initiate disciplinary action for legitimate reasons;
 9. Determine policies, procedures and standards for selection, training and promotion of employees;
 10. Establish employee performance standards, including but not limited to quality and quantity standards;
 11. Maintain the efficiency of governmental operations;
 12. Exercise complete control and discretion over the organization and the technology of performing its work and services;
 13. Establish reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of City services;
 14. Determine any and all necessary actions to carry out its missions in emergencies.
- B. The exclusive decision-making authority of the City Council and City Manager on matters involving City rights and authority shall not be in any way, directly or indirectly, subject to the grievance procedure. The employee may grieve the impact of the exercise of exclusive City rights and authority that directly relate to matters within the scope of representation.

ARTICLE VI

OTHER MATTERS WITHIN THE SCOPE OF REPRESENTATION

SECTION 1 – MEET AND CONFER IN GOOD FAITH - SCOPE: The City shall not be required to meet and confer in good faith on any subject preempted by federal or state law. The City shall meet and confer in good faith with the Association on all matters related to salaries, fringe benefits and other terms and conditions of employment. The City agrees to provide the Association or its designee, at no cost, each draft City budget as it is presented for review, the adopted City budget, and the annual audit. All other documents shall be made available pursuant to the provisions of the Public Records Act.

SECTION 2 – PURCHASE OF HOME OFFICE EQUIPMENT: The City will advance up to \$3,000 to an employee for the purpose of acquiring a personal computer and appurtenant types of office equipment which the employee will utilize at his/her home to facilitate work production and create the potential for employee trip reduction through telecommunications. More than one such advance may be made, but at no time may the combined total of all outstanding advances exceed \$3,000. Funds will be advanced only after the need for the equipment is verified and approved by the City Manager and a reimbursement agreement, approved by the City Attorney, is executed.

SECTION 3 – REIMBURSEMENT FOR DAMAGE TO EMPLOYEE VEHICLES: The City agrees to reimburse employees in an amount not to exceed two hundred dollars (\$200) per fiscal year for damages due to or caused by vandalism to the employee's vehicle while on City property during the employee's working hours. In order to be eligible for reimbursement, the employee must submit an incident report and a Sheriff's report to the City Manager and Risk Manager regarding the incident causing the damage to the vehicle.

SECTION 4 – EDUCATION REIMBURSEMENT: The City shall reimburse employees for the cost of all books and tuition incurred by the employee while attending an accredited educational institution for those courses directly related to the employee's scope of employment or which are contained within an approved curriculum of study that is directly related to the employee's scope of employment. Tuition shall be reimbursed at rates up to the tuition rates of the California State University system. The City shall reimburse the employee for all classes the employee completes with a grade of "C" or better provided the employee provides a list of classes prior to each quarter or semester; provides verification of the cost for tuition and books; and provides a certification of completion. Upon completion of receiving a community college degree, Bachelor's degree, Master's degree, or certificate program, the employee agrees to remain employed with the City during the terms of this agreement. In the event the employee leaves during the 1st year of this agreement, 100% of the funds paid by the City is reimbursable back to the City. In the event the employee leaves during year 2 of this agreement, 50% of the funds paid by the city will be reimbursed by the employee back to the city.

SECTION 5 – AFTER-SCHOOL PROGRAM ALLOWANCE: The City shall reserve a combined total of ten (10) slots at 50% of the regular rate in the After-School Program and Extended Day Care programs for use by employees for the care of their children or children for whom they are the primary caretaker. Should more than ten (10) of said children seek enrollment at any one time, priority for enrollment shall be based on the employee's seniority.

An employee enrolling any child other than their natural, adopted or stepchild, shall be required to execute an "Affidavit of Eligibility" declaring under penalty of perjury that the child being enrolled is a member of their household and that they provide fifty percent (50%) or more of the child's financial support and maintenance.

SECTION 6 – DEFERRED COMPENSATION: The City shall contribute, beginning July 1, 2015 three hundred dollars (\$300.00) per month to the deferred compensation plan on behalf of each bargaining unit employee.

ARTICLE VII

MODIFICATION AND DURATION

SECTION 1 – MODIFICATION AND WAIVER: The City and the Association agree that this Memorandum of Understanding contains all of the covenants, stipulations, and agreements of the parties. The City and the Association understand that provisions contained in the Municipal Code, personnel rules, or administrative orders that directly relate to matters within the scope of representation are a part of this Memorandum of Understanding. Except as otherwise provided, the City and the Association agree, understand and reserve the right, upon mutual agreement, to meet and confer in good faith with respect to any subject or matter covered in this Memorandum of Understanding.

SECTION 2 – SEVERABILITY: Notwithstanding any other provisions of this Memorandum of Understanding, in the event that any article, section, or subsection of this Memorandum of Understanding shall be declared invalid by any court or by any state or federal law or regulation, or should a decision by any court or any state or federal law or regulation diminish the benefits provided by this Memorandum of Understanding, or impose additional obligations on the City, the City and the Association shall meet and confer on the affected article, section, or subsection. In such event, all other articles, sections or subsections of this Memorandum of Understanding not affected shall continue in full force and effect.

SECTION 3 – DURATION:

- A. This Memorandum of Understanding shall be binding on the City and the Association when approved and adopted by the City Council.

Except as otherwise provided herein, this Memorandum of Understanding shall be in full force and in effect from July 1, ~~2020~~ 2022 and shall remain in full force and in effect until and including June 30, 2024.

SECTION 4 – EMPLOYEE RIGHTS: The City and the Association recognize the right of employees to form, join and participate in lawful activities of employee organizations, and the equal alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall exert pressure upon nor discriminate against an employee in the exercise of these alternative rights.

- A. Employees in positions contained within the Association's bargaining unit shall not be able to represent themselves for the purposes of negotiating revisions to the terms of this agreement.

- B. No employee will be interfered with, intimidated, coerced, restrained or discriminated against by any employee organization because of the exercise of his/her employment rights.
- C. Employees may discuss matters regarding items contained in this Memorandum of Understanding or conditions of employment with the officers of the Association for clarification or assistance during off-duty hours or during lunch hours and breaks or upon authorization according to administrative orders.

ARTICLE VIII

PERSONNEL RULES/MUNICIPAL CODE MODIFICATIONS

The provisions of the City's Personnel Rules and/or Municipal Code shall be modified as follows for those employees subject to this Memorandum of Understanding.

SECTION 1 – WORKING HOURS: The City shall continue a 4/40-work week for all employees. City Hall's general office hours are Monday through Thursday, 7:00 a.m. to 5:30 p.m.

SECTION 2 – VACATION LEAVE:

- A. Employees may accrue up to a maximum of 320 hours of unused vacation leave. Upon reaching 320 hours, employees shall earn no additional vacation accrual until their balance of accrued but unused vacation leave is reduced below 320 hours. Upon a written administrative determination of the City Manager that work demands prevent an employee from using vacation time on a timely basis, the City Manager may permit an employee to exceed the maximum accrual cap by a specified amount and for a specified time, not to exceed 40 hours of vacation time and six (6) months. The City Manager may also require a plan designed to bring the employee back into compliance with vacation accrual limitations. It is the responsibility of each employee to arrange for timely use or, to the extent available, cash conversion of vacation time well in advance of reaching the maximum accrual limit.
- B. All employees who have accrued in excess of 250 hours will be paid for the excess vacation on a dollar for-dollar basis on June 30, or the last day in which City Hall is open prior to June 30 if June 30 is on a day in which City Hall is closed. Cash out request forms are due to the Finance Department no later than two business days prior to when checks will be issued to eligible City employees. Additionally, employees can be paid for the excess vacation on December 31, or the last day in which City

Hall is open prior to December 31 if December 31 falls on a day in which City Hall is closed. Cash out request forms are due to the Finance Department no later than two business days prior to when checks will be issued to eligible City employees:

1. Employee must have taken minimum hours of vacation in the fiscal year so that at the end of the fiscal year the vacation accrual does not exceed 320 hours.
 2. The pay out must otherwise comply with reasonable rules and procedures established by the City Manager.
- C. If vacation time is not taken due to administration determination, the employee shall be entitled to the stated cash-out provisions, as determined by the City Manager in his or her sole discretion.
- D. Employees appointed to a full-time position in this bargaining unit after October 11, 2011 shall be credited with vacation leave at the following rates based upon the length of service:
1. Eight (8) hours per month or ninety-six (96) hours per year (accrued at the rate of 3.692 for 26 pay periods annually) during the first five (5) years of service;
 2. Ten (10) hours per month or one hundred twenty (120) hours per year (accrued at the rate of 4.615 for 26 pay periods annually) during the sixth (6th) through the tenth (10th) years of service;
 3. Twelve (12) hours per month or one hundred forty-four (144) hours per year (accrued at the rate of 5.538 for 26 pay periods annually) during the eleventh (11th) through fifteenth (15th) years of service;
 4. Thirteen (13) hours per month or one hundred fifty-six (156) hours per year (accrued at the rate of 6.000 for 26 pay periods annually) during the sixteenth (16th) through the twentieth (20) years of service; and
- E. Employees appointed to a full-time position in this bargaining unit before October 11, 2011 shall be credited with vacation leave at the following rates based upon the length of service:
1. With the leave accruals in Article VIII, Section 2, Item D, numbers 1 – 4; and
 2. Sixteen (16) hours and forty (40) minutes (16.66 hours) per month or one hundred ninety-nine point two (199.92) hours per year (accrued at the rate of 7.689_hours bi-weekly for 24 of the 26 pay periods annually) after the twenty-first year and following years of service.
- F. City Hall will be closed on all workdays between the Christmas Eve and New Year Holidays. Except as otherwise determined by the City Manager, City services will be suspended and employees will not be

scheduled to work during this time. Employees shall be allowed to utilize available vacation hours or compensatory leave to remain in paid status while City services are suspended during this time.

SECTION 3 – HOLIDAY LEAVE: If a holiday falls on a day on which an employee is not scheduled to work, that employee shall be entitled to a floating holiday which must be utilized within one year of its accrual.

SECTION 4 – SICK LEAVE: Bargaining unit members will be subject to the following sick leave policy:

- A. Employees may accrue an unlimited number of sick leave hours.
- B. All employees who have accrued in excess of 330 hours may opt to be paid for up to 80 hours on a dollar for-dollar basis one-time per fiscal year during the payroll that includes March 31st;
- C. Employees leaving City employment shall be eligible to receive monetary compensation for any unused sick leave. The value of the accrued sick leave shall be calculated based on the employee's anniversary date as illustrated in the chart below:

Years of Service	Value of Sick Leave
5 – 10 years	10%
11 – 15 years	15%
16 years and above	20%

ARTICLE IX

TERMINATION PROCEDURES

SECTION 1 – RESIGNATION: An employee absent from work without authorization for three consecutive working days or more, shall be considered to have voluntarily resigned from City service.

ARTICLE X

DISCIPLINARY PROCEDURES

SECTION 1 – LEGITIMATE REASON FOR DISCIPLINARY ACTION: Disciplinary action consists of the discharge, involuntary demotion or suspension of an employee. An employee shall not be discharged, involuntarily demoted or suspended except for a legitimate reason. A legitimate reason for disciplinary action may include, but shall not be limited to the following:

- 1. Violation of administrative orders;
- 2. Failure to properly perform assigned duties;

3. Theft of City property;
4. Insubordination;
5. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
6. Unauthorized absence from employment;
7. Tardiness;
8. Failure to maintain satisfactory working relationships with other employees or the public;
9. Reporting for work, or being at work under the influence of or in possession of alcohol, or non-prescribed controlled substances;
10. Improper use of City funds;
11. Unauthorized use of City property;
12. Failure to properly care for City property;
13. Misstatement of a material fact;
14. Failure to maintain any employment qualification;
15. Willful falsification of any City report or record;
16. Failure to comply with health and safety standards;
17. Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the City.

SECTION 2 – DISCIPLINING AUTHORITY: The City Manager or his/her designee shall have the responsibility to institute a disciplinary action, to schedule and conduct any pre-disciplinary conference and to impose disciplinary action.

SECTION 3 – NOTICE OF DISCIPLINE: Except as otherwise provided in the Personnel Rules, prior to imposing any disciplinary action, the Disciplining Authority shall notify the employee in writing of the nature of the proposed disciplinary action and its proposed effective date; the reason for the proposed disciplinary action; any specific charges against the employee; of the employee's right to receive copies of the written documents and materials upon which the proposed disciplinary action is based; and of the employee's right to respond to the charge, either orally or in writing.

SECTION 4 – REPRESENTATION: If an employee requests or is required to meet with the City Manager, a Department Head or any supervisor, and such meeting involves the possible imposition of disciplinary action against the employee, the employee, upon request, shall be entitled to have one representative present at such meeting.

SECTION 5 – EMERGENCY SUSPENSION: When the Disciplining Authority determines that an employee's conduct threatens or has caused injury to persons or property, or presents the possibility for additional misconduct, the Disciplining Authority may impose a suspension against the employee, effective immediately, until a pre-disciplinary conference is conducted pursuant to the Personnel Rules.

Within three (3) business days of such emergency suspension, the Disciplining Authority shall issue the employee the written notification specified in Section 3, above. The Disciplining Authority, unless otherwise requested by the employee, shall conduct a pre-disciplinary conference in not less than ten (10) days after the effective date of the emergency suspension.

The imposition of an emergency suspension against an employee does not preclude the Disciplining Authority from imposing a more severe disciplinary action against the employee receiving an emergency suspension.

The appeal rights of an employee receiving an emergency suspension shall be governed by the procedures provided for in the Personnel Rules for employees disciplined in a non-emergency situation.

SECTION 6 – REPRIMAND: A reprimand is a written criticism of an employee's work performance or conduct and may be issued to an employee in accordance with administrative orders. While a reprimand in and of itself is not a disciplinary action, it may form the basis of subsequent disciplinary action.

SECTION 7 – ORAL WARNING: An oral warning is a private conference between an employee and a Supervisor or Disciplining Authority at which the employee is informed of a deficiency in performance or conduct and advised as to corrective action which should be taken to improve the performance or conduct in question. A confidential written record shall be made of such a conference and a copy given to the employee. The written record, while not disciplinary action, may form the basis of subsequent disciplinary action.

ARTICLE XI

APPEAL PROCEDURES

SECTION 1 – REQUEST FOR DISCIPLINARY HEARING: Employees shall have the right to appeal the imposition of disciplinary action. When an employee requests a disciplinary hearing, the request shall be in writing, signed by the employee, and presented to the City Manager within ten (10) days after the effective date of the imposition of the disciplinary action. Any such request shall be addressed to the City Manager and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary hearings shall be conducted in

private unless the employee requests, in writing, a public hearing. If the employee fails to request a disciplinary hearing within the prescribed time, the employee shall have waived the right to a hearing and all rights to further appeal of the disciplinary action.

SECTION 2 – SCHEDULING OF DISCIPLINARY HEARING: The City Manager shall schedule any disciplinary hearing within a reasonable time after the filing of the employee's request, considering the availability of a hearing officer and the convenience of the employee and the witnesses.

SECTION 3 – HEARING OFFICER: The City Manager may be the Hearing Officer for a disciplinary hearing or the City Manager may designate any third party as the Hearing Officer.

SECTION 4 – REPRESENTATION AT DISCIPLINARY HEARING: At the disciplinary hearing, the employee may appear personally and may be represented by counsel or other representative. The employee and the City shall have the right to produce and confront witnesses, and to present any relevant oral or documentary evidence.

SECTION 5 – BURDEN OF PROOF AND EVIDENCE: The City shall have the burden of proof at the disciplinary hearing and shall be required to prove the charges against the employee by a preponderance of the evidence. The disciplinary hearing shall not be conducted according to the technical rules of evidence.

SECTION 6 – CONDUCT OF DISCIPLINARY HEARING: The conduct of the disciplinary hearing shall be under the control of the Hearing Officer with due regard for the rights and privileges of the parties. The City Manager shall promulgate reasonable rules and regulations governing the conduct of the disciplinary hearings. The rules and regulations shall be available to employees. During the examination of a witness, the Hearing Officer may exclude from the hearing any and all other witnesses. The Hearing Officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of documents.

SECTION 7 – HEARING OFFICER'S DECISION: Within a reasonable time after the disciplinary hearing, the Hearing Officer shall issue a written decision containing findings of fact and conclusions of law. The Hearing Officer shall have the authority to affirm, revoke or reduce the disciplinary action imposed against the employee. Except as otherwise provided for in this Memorandum of Understanding, the Hearing Officer's decision constitutes a final resolution of any disciplinary action and no further appeal shall be permitted within the City's administrative process.

SECTION 8 – APPEAL OF HEARING OFFICER'S DECISION: If the disciplinary action reviewed by the Hearing Officer constitutes discharge or a suspension of more than ten (10) working days, the City or the employee may request an appeal hearing before the City Council to review the Hearing Officer's decision. If the employee fails to request an appeal hearing within the prescribed time, the employee shall have waived the right to an appeal hearing and all rights to further appeal of the disciplinary action.

SECTION 9 – REQUEST FOR APPEAL HEARING: When an employee requests an appeal hearing, the request shall be in writing, signed by the employee and filed with the City Council within ten (10) business days after the notification of the Hearing Officer's decision. The appeal shall be addressed to the City Council and shall identify the decision appealed from the grounds for the appeal and the relief requested by the employee. All appeal hearings shall be conducted in private unless the employee requests, in writing, a public hearing. The City Council shall schedule any appeal hearing within a reasonable time and conduct any appeal hearing within fifteen (15) business days after the filing of the appeal.

SECTION 10 – REPRESENTATION AT APPEAL HEARING: At the appeal hearing, the employee may appear personally and may be represented by counsel or other representative. The employee and the City shall have the right to present oral and written arguments to the City Council.

SECTION 11 – CITY COUNCIL'S DECISION: The decision of the City Council shall be in writing and contain findings of fact and conclusions of law within ten (10) working days following the hearing. The City Council may affirm, revoke or reduce the decision of the Hearing Officer. Except as otherwise provided for in this Memorandum of Understanding, the City Council's decision shall constitute a final resolution of any disciplinary action and no further appeal shall be permitted within the City's administrative process.

SECTION 12 – BINDING ARBITRATION: If the decision of the City Council constitutes the discharge of an employee or the suspension of an employee for more than ten (10) working days, the SEMEMTA president, or his/her designee, may request that the City Council's decision be submitted to arbitration as provided within Personnel Rule XIV, Section 5.

ARTICLE XII

GRIEVANCE PROCEDURES

SECTION 1 – PURPOSE OF GRIEVANCE PROCEDURES: The grievance procedures shall be used to resolve employee complaints concerning the express terms and conditions of employment with the City. Article XIII, Grievance Procedures, shall not apply to any classification, position or employment covered by this MOU that is included in the unclassified service, or that is otherwise excluded from the classified service. The grievance procedures shall not be used for:

- A. The resolution of any complaint concerning any disciplinary action; or
- B. The resolution of any complaint concerning any aspect of the employment examination process.

SECTION 2 – MATTERS SUBJECT TO GRIEVANCE PROCEDURE:

- A. A violation of a specific term of this Memorandum of Understanding between the City and the Association;
- B. Improper application of rules, regulations and procedures;
- C. Unfair treatment, including coercion, restraint or reprisal;
- D. The impact of a reduction in force action (layoff);
- E. Promotion procedures unfairly implemented;
- F. Discrimination because of race, religion, color, creed, disability, sex, marital status, national origin or sexual orientation; or
- G. Any other matter affecting the terms and conditions of employment.

SECTION 3 – GENERAL PROCEDURES:

- A. Any grievance not filed or appealed to the next step within the time limits established in the grievance procedures shall be deemed settled on the basis of the last decision and not subject to further appeal or reconsideration.
- B. Failure by City to reply to a grievance within the time limits established in the grievance procedures shall automatically grant the right to process the grievance to the next level.
- C. By mutual agreement and for good cause, any level of review, or any time limits established in these procedures, may be waived or reasonably extended in writing at any step in the grievance procedure.
- D. By mutual agreement, the grievance may revert to a prior level for reconsideration.
- E. If a grievance is returned to the employee for insufficiency, the City will state in writing the reasons for the return. If the grievance was timely filed initially, new time limits for filing a revised grievance shall commence in accordance with Section 5 (B) of these procedures.
- F. The settlement of any specific complaint(s) or grievance(s) shall not constitute a precedent for settlement of complaints or grievances, nor for the interpretation of this Memorandum of Understanding to other individuals or circumstances.

SECTION 4 – RIGHTS, RESPONSIBILITIES AND RESTRICTIONS:

- A. Employees have the right to the assistance of a representative of their choice in the preparation of their written grievance and to represent them

in formal or informal grievance meetings. The grievant may be required by either party to be present in any or all meetings, related to their grievance.

- B. An employee selected as a representative in a grievance must obtain the permission of his/her supervisor to be absent from his/her duties to attend a grievance meeting. The employee representative shall provide his/her supervisor with reasonable advance notice to ensure that his/her absence will not interfere with City operations.
- C. Grievances may be submitted on City time. In scheduling the time, place and duration of any grievance meeting, the operational needs of the City shall be of paramount consideration. Neither the grievant nor the City shall lose their rights because of limitations in scheduling meetings or limitations placed on the release of an employee representative due to the operational needs of the City.
- D. Only a person selected by a grievant and made known to the City prior to a scheduled formal grievance shall have the right to represent or advocate as an employee's representative.
- E. Only persons who have direct, first-hand knowledge of the event(s) giving rise to the grievance may be called as witnesses.
- F. Supervisors and department heads have the responsibility to inform an employee of any limitation of their authority to fully resolve a grievance. Employees have the responsibility to state clearly and concisely the specific action(s) being grieved, the article(s) allegedly violated, and the specific remedy requested.

SECTION 5 – GRIEVANCE PROCEDURES:

- A. Informal Discussion of Grievance: Within seven (7) business days from the occurrence of the matter on which a complaint is based, or within seven (7) business days from his/her knowledge of such occurrence, an employee shall informally discuss the matter with their immediate supervisor. If after such a discussion, the grievance has not been satisfactorily resolved, the employee shall have the right to file a formal grievance.
- B. First Level of Review: Within seven (7) business days after the informal discussion of the grievance with the employee's immediate supervisor, the employee shall have the right to file a formal written grievance with the employee's immediate supervisor. All formal grievances shall comply with the requirements of Section 4.G, above. Within seven (7) business days of receiving a formal written grievance, the immediate supervisor shall render a decision in writing to the employee on the original copy of the grievance. Should the grievance contain more than one issue, the grievant may accept any decision in part, and may continue the grievance process until all issues are resolved.

- C. Second Level of Review: Within seven (7) business days from his/her receipt of the immediate supervisor's written decision, and using the returned original copy of the grievance form, the employee may appeal the supervisor's decision to the City Manager, using the original copy of the grievance form. Within ten (10) business days from receipt of the employees' grievance, the City Manager or his/her designee who has not been involved in the grievance in the prior two (2) levels shall review the grievance and render a written decision and the reasons therefore to the employee. The decision of the City Manager shall conclude the administrative procedures for the grievance. Again, should the grievance be partially resolved at this level, the grievant may accept the partial resolution and continue the grievance process until all issues are resolved.

SECTION 6 – BINDING ARBITRATION:

- A. Within twenty (20) business days from the receipt of the written decision of the City Manager or his/her designee, or should the City Manager or his/her designee fail to render a decision within the time period provided by these procedures, the SEMEMTA president or his/her designee, may request that a grievance be submitted to arbitration as provided for hereinafter.
- B. Only those grievances that directly concern or involve the interpretation or application of the specific terms and conditions of this Memorandum of Understanding may be submitted to arbitration hereunder. In no event shall such arbitration extend to:
1. The interpretation, application, merits or legality of any federal, state or local law or ordinance, including specifically all ordinances adopted by the City Council.
 2. The interpretation, application, merits or legality of the exercise of the City's exclusive rights and authorities as specified in Article V of this Memorandum of Understanding.
- C. In the event SEMEMTA desires to request that a grievance, which meets the requirements of Section 6.B hereof, be submitted to arbitration, it shall, within the time requirements set forth above, transmit a written request to the State Mediation & Conciliation Service with a copy thereof simultaneously transmitted to the City Manager.
- D. The parties shall select a mutually acceptable arbitrator. If the parties cannot agree on an arbitrator, they shall notify the State Mediation & Conciliation Service and request that they provide the parties with a list of five names from which the parties will attempt to mutually select an arbitrator. If the parties cannot mutually agree upon an arbitrator from the list of arbitrators provided by the State Mediation & Conciliation Service,

they will select an arbitrator through an alternate striking of names from that list. The last remaining name on the list will be the selected arbitrator. The party to strike the first name will be determined by chance.

- E. Arbitration of a grievance hereunder shall be limited to the formal grievance as originally filed by the employee to the extent that said grievance has not been resolved. Arbitration hereunder shall be conducted in accordance with applicable rules and procedures adopted or specified by the State Mediation & Conciliation Service unless the parties hereto agree to other rules or procedures for the conduct of such arbitration. The fees and expenses of the arbitrator shall be shared equally by the parties involved. All other expenses including but not limited to fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration will be the responsibility of the party incurring such cost, unless otherwise agreed by the parties. The parties involved shall share the costs of transcripts and similar materials required or requested by the arbitrator equally.
- F. Prior to a hearing by an arbitrator, a representative of the City and the Association shall meet and prepare a joint statement setting forth the issue(s) to be determined which shall be submitted to the arbitrator. In the event the City and the Association cannot agree on the joint statement, each party shall present to the arbitrator, at the hearing, its own submission statement; in which case the arbitrator shall determine which of the submitted issues are to be resolved.
- G. The decision of the arbitrator resulting from any arbitration of grievances hereunder shall not add to, subtract from, or otherwise modify the terms and conditions of this Memorandum of Understanding.
- H. The decision of the arbitrator shall be binding upon the Association. To the extent the decision and award of the arbitrator does not require action by the City Council, such decision and award shall be binding upon the City. If within sixty (60) business days of receiving notice of a decision and award requiring action by the City Council, such action is not taken, the Association may then resort to a court of competent jurisdiction to pursue whatever other legal remedies are available to it under this Memorandum of Understanding.

THIS MEMORANDUM OF UNDERSTANDING is hereby executed by the authorized representatives of the CITY OF SOUTH EL MONTE and the SOUTH EL MONTE EXECUTIVE MANAGEMENT TEAM ASSOCIATION ("Association" or "SEMEMTA") and shall become effective when the same has been ratified and adopted by resolution of the City Council of the City of South El Monte.

Representatives of the South El Monte
Executive Management Team Association

Management Representatives of the City
South El Monte

SEMEMTA Representative

Date

Rene Salas
Interim City Manager

Date

SEMEMTA Representative

Date

SEMEMTA Representative

Date



City Council Agenda Report

Agenda Item No. 5.a.

DATE: August 2, 2022

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rene Salas, Interim City Manager

SUBMITTED BY: Anthony R. Taylor, City Attorney

SUBJECT: CONSIDERATION AND APPROVAL OF RESOLUTIONS, SUBMITTING A CITY BALLOT MEASURE THAT, IF APPROVED BY THE VOTERS, WOULD REGULATE ILLEGAL AND LEGAL CANNABIS USES IN THE CITY AND TAX THE SAME; OR, ALTERNATIVELY, PROVIDE DISCUSSION AND DIRECTION ON A ILLEGAL AND LEGAL CANNABIS LAND USE ORDINANCE

SUMMARY: This item is presented for the City Council to consider three options: (1) approval for submittal to the voters of a City ballot measure for the regulation of illegal and legal cannabis uses in the City that (if directed by Council) will be considered by the voters at the November 2022 election, (2) discussion and direction concerning an illegal and legal cannabis land use ordinance, or (3) take no action.

RECOMMENDED ACTION: The City Attorney recommends that City Council select Option 1, Submit the Measure without alteration to the voters at a general municipal election on November 8, 2022, by adopting Resolutions No. 22-68, Calling for a General Municipal Election and Submitting a City Measure to the Voters; Resolution No. 22-69, Authorizing Direct Arguments in Favor and Against the City Measure and Directing the City Attorney to Draft an Impartial Analysis; and Resolution No. 22-70, Authorizing Rebuttal Arguments for City Cannabis Measure.

FISCAL IMPACT: City staff has requested an estimate of costs from the LA County Registrar of Voters for submitting the Measure to the next General Municipal Election (November 8, 2022). This cost is approximately \$6,794.

Additionally, the City will still bear all other related costs. For example, the City will have to pay for its own costs in terms of staff and legal costs spent in preparing the necessary documents, including this report, for the Measure. These costs could also include, but not be limited to, any potential legal challenges relating to the Measure, its validity, and related election. Additional financial information will be provided as City staff receives it.

CEQA COMPLIANCE: City staff has determined that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to both the exemption provided by Section 26055(h) of the State Business and Professions Code as well as Sections 15060(c)(3) and 15061(b)(3) of the CEQA Guidelines.

DISCUSSION: At the July 26, 2022 City Council meeting, the Council considered a draft ordinance and discussed certain edits thereto, including certain edits proposed by Mr. Mark Ramos of UFCW Local 1428. These edits have been completed for the Council’s consideration at tonight’s special meeting. The City Attorney’s office has drafted the illegal and legal cannabis regulation, land use and tax ordinance (**Attachment D**), and has prepared the necessary resolutions for Council’s approval to submit the measure to the voters (**Attachments A through C**). This ordinance provides that it is the intent of the People that if the City’s Ordinance receives a greater number of affirmative votes than the conflicting proponent’s cannabis measure at the November election, the City’s Ordinance shall prevail in its entirety over the conflicting citizen measure.

Option 1: City Ballot Measure:

The City has been plagued by an increase in illegal cannabis operations. Additional details have been discussed at recent Council meetings. The LA County Sheriff’s Department (“LASD”) and City Code Enforcement have made strong efforts to shut down those illegal cannabis operations in the City but the illegal cannabis operations have continued to harm the community. The Los Angeles District Attorney is also not regularly prosecuting the illegal cannabis criminal cases according to recent reports by LASD.

The City’s ballot measure imposes a tax and penalties on any such illegal cannabis operations.

The City’s Measure would impose a general tax of not more than 6% upon the proceeds of all illegal and legal cannabis business in the City other than cultivation, and not more than \$10 per square foot (subject to annual increases bases on CPI) of all space used for commercial cannabis cultivation. The tax would apply to permitted cannabis retailer businesses as well as to any businesses operating unlawfully or without permits, and any businesses that may be allowed or permitted pursuant to a future amendment to the City’s cannabis ordinance. Failure to pay the tax due when required would subject the business to imposition of strict penalties and interest. The ordinance would set the maximum tax rates as well as the maximum penalty and interest rates, and the maximum rates would apply by default upon effectiveness of the ordinance, but would allow the City Council to subsequently adjust the rates by resolution as it sees fit, provided the rates cannot be adjusted above the voter-approved maximums without further voter approval. The revenue of this tax would be for unrestricted general revenue purposes. For example, this tax revenue could be used to pay for City services such as police, fire and emergency services, and public works services such as maintenance, repairs, and improvements for street, sidewalk, sewer and other infrastructure.

Attachment A calls the election and submits the Measure to the voters. It also contains the proposed ballot question/label.

Attachment B provides a resolution concerning direct arguments in favor and against for the Measure. It authorizes, but does not require, any councilmembers to draft and submit direct arguments. This resolution also sets priorities pursuant to State law for

choosing among multiple arguments submitted. This resolution also directs the City Attorney to draft an impartial analysis of the Measure.

Attachment C provides a resolution authorizing rebuttal arguments. Rebuttal arguments are prepared by the opposite authors of the primary written arguments. Rebuttal arguments are optional under state law and are allowed at the discretion of the City Council.

At least 4 affirmative votes by the City Council are required to approve submittal of the Measure to the voters. As a general tax, only a majority of the voters (50%+1) must approve the Measure at the November election.

Option 2: City Land Use Ordinance:

Should the City Council decide not to place a City cannabis measure on the November ballot, then the City Council can provide direction to the City Attorney and City staff on a cannabis land use ordinance. That cannabis land use ordinance can be based on the text of the City ballot measure (excluding the tax components). Without a City ballot measure, no tax can occur as a matter of law, because any such tax requires voter approval.

Option 3: Take No Action:

Finally, another option is for the City Council to take no action. The proponent's cannabis measure will be voted on at the November election. The City Attorney and members of the public have expressed concern about the legality of the proponent's ballot measure. The City has reserved its legal rights concerning the enforcement of the proponent's ballot measure if it is approved by the voters in November.

ATTACHMENT(S):

- A. Resolution No. 22-68 Calling for an Election on City Cannabis Measure and Requesting Consolidation
- B. Resolution No. 22-69 Authorizing Direct Arguments and Ordering Drafting of Impartial Analysis on City Cannabis Measure
- C. Resolution No. 22-70 Authorizing Rebuttal Arguments for City Cannabis Measure
- D. Draft Ordinance No. 1260
- E. Redlined Ordinance Comparison

ATTACHMENT A

RESOLUTION NO. 22-68

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A CITY PROPOSITION TO ENACT AN ORDINANCE TO PERMIT/REGULATE COMMERCIAL CANNABIS RETAILER OPERATIONS AND IMPOSE A GENERAL TAX ON ALL COMMERCIAL CANNABIS OPERATIONS; AND, IN ACCORDANCE THEREWITH, REQUESTING THE COUNTY OF LOS ANGELES TO CONSOLIDATE THE SUBMISSION OF THIS MEASURE AT THE CITY'S GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, on June 14, 2022 by adoption of Resolution No. 22-43, the City Council called and gave notice of the holding of a general municipal election on November 8, 2022, for the purposes of filling two City Council seats for full 4 year terms each, and requesting the County of Los Angeles to consolidate thereof with the statewide general election to be held on that date pursuant to Elections Code Section 10403; and

WHEREAS, on July 26, 2022, by adoption of Resolution No. 22-63, the City Council called and gave notice of the holding of a general municipal election on November 8, 2022, for the purpose of submitting to the voters a citizen initiative to allow certain cannabis businesses within the City, to establish an excise tax on the retail sale of cannabis and edibles, and to regulate personal cannabis use, and requesting the County of Los Angeles to consolidate the submission of the citizen initiative measure at the general municipal election on November 8, 2022 with the statewide general election to be held on that date pursuant to Elections Code Section 10403; and

WHEREAS, pursuant to California Elections Code Section 9222 and Government Code Sections 53720 *et seq.*, the City Council of the City of South El Monte now desires to also submit a City proposition to enact an ordinance entitled "ORDINANCE NO. 1260, AN ORDINANCE ("ORDINANCE") OF THE PEOPLE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, AMENDING CHAPTER 5.26 (CANNABIS ACTIVITIES) OF TITLE 5 OF THE SOUTH EL MONTE MUNICIPAL CODE TO ONLY PERMIT CANNABIS COMMERCIAL OPERATIONS THAT INVOLVE THE ACTIVITY OF RETAILER (MEDICAL-ONLY AND MEDICAL/ADULT USE); REPEALING CHAPTER 17.31 OF TITLE 17 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO CANNABIS ACTIVITY PROHIBITIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTIONS 17.14.030, 17.16.030, AND 17.18.030(O), RELATING TO PERMITTED USES IN THE COMMERCIAL (C), COMMERCIAL-MANUFACTURING (C-M), AND MANUFACTURING (M) ZONES; ADDING SECTION 9.08.045 TO CHAPTER 9.08 OF TITLE 9 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO THE DISPLAY AND SALE OF PARAPHERNALIA FOR THE CONSUMPTION OF CANNABIS IN PERMITTED COMMERCIAL CANNABIS OPERATIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTION 5.04.045,

RELATING TO BUSINESS LICENSE REQUIREMENTS FOR COMMERCIAL CANNABIS RETAILERS; AND APPROVING A GENERAL CANNABIS BUSINESS TAX BY ADDING CHAPTER 3.40 (CANNABIS BUSINESS TAX) TO TITLE 3 OF THE SOUTH EL MONTE MUNICIPAL CODE,” a copy of which is attached hereto as Exhibit “A,” (the “Measure”) to the voters of the City at the General Municipal Election on November 8, 2022; and

WHEREAS, it is desirable that the General Municipal Election on the Measure also be consolidated with the Statewide General election to held on the same date and that within the City of South El Monte the precincts, polling places, and election officers of the two elections be the same, and that the Los Angeles County Registrar of Voters canvass the returns of the General Municipal Election and the election be held in all respects as if there were only one election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That pursuant to the requirements of the California Elections Code Sections 306, 9222, and 1301 and Government Code Sections 53720 *et seq.*, there is called and ordered to be held in the City of South El Monte, California, on Tuesday, November 8, 2022, a General Municipal Election for the purpose of submitting to the Measure to the voters of the City of South El Monte. As required by Elections Code Section 13247, the abbreviated form of the Measure to appear on the ballot is specified below in Section 2 of this Resolution. The Measure shall be entitled the “South El Monte City Cannabis Measure.” The City’s elections official is hereby authorized and directed to make any changes to this proposition, text of the ballot label below or this resolution as required to conform to any requirements of law.

Section 2. That the City Council of the City of South El Monte hereby orders the following City proposition be submitted to the voters at the aforementioned general municipal election:

Shall the measure, permitting and thoroughly regulating limited cannabis retail businesses (1 adult-use/2 medical with option to add 1 adult-use in the measure’s 2 nd year), establishing a general tax at a maximum 6% of noncultivation cannabis business proceeds and \$10/square foot of cultivation space (with CPI increases) applicable to permitted/unpermitted businesses, generating approximately \$720,000 annually until ended by voters, for general City services (e.g., police, fire, public works), be adopted?	YES
	NO

Section 3. That the text of the proposed ordinance as provided above that is to be submitted to the voters is attached as Exhibit A of this Resolution (“Measure”), and the City Council hereby approves its submission to the voters at the November 8, 2022, general municipal election.

Section 4. That the vote requirement for the Measure to pass is a majority (50%+1) of the votes cast.

Section 5. That the City's elections official is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

Section 6. That the ballots to be used at the election shall be in form and content as required by law, and that the election shall be held and conducted in the manner prescribed by law.

Section 7. Pursuant to California Election Code Section 10242, the polls for the General Municipal Election shall open at seven o'clock a.m. on the day of the election, and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as otherwise provided in California Election Code Section 14401.

Section 8. That in all particulars not recited in this Resolution, the General Municipal Election shall be held and conducted in accordance with the provisions of law regulating municipal and statewide elections, including, without limitation, Section 10418 of the Elections Code.

Section 9. That notice of the time and place of holding the General Municipal Election is hereby given and the City's elections official is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner required by law.

Section 10. That pursuant to Sections 10402 and 10403 of the Elections Code, the Los Angeles County Board of Supervisors is hereby requested to consent and agree to the consolidation of the General Municipal Election with the election conducted by Los Angeles County to be held on Tuesday, November 8, 2022.

Section 11. That the Los Angeles County Registrar of Voters is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 12. That the Los Angeles County Board of Supervisors is requested to issue instructions to the Los Angeles County Registrar of Voters to take any and all necessary steps for the holding of this consolidated election.

Section 13. That the City of South El Monte recognizes that additional costs will be incurred by Los Angeles County by reason of this consolidation and agrees to reimburse Los Angeles County for any costs.

Section 14. That the elections official is hereby directed to file a certified copy of this resolution with the Los Angeles County Board of Supervisors and the Los Angeles County Registrar of Voters.

Section 15. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED this 2nd day of August, 2022.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 22-68 was passed and approved by the City Council of the City of South El Monte, at a regular meeting of said Council held on the 2nd day of August, 2022 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

Exhibit A

Ordinance/Text of Measure

ATTACHMENT B

RESOLUTION NO. 22-69

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL, AUTHORIZING THE DRAFTING OF DIRECT ARGUMENTS, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S), AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, REGARDING A CITY PROPOSITION TO ENACT AN ORDINANCE TO PERMIT/REGULATE COMMERCIAL CANNABIS RETAILER OPERATIONS AND IMPOSE A GENERAL TAX ON ALL COMMERCIAL CANNABIS OPERATIONS, SUBMITTED AT THE GENERAL MUNICIPAL ELECTION ON NOVEMBER 8, 2022

WHEREAS, pursuant to California Elections Code Section 9222 and Government Code Sections 53720 *et seq.*, the City Council approved and called an election for the purpose of submitting to the voters a City proposition to enact an ordinance entitled “ORDINANCE NO. 1260, AN ORDINANCE (“ORDINANCE”) OF THE PEOPLE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, AMENDING CHAPTER 5.26 (CANNABIS ACTIVITIES) OF TITLE 5 OF THE SOUTH EL MONTE MUNICIPAL CODE TO ONLY PERMIT CANNABIS COMMERCIAL OPERATIONS THAT INVOLVE THE ACTIVITY OF RETAILER (MEDICAL-ONLY AND MEDICAL/ADULT USE); REPEALING CHAPTER 17.31 OF TITLE 17 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO CANNABIS ACTIVITY PROHIBITIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTIONS 17.14.030, 17.16.030, AND 17.18.030(O), RELATING TO PERMITTED USES IN THE COMMERCIAL (C), COMMERCIAL-MANUFACTURING (C-M), AND MANUFACTURING (M) ZONES; ADDING SECTION 9.08.045 TO CHAPTER 9.08 OF TITLE 9 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO THE DISPLAY AND SALE OF PARAPHERNALIA FOR THE CONSUMPTION OF CANNABIS IN PERMITTED COMMERCIAL CANNABIS OPERATIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTION 5.04.045, RELATING TO BUSINESS LICENSE REQUIREMENTS FOR COMMERCIAL CANNABIS RETAILERS; AND APPROVING A GENERAL CANNABIS BUSINESS TAX BY ADDING CHAPTER 3.40 (CANNABIS BUSINESS TAX) TO TITLE 3 OF THE SOUTH EL MONTE MUNICIPAL CODE” (the “Measure”) at the November 8, 2022, General Municipal Election, and requested that the General Municipal Election be consolidated with the Statewide General Election to be held on that date; and

WHEREAS, therefore, a General Municipal Election is to be held in the City of South El Monte, California, on November 8, 2022, at which the Measure will be submitted to the voters; and

WHEREAS, the City Council now wishes to authorize City Council members to prepare written arguments for the Measure.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That pursuant to Election Code §§ 9282 and 9287, the City Council hereby authorizes, but does not require, any member of the City Council members to prepare written arguments for the Measure.

Section 2. That in the event that more than one argument for or against the Measure is timely submitted, the City Council's duly appointed elections official shall give preference and priority first, to arguments submitted by a member of the City Council, as authorized by this Resolution, and second, to individual voters, bona fide associations, or a combination thereof, in the order set forth at California Elections Code § 9287.

Section 3. That in accordance with the requirements of Division 9, Chapter 3, Article 4 of the California Elections Code, all written arguments for or against the Measure: (1) shall not exceed three hundred (300) words in length; (2) shall be filed with the City's elections official; (3) shall be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of the principal officers who is the author of the argument; and (4) shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. **All written arguments may be changed or withdrawn until and including the date fixed by the City's elections official, after which time no arguments for or against the foregoing measure may be submitted to the elections official.**

Section 4. That the City Council hereby directs the City's elections official to transmit a copy of the Measure to the City Attorney. In accordance with California Elections Code § 9280, the City Attorney is hereby directed to prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the Measure on the existing law and the operation of the Measure. The analysis shall include a statement indicating whether the Measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the City. In the event the entire text of the Measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows: "The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you." **The impartial analysis shall be filed by the date set by the City's elections official for the filing of primary arguments.**

Section 5. That the City's elections official shall cause the City Attorney's Impartial Analysis, and duly selected arguments, to be printed and distributed to voters in accordance with State law regarding same.

Section 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED this 2nd day of August, 2022.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. was passed and approved by the City Council of the City of South El Monte, at a regular meeting of said Council held on the 2nd day of August, 2022 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

ATTACHMENT C

RESOLUTION NO. 22-70

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING A CITY PROPOSITION TO ENACT AN ORDINANCE TO PERMIT/REGULATE COMMERCIAL CANNABIS RETAILER OPERATIONS AND IMPOSE A GENERAL TAX ON ALL COMMERCIAL CANNABIS OPERATIONS, SUBMITTED AT THE GENERAL MUNICIPAL ELECTION ON NOVEMBER 8, 2022

WHEREAS, pursuant to California Elections Code Section 9222 and Government Code Sections 53720 *et seq.*, the City Council approved and called an election for the purpose of submitting to the voters a City proposition to enact an ordinance entitled “ORDINANCE NO. 1260, AN ORDINANCE (“ORDINANCE”) OF THE PEOPLE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, AMENDING CHAPTER 5.26 (CANNABIS ACTIVITIES) OF TITLE 5 OF THE SOUTH EL MONTE MUNICIPAL CODE TO ONLY PERMIT CANNABIS COMMERCIAL OPERATIONS THAT INVOLVE THE ACTIVITY OF RETAILER (MEDICAL-ONLY AND MEDICAL/ADULT USE); REPEALING CHAPTER 17.31 OF TITLE 17 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO CANNABIS ACTIVITY PROHIBITIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTIONS 17.14.030, 17.16.030, AND 17.18.030(O), RELATING TO PERMITTED USES IN THE COMMERCIAL (C), COMMERCIAL-MANUFACTURING (C-M), AND MANUFACTURING (M) ZONES; ADDING SECTION 9.08.045 TO CHAPTER 9.08 OF TITLE 9 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO THE DISPLAY AND SALE OF PARAPHERNALIA FOR THE CONSUMPTION OF CANNABIS IN PERMITTED COMMERCIAL CANNABIS OPERATIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTION 5.04.045, RELATING TO BUSINESS LICENSE REQUIREMENTS FOR COMMERCIAL CANNABIS RETAILERS; AND APPROVING A GENERAL CANNABIS BUSINESS TAX BY ADDING CHAPTER 3.40 (CANNABIS BUSINESS TAX) TO TITLE 3 OF THE SOUTH EL MONTE MUNICIPAL CODE” (the “Measure”) at the November 8, 2022, General Municipal Election, and requested that the General Municipal Election be consolidated with the Statewide General Election to be held on that date; and

WHEREAS, therefore, a General Municipal Election is to be held in the City of South El Monte, California, on November 8, 2022, at which the Measure will be submitted to the voters; and

WHEREAS, California Elections Code Section 9285 authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments regarding city measures submitted at municipal election; and

WHEREAS, the City Council now wishes to provide for the filing of rebuttal arguments for the Measure.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That pursuant to Elections Code Section 9285, when the City's elections official has selected the arguments for and against the Measure which will be printed and distributed to the voters, the City's elections official shall send copies of the argument in favor of the Measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. The author or a majority of the authors of an argument relating to the Measure may prepare and submit a rebuttal argument not to exceed two hundred and fifty (250) words in length. A rebuttal argument may not be signed by more than five (5) authors. The rebuttal arguments shall be filed with the City Clerk not more than ten (10) days after the final date for filing direct arguments. The rebuttal arguments shall be accompanied by the Form of Statement to be Filed by Author(s) of Argument as provided for in California Elections Code § 9600. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

Section 2. That the provisions of Section 1 of this Resolution shall apply only to the General Municipal Election to be held on November 8, 2022, and shall then be repealed.

Section 3. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions. This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED this 2nd day of August, 2022.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 22-70, was passed and approved by the City Council of the City of South El Monte, at a regular meeting of said Council held on the 2nd day of August, 2022 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

ATTACHMENT D

ORDINANCE NO. 1260

AN ORDINANCE (“ORDINANCE”) OF THE PEOPLE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, AMENDING CHAPTER 5.26 (CANNABIS ACTIVITIES) OF TITLE 5 OF THE SOUTH EL MONTE MUNICIPAL CODE TO ONLY PERMIT CANNABIS COMMERCIAL OPERATIONS THAT INVOLVE THE ACTIVITY OF RETAILER (MEDICAL-ONLY AND MEDICAL/ADULT USE); REPEALING CHAPTER 17.31 OF TITLE 17 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO CANNABIS ACTIVITY PROHIBITIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTIONS 17.14.030, 17.16.030, AND 17.18.030(O), RELATING TO PERMITTED USES IN THE COMMERCIAL (C), COMMERCIAL-MANUFACTURING (C-M), AND MANUFACTURING (M) ZONES; ADDING SECTION 9.08.045 TO CHAPTER 9.08 OF TITLE 9 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO THE DISPLAY AND SALE OF PARAPHERNALIA FOR THE CONSUMPTION OF CANNABIS IN PERMITTED COMMERCIAL CANNABIS OPERATIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTION 5.04.045, RELATING TO BUSINESS LICENSE REQUIREMENTS FOR COMMERCIAL CANNABIS RETAILERS; AND APPROVING A GENERAL CANNABIS BUSINESS TAX BY ADDING CHAPTER 3.40 (CANNABIS BUSINESS TAX) TO TITLE 3 OF THE SOUTH EL MONTE MUNICIPAL CODE

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

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

WHEREAS, in October 2015, the State legislature adopted AB 266, AB 243, and SB 643, collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), which established a comprehensive regulatory and licensing scheme for commercial medical cannabis operations; and

WHEREAS, at the November 8, 2016 general election, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) was approved by State voters as Proposition 64, which established a comprehensive regulatory and licensing scheme for commercial adult-use (recreational) cannabis operations, and which also legalized limited personal recreational cannabis use, possession, and cultivation; and

WHEREAS, on June 27, 2017 Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

Ordinance No. 1260

Page 1 of 53

WHEREAS, under MAUCRSA the State began issuing licenses in 2018 for both medical and adult-use (recreational) cannabis businesses in twenty (20) different categories, which are found in Section 26050 of the State Business & Professions Code, to include licensing categories cannabis cultivators, manufacturers, testers, retailers, distributors, and microbusinesses; and

WHEREAS, the MAUCRSA, through Section 26200(a)(1) of the State Business and Professions Code, provides local jurisdictions the right to completely prohibit the establishment or operation of any or all of the twenty (20) different categories of medical and recreational business operations to be licensed by the State under Section 26050 of the State Business and Professions Code; and

WHEREAS, the MAUCRSA, through Section 26055(d) of the State Business & Professions Code, provides that a State commercial cannabis license may not be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation; and

WHEREAS, the MAUCRSA, through Section 26200(a)(1) of the State Business & Professions Code, provides local jurisdictions the right to adopt and enforce local ordinances to regulate any or all of the twenty (20) different categories of medical and adult-use business operations to be licensed by the State under Section 26050 of the State Business and Professions Code, including, but not limited to, local zoning and land use requirements; and

WHEREAS, the MAUCRSA, Section 26201 of the State Business and Professions Code, provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state for the twenty (20) different categories of medical and adult-use business operations to be licensed by the State under Section 26050 of the State Business and Professions Code shall be the minimum standards, and a local jurisdiction may establish additional standards, requirements, and regulations; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City of South El Monte (the “City”) now desires to amend Chapter 5.26 (Cannabis Activities) of Title 5 of the City Municipal Code to permit certain commercial adult-use cannabis uses (retail (medical / adult-use / non-medical) sales); and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City now desires to amend Chapter 5.26 (Cannabis Activities) of Title 5 of the City Municipal Code so as to expressly authorize the City Manager to issue administrative rules and regulations governing commercial cannabis uses within the City; and

WHEREAS, as part of this Ordinance, the City desires to impose a tax upon commercial cannabis operations, to be known as the “Cannabis Business Tax,” pursuant to voter approval, so that every person engaged in conducting a commercial cannabis operation shall pay a cannabis business tax, regardless of whether such operation has a valid permit pursuant to the South El Monte Municipal Code; and

WHEREAS, pursuant to subdivision (b) of Section 2 of Article XIII C of the California

Ordinance No. 1260

Page 2 of 53

Constitution and Section 53720 *et seq.* of the Government Code, the City Council is authorized to impose a general tax upon submission of such general tax to the voters of the City and approval by a majority of the voters voting on the issue, at an election consolidated with a regularly scheduled general election for members of the City Council; and

WHEREAS, presently the City has no specific local tax on cannabis commercial operations; and

WHEREAS, MAUCRSA and AUMA do not preempt local taxation of commercial cannabis operations; and

WHEREAS, pursuant to Government Code Section 9222 and Government Code Sections 53720 *et seq.*, on August 2, 2022, the City Council approved this Ordinance for submittal to the voters of the City, and called a General Municipal Election for that purpose to be held on November 8, 2022, and consolidated with the Statewide General Election that will be held on the same date; and

WHEREAS, although the City does not desire nor intend by this Ordinance to allow any commercial cannabis uses in the City other than the medical cannabis retailers that may be permitted pursuant to Chapter 5.26 of the City's Municipal Code, the City does desire to seek voter approval for a broad cannabis tax that is applicable to permitted commercial cannabis uses, any unlawful or unpermitted commercial cannabis uses which may be in operation at any time, and any potential commercial cannabis uses that may be allowed in the future; and

WHEREAS, if this Ordinance is approved by a majority of voters, then this Ordinance will, among other amendments, amend the South El Monte Municipal Code to add a new Chapter 3.40 ("Cannabis Business Tax") to Title 3 (Revenue and Finance) of the South El Monte Municipal Code to enact the Cannabis Business Tax, which includes a "commercial cannabis tax" and a "commercial cannabis cultivation tax," as such terms are used in said Chapter 3.40; and

WHEREAS, the City desires and intends that revenue generated from said cannabis taxes can be spent for unrestricted general revenue purposes; and

WHEREAS, the City finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to both the exemption provided by Section 26055(h) of the State Business and Professions Code as well as Sections 15060(c)(3) and 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, nothing in this Ordinance shall be construed to allow any person to engage in conduct that endangers others or causes a public nuisance;

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA FIND AND ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The people of the City of South El Monte hereby make the following findings:

- A. The recitals set forth above are all true and correct and are incorporated herein as findings of fact.
- B. The regulation of commercial cannabis activities established by this Ordinance amendment are to protect and promote the public health, safety and welfare, and are

Ordinance No. 1260

Page 3 of 53

enacted pursuant to the authority granted to the City by State law.

- C. Tax revenue from commercial cannabis operations can provide funds for additional City services to promote and protect the general health and welfare of the citizens of the City.

SECTION 2. NEW CANNABIS REGULATIONS. Chapter 5.26 (Cannabis Activities) of Title 5 (Business Taxes, Licenses, and Regulations) of the City Municipal Code is hereby retitled and amended in its entirety to read as follows:

“CHAPTER 5.26 - COMMERCIAL CANNABIS OPERATIONS REGULATORY PROGRAM

Sec. 5.26.010 - Purpose and intent.

Sec. 5.26.020 - Commercial cannabis operation prohibited without City Commercial Cannabis Operation Permit.

Sec. 5.26.030 - Definitions.

Sec. 5.26.040 - Prohibited commercial cannabis operations.

Sec. 5.26.050 – Permitted commercial cannabis operations.

Sec. 5.26.060 - Maximum number of Commercial Cannabis Operation Permits.

Sec. 5.26.070 - Commercial Cannabis Operation Permit application procedure.

Sec. 5.26.080 - Limitations on the City’s liability.

Sec. 5.26.090 - Commercial Cannabis Operation Permit term.

Sec. 5.26.100 - Change in location; transfer; updated application information.

Sec. 5.26.110 - General operating standards and restrictions.

Sec. 5.26.120 - Retailer operating standards and restrictions.

Sec. 5.26.120.5 - Delivery operating standards and restrictions.

Sec. 5.26.130 – Community benefits agreement.

Sec. 5.26.140 - Administration.

Sec. 5.26.150 - Fees.

Sec. 5.26.160 - Suspension and revocation.

Sec. 5.26.170 – Appeals.

Sec. 5.26.180 – Violations and penalties; public nuisance.

Sec. 5.26.190 - Service of notices.

Sec. 5.26.200 - Prohibitions.

Sec. 5.26.210 - Nonconforming use.

Sec. 5.26.220 – Exceptions.

Sec. 5.26.230 – Operative date.

Sec. 5.26.240 – Severability.

Sec. 5.26.250 – City Council Authority to Amend.

Ordinance No. 1260

Page 4 of 53

Sec. 5.26.260 – City Councilmember Conflicts of Interest.

Sec. 5.26.010 - Purpose and intent.

- A. The purpose of this chapter is to establish a comprehensive set of regulations with an attendant regulatory permit applicable to the operation of certain types of commercial cannabis operations, while simultaneously establishing an express prohibition on certain other types of commercial cannabis operations.
- B. The regulations for, and prohibitions on, specific types of commercial cannabis operations are enacted to preserve the public health, safety, and welfare of the residents and visitors of the City, consistent with the State's Compassionate Use Act of 1996, Medical Marijuana Program Act of 2003, Adult Use of Marijuana Act of 2016 MAUCRSA, and all applicable State laws governing commercial cannabis operations.
- C. The issuance of a Commercial Cannabis Operation Permit shall constitute a revocable privilege and shall not create or establish any vested rights for the development or use of a property.
- D. This chapter and any administrative regulations adopted pursuant to this chapter shall be known as the "Commercial Cannabis Operations Regulatory Program" or the "Program".

Sec. 5.26.020 - Commercial cannabis operation prohibited without City Commercial Cannabis Operation Permit.

It shall be unlawful to own, establish, operate, use, or permit the establishment or activity of a commercial cannabis operation, or to participate in commercial cannabis operations as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this chapter and pursuant to both a current and valid City Commercial Cannabis Operation Permit, as well as the equivalent State license for such commercial cannabis operation as provided for by Section 26050 of the State Business & Professions Code, and as amended from time to time. The prohibition contained in this section shall include renting, leasing, or otherwise permitting a commercial cannabis operation to occupy or use a location, vehicle, or other mode of transportation.

Sec. 5.26.030 - Definitions.

As used in this chapter, the following words and phrases shall have the following meanings. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any reference to State statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- A. "Adult use" (i.e., "recreational" or "non-medical") refers to activity involving cannabis or cannabis products, which is restricted to adults 21 years of age and older and who do not possess a physician's recommendation, in contrast to an activity involving medical cannabis or medical cannabis products.
- B. "Alcohol or drug treatment facility" shall have the same definition as "alcoholism or drug abuse recovery or treatment facility" as defined in Section 11834.02(a) of the State Health and Safety Code, which currently defines the term as "any premises,

Ordinance No. 1260

Page 5 of 53

place, or building that provides residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.” Further, “alcohol or drug treatment facility” shall also include such a facility that provides treatment for minors to the extent permitted by law.

- C. “Applicant” means a person who files an application for a Commercial Cannabis Operation Permit under this chapter. (and shall not include the owners or the managers of the applicant).
- D. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- E. “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- F. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- G. “City” means the City of South El Monte, State of California.
- H. “City Attorney” means the City of South El Monte City Attorney, and includes his/her designee(s).
- I. “City Council” means the City Council of the City of City of South El Monte.
- J. “City Manager” means the City of South El Monte City Manager, and includes his/her designee(s).
- K. “Code” means the City of South El Monte Municipal Code, and may be amended.
- L. “Commercial cannabis operation” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale (including retail and wholesale, and including medical-only and adult-use sales) of cannabis and cannabis products; except, as applicable, the activities provided in Section 5.26.220(A) or as preempted by State law.
- M. “Commercial Cannabis Operation Permit” shall mean a City permit issued pursuant to the procedures provided for in this chapter allows the permit holder to operate a specific type of commercial cannabis operation in the City subject to the requirements

of this chapter, State law, and the specific permit.

- N. “County” means the County of Los Angeles, State of California.
- O. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- P. “Customer” means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age that is a qualified patient or primary caregiver.
- Q. “Day care center” means, a facility other than a family day care home, infant centers, toddler, preschool, and school age children licensed by the State Department of Social Services pursuant to Section 1596.951 of the State Health and Safety Code. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code, this definition of “day care center” under this chapter shall override the definition of “day care center” in MAUCRSA at Section 26001 of the State Business and Professions Code.
- R. “Delivery” means the commercial transfer of cannabis or cannabis products to a customer, and includes the use of any technology platform owned and controlled by the same person making such use.
- S. “Director” means the City of South El Monte Community Development Director, and includes his/her designee(s).
- T. “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed for and/or engaged in commercial cannabis operations under State law.
- U. “Distributor” means a person engaged in distribution.
- V. “Edible” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the State Health and Safety Code, or a drug, as defined by Section 109925 of the State Health and Safety Code.
- W. “Employee” means any person (whether paid or unpaid) who provides regular labor or regular services for a commercial cannabis operation, including, but not limited to, at the location of a commercial cannabis operation. The term “employee” includes managers and owners as used in this chapter.
- X. “Extraction” means the process of obtaining cannabis concentrates from cannabis plants, including but not limited to through the use of solvents like butane, alcohol or carbon dioxide.
- Y. “Finance Director” means the City of South El Monte Finance Director, and includes his/her designee(s).
- Z. “Fire Chief” means the City of Los Angeles County Fire Department Chief, and includes his/her designee(s).
- AA. “Gross receipts” means, except as otherwise specifically provided herein, whether designated as a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise without any

deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

1. Cash discounts where allowed and taken on sales;
 2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser
 3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
 4. Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business
 5. Cash value of sales, trades, or transactions between departments or units of the same business
 6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a given year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered
 7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar; and
 8. Any proceeds resulting from a transfer or change of ownership or control in the business.
- BB. "Identification card" has the same definition as provided for in Section 11362.7(g) of the State Health and Safety Code , and as may be amended, defined as "a document issued by the [State Department of Health Services] that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any."
- CC. "Labeling" means any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.
- DD. "Labor peace agreement" means an agreement between a cannabis retailer and any bona fide labor organization that, at a minimum, protects the City's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with a cannabis retailer. This agreement means that the cannabis retailer has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the cannabis retailer's employees. The agreement shall

provide a bona fide labor organization access at reasonable times to areas in which the cannabis retailer's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under State law, and terms and conditions of employment.

- EE. "Liquid Assets" means assets that can be readily converted into cash. "Liquid assets" include, but are not limited to, the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, and United States savings bonds. "Liquid assets" does not mean household items, furniture and equipment, vehicles, cannabis or cannabis products, business inventory, or real property and improvements thereto.
- FF. "Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.
- GG. "Lighting" means the act of illuminating as well as the effect achieved by the arrangement of lights.
- HH. "Live scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice ("DOJ") that involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.
- II. "Manager" means an employee responsible for management and/or supervision of a commercial cannabis operation including but not limited to, any (i) manager or managing member or other officer of a limited liability company or (ii) president, chief executive officer, secretary, treasurer, chief financial officer, or other officer of a for profit corporation.
- JJ. "Manufacture" or "manufacturing" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product; includes the activities of a manufacturer.
- KK. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis 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 cannabis or cannabis products or labels or relabels its container; includes the activity of manufacturing.
- LL. "Marijuana" has the same definition as provided for "cannabis" in this chapter.
- MM. "MAUCRSA" means the State Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified at Sections 11018 *et seq.* of the State Health and Safety Code, Sections 26001 *et seq.* of the State Business and Professions Code, Section 34010 of the State Revenue and Tax Code, and Sections 81000 *et seq.* of the State Food and Agriculture Department Code, as may hereinafter be amended.
- NN. "Medical" refers to activity involving medical cannabis or medical cannabis products, in contrast to an activity involving adult-use cannabis or adult-use cannabis products.

- OO. “Medical cannabis” or “medical cannabis product” means cannabis or a cannabis product used in compliance with state law for medical purposes, pursuant to the Compassionate Use Act (Section 11362.5 of the State Health and Safety Code §), the Medical Marijuana Program Act (Sections 11362.7, *et seq.* of the State Health and Safety Code), and the MAUCRSA.
- PP. “Minor” means a person under twenty-one (21) years of age.
- QQ. “Owner” means any of the following:
1. A person owning in the aggregate equity interests representing ten (10) percent or more of the voting power of all outstanding equity in the applicant or a commercial permittee.
 2. The president, chief executive officer, secretary, treasurer, or chief financial officer of a nonprofit applicant or permittee; or
 3. A member of the board of directors of a nonprofit applicant or permittee.
- Notwithstanding the above, every applicant and permittee must have at least one individual person designated as an “owner” for the purpose of compliance with this chapter, including the review and evaluation of any Commercial Cannabis Operation Permit application.
- RR. “Microbusiness” shall have the same definition as provided for in Section 26070 of the State Business and Professions Code, and as may be amended.
- SS. “Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- TT. “Operations Officer(s)” shall refer to the Director, the Fire Chief, the Police Chief, the Finance Director and the City Manager, individually or collectively.
- UU. “Package” means any container or receptacle used for holding cannabis or cannabis products.
- VV. “Packaging” or “packages” means an activity involved with placing cannabis or cannabis products in a package.
- WW. “Park” means public land which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, athletic field, basketball court, tennis court, pedestrian or bicycle paths, beaches, open space, or similar public land within the City or which is under the control, operation or management of the City Recreation and Parks Department. “Park” shall not include any youth center.
- XX. “Permittee” means a person issued a Commercial Cannabis Operation Permit by the City.
- YY. “Person” means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- ZZ. “Person with an identification card” has the same definition as provided for in Section 11362.7(c) of the State Health and Safety Code, and as may be amended, defined as

“an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.”

- AAA. “Physician’s recommendation” means a determination from a physician that a patient’s medical cannabis use is deemed appropriate and is recommended by the physician on the basis of the physician has determined that the patient’s health would benefit from the use of cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief, in strict accordance with Section 11362.5 of the State Health and Safety Code.
- BBB. “Police Chief” means the Los Angeles County Sheriff, and includes his/her designee(s).
- CCC. “Police Department” means the Los Angeles County Sheriff’s Department.
- DDD. “Premises” means the designated structure or structures and land specified in a Commercial Cannabis Operation Permit application that is owned, leased, or otherwise held under the control of the applicant or permittee where commercial cannabis operation will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.”
- EEE. “Primary caregiver” has the same definition as provided for in Section 11362.7(d) of the State Health and Safety Code, and as may be amended, defined as “the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person”. A “primary caregiver” shall also meet the requirements of Section 11362.7(e) of the State Health and Safety Code , and as may be amended, which provide that a “primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.”
- FFF. “Qualified patient” has the same definition as provided for in Section 11362.7(f) of the State Health and Safety Code , and as may be amended, defined as “a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.”
- GGG. “Religious institution” means any church, synagogue, mosque, temple, or building which is used primarily for religious worship, religious education, and related religious activities.
- HHH. “Residentially zoned property” means any parcel of land located within the City zoned: R-1 (Single-Family Residential Zone), R-2 (Multiple Residential Zone), or R-3 (Multiple Residential Zone)
- III. “Retailer” means a person engaged in the retail sale or delivery of cannabis or cannabis products to a customer. “Retailer” includes “Retailer (Medical-Only)” and “Retailer (Medical/Adult Use).” “Retailer (Medical-Only)” refers to a retailer which is restricted by the terms of its Commercial Cannabis Operation Permit to engaging in the retail sale or delivery of medical cannabis or cannabis products as stated in Section 5.26.120(A). “Retailer (Medical/Adult-Use)” refers to a retailer which is not so restricted by the terms of its Commercial Cannabis Operation Permit, and which accordingly may engage in the retail sale or delivery of medical or adult-use cannabis

or cannabis products to a customer.

- JJJ. “Retail sale(s)” means any commercial cannabis operation involving the retail sale of cannabis or cannabis products from a retailer.
- KKK. “Sale(s)” means any sale, exchange, or barter or other transaction for any consideration.
- LLL. “School” means as evidenced by the State Department of Education school directory, a public school instructing children in grades kindergarten through 12, as authorized by the State Department of Education or a private school instructing children in grades kindergarten through 12 that has filed a verification of private school affidavit with the State Department of Education pursuant to Section 33190 of the State Education Code, excluding any private school in which education is primarily conducted in a private home. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code, this definition of “school” under this chapter shall override the definition of “school” used in MAUCRSA or Section 11362.768 of the State Health and Safety Code.
- MMM. “Site” means the premises and actual physical location of a Commercial Cannabis Operation, as well as its accessory structures and parking areas
- NNN. “State” means the State of California.
- OOO. “Testing laboratory” or “testing” refers to a laboratory, facility, or entity that offers or performs tests on cannabis or cannabis products; includes the activity of laboratory testing.
- PPP. “Youth center” means, (A) any public or private facility that is primarily used to host recreational or social activities for minors, such as private youth membership organizations or clubs, social service teenage club facilities, or (B) a park, playground, or recreational area specifically designed to be used by children that may have play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any facility located on a public or private school grounds, or on City, County, or parks. “Youth center” shall not include any private martial arts, yoga, ballet, music, or similar studio of this nature nor shall it include any private athletic training facility, pizza parlor, restaurant, video arcade, dentist office, or doctor’s office primarily serving children. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code, this definition of “youth center” under this chapter shall override the definition of “youth center” in MAUCRSA at Section 26001 of the State Business and Professions Code.

Sec. 5.26.040 - Prohibited commercial cannabis operations.

- A. Commercial cannabis operations (including non-profit operations) within the City that involve the activities of non-storefront retailer (whether medical-only or medical/adult-use), cultivation, manufacturer, testing, distribution, or microbusiness are prohibited, including but not limited to commercial cannabis operations licensed by the State in the license classifications listed below as provided in Section 26050 of the State Business and Professions Code:
1. Type 1 = Cultivation; Specialty Outdoor; Small.

Ordinance No. 1260

Page 12 of 53

2. Type 1A = Cultivation; Specialty Indoor; Small.
 3. Type 1B = Cultivation; Specialty Mixed Light; Small.
 4. Type 1C = Cultivation; Specialty Cottage; Small.
 5. Type 2 = Cultivation; Outdoor; Small.
 6. Type 2A = Cultivation; Indoor; Small.
 7. Type 2B = Cultivation; Mixed-light; Small.
 8. Type 3 = Cultivation; Outdoor; Medium.
 9. Type 3A = Cultivation; Indoor; Medium.
 10. Type 3B = Cultivation; Mixed-Light; Medium.
 11. Type 4 = Cultivation; Nursery.
 12. Type 5= Cultivation; Outdoor; Large.
 13. Type 5A = Cultivation; Indoor; Large
 14. Type 5B = Cultivation; Mixed-Light; Large.
 15. Type 6 = Manufacturer 1.
 16. Type 7 = Manufacturer 2.
 17. Type 8 = Testing.
 18. Type 9 = Non-Storefront Retailer (Delivery Only)
 19. Type 11 = Distributor
 20. Type 12 = Microbusiness.
- B. The prohibition provided by above subsection (A) includes any similar activities authorized under new or revised State licenses, or any other State authorization, to allow any type, category or classification of cannabis commercial operations that involve the activities of non-storefront retailer (Type 9, i.e., delivery only) (whether medical-only or medical/adult-use), cultivation, manufacturer, testing, distribution, microbusiness, or similar operations (including non-profit, collective or cooperative operations).

Sec. 5.26.050 - Permitted commercial cannabis operations.

- A. Commercial cannabis operations (including non-profit operations) within the City which involve the activity of retailer (Type 10; medical-only and medical/adult-use) are allowed subject to issuance and maintenance of a valid and current City Commercial Cannabis Operation Permit, continuing adherence to this entire chapter and all applicable City and State regulations and laws, and issuance and maintenance of a valid and current equivalent state license type listed below, as provided for in Section 26050 of the State Business and Professions Code:
1. Type 10 = Retailer (Medical-Only; Medical/Adult-Use).
- B. The requirements provided by above subsection (A) apply to any similar activities authorized under new or revised State licenses, or any other State authorization, to allow any type, category or classification of cannabis commercial operations that involve the activity of retailer (medical-only and medical/adult-use) or similar

operations (including non-profit, collective or cooperative operations).

Sec. 5.26.060 -Maximum Number of Commercial Cannabis Operation Permits.

- A. The number of Commercial Cannabis Operation Permits for retailer (medical-only and medical/adult-use, collectively) commercial cannabis operations based within the City shall be no more than three (3), of which no more than two (2) shall be retailer (medical-only), and no more than one (1) shall be retailer (medical/adult-use).
- B. Notwithstanding Subsection (A) of this Section, if the City Council opts to reinstitute the application procedure during the second year following the operative date of this chapter pursuant to Section 5.26.070(H), then one additional retailer (medical/adult-use) Commercial Cannabis Operation Permit may issue such that the maximum number of Commercial Cannabis Operation Permits for retailer (medical-only and medical/adult-use, collectively) commercial cannabis operations based within the City shall be increased to no more than four (4), of which no more than two (2) shall be retailer (medical-only), and no more than two (2) shall be retailer (medical/adult-use).
- C. The number of Commercial Cannabis Operation Permits for non-storefront retailer (delivery only) (whether medical-only or medical/adult-use) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City shall be zero (0). However, should a court of competent jurisdiction, as a judicial remedy, order the City Council to increase the maximum number of Commercial Cannabis Operation Permits for non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City, the number of Commercial Cannabis Operation Permits for non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City shall be no more than two (2).
- D. The maximum number of Commercial Cannabis Operation Permits issued for retailer (including medical-only and medical/adult use retailer, individually and collectively) commercial cannabis operations based within the City or non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) based outside the City may not be amended by the City Council or regulations promulgated by the City Manager pursuant to this chapter. However, the City Council may and shall increase the maximum number of Commercial Cannabis Operation Permits issued for retailer commercial cannabis operations based within the City or non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) based outside the City (i) if ordered to do so by a court of competent jurisdiction as a judicial remedy or (ii) by a vote of the People of the City.

Sec. 5.26.070 Commercial Cannabis Operation Permit application procedure.

- A. Following the effective date of this chapter, the City Manager, pursuant to Section 5.26.140, shall, as a ministerial duty, make available the necessary forms, adopt any necessary application rules for the submission, intake, review, and approval of

Ordinance No. 1260

Page 14 of 53

applications for retailer (medical-only and medical/adult-use) commercial cannabis operations up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060.

- B. The City Manager shall, as a ministerial duty, cease acceptance of Commercial Cannabis Operation Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations thirty (30) days after making available the necessary forms and adopting any necessary application rules for the submission, intake, review, and approval of Commercial Cannabis Operation Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations.
- C. Within thirty (30) days of ceasing the acceptance of Commercial Cannabis Operation Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations, the City Manager shall, as a ministerial duty, review timely submitted Commercial Cannabis Operation Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations for the following minimum requirements:
 - 1. Payment of an application fee established by resolution of the City Council within forty-five (45) days following the effective date of this chapter to cover all costs incurred by the City in the application process;
 - 2. Sufficient evidence of the legal right to use the proposed property for the proposed use, to include a lease, sublease, purchase agreement, assignment of purchase agreement, or lease or purchase option, in the name of the applicant, which may include nominal consideration and be contingent upon issuance of a Commercial Cannabis Operation Permit or other approvals. The City shall only consider one applicant per property address or County Assessor's Identification Number. In the event that more than one applicant applies for a Commercial Cannabis Operation Permit application at a given property address or a given County Assessor's Identification Number, the City Manager shall, as a ministerial duty, only accept the Commercial Cannabis Operation Permit application with the earliest effective date for the evidence of the legal right to use the proposed property for the proposed use in the name of the applicant;
 - 3. Sufficient evidence to demonstrate that the proposed property complies with the location and zoning requirements in Section 5.26.120;
 - 4. Proof that an owner or owners of the applicant with an aggregate ownership interest of fifty (50) percent or more has served as an owner or owners with an aggregate ownership interest of fifty (50) percent or more of six or more other retailer (medical-only or medical/adult-use) commercial cannabis operations by a city, county, or state since at least January 1, 2022;
 - 5. Proof of funds showing that the applicant has access and control of over \$500,000.00 in Liquid Assets (which such Liquid Assets having been under possession for at least ninety (90) days prior to the date of the application

Ordinance No. 1260

Page 15 of 53

submission under this Section), which may be shown via a binding legal agreement in the name of the applicant such as a promissory note so long as said legal agreement is accompanied by a proof of funds in the name of a party to the agreement that demonstrates access and control of over \$500,000.00 in Liquid Assets under possession for at least ninety (90) days prior to the date of the application submission under this Section. Applicants and permittees shall not be required to show that the applicant or permittee has access and control of over \$500,000.00 in Liquid Assets except on initial application pursuant to this Section 5.26.070, a change in location application pursuant to Section 5.26.100, or an ownership transfer application pursuant to Section 5.26.100;

6. For an applicant with two (2) or more employees, proof of a labor peace agreement between a bona fide labor organization and the applicant (the applicant shall provide the City with a copy of the labor peace agreement that contains the signatures of the union representative and the cannabis business). For applicants with less than two (2) employees who have not yet entered into a labor peace agreement, the applicant shall provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within thirty (30) days after employing two (2) employees;
7. A set of plans, including a site development plan, floor plan(s), building elevations (all four (4) sides), and a conceptual landscape plan with the percentage of landscaping in the parking lot, setback areas, and tree size and species;
8. Colored interior and elevation renderings;
9. A completed background check application and receipt for each owner and manager of the applicant pursuant to Section 5.26.110(H); and
10. The following application components: (a) Qualifications of the applicant's owners and managers; (b) business and operations plan; (c) security plan; (d) safety plan; (e) neighborhood compatibility plan; (f) labor and employment plan; and (g) community benefits plan.
11. Disclosure of whether the applicant is applying for a Commercial Cannabis Operation Permit as a retailer (medical-only) or retailer (medical/adult-use).

The City Manager shall, as a ministerial duty, reject any Commercial Cannabis Operation Permit application that fails to meet the minimum requirements contained in this Subsection (C), and applicants shall not have the right to supplement or amend their Commercial Cannabis Operation Permit applications.

- D. Within sixty (60) days of completing the application review under Subsection (C) above, the City Manager shall, as a ministerial duty, review and score any complete applications pursuant to the following objective review criteria according to the following quantitative evaluation scale, with retailer (medical-only) applicants ranked only against other retailer (medical-only) applicants and retailer (medical/adult-use)

applicants ranked only against other retailer (medical/adult-use) applicants unless otherwise provided by administrative regulations promulgated pursuant to Section 5.26.140:

1. Qualifications of the applicant's owners and managers – 250 points

The People of the City find that a proven track-record of for retailer commercial cannabis operations that successfully generate tax revenue carries out the purpose and intent of the Program and are, therefore, critical for an applicant to demonstrate the qualifications of the applicant's owners and managers. Accordingly, 150 of the 250 points awardable under this Subsection (1) shall only be awarded, as a ministerial duty, if an owner or owners of the applicant with an aggregate ownership interest of fifty (50) percent or more is currently at the time of application submission under this Section an owner or owners with an aggregate ownership interest of fifty (50) percent or more of a single licensed and lawfully operating retailer commercial cannabis operations (excluding any non-retailer microbusiness, cultivation, manufacturing, distribution, or other non-retailer commercial cannabis operation components) that has generated at least \$5,000,000.00 in gross receipts in a consecutive six-month period in the year immediately preceding the date of the application submission under this Section, as demonstrated by tax payment receipts from, tax filings to, or tax returns filed with a city, county, or state.

The remaining 100 of the 250 points awardable under this Subsection (1) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 50 points – A description of the applicant's owner and manager qualifications detailing any special business or professional qualifications or licenses of the applicant's owner and manager that would add to the quality of services that the retailer commercial cannabis operation would provide, including in areas related to cannabis, such as legal, finance, business ownership / administration, waste management, real estate development, scientific, or healthcare or wellness fields.
- b. Up to 50 points – Documentation that the applicant's owners and managers have experience operating retailer commercial cannabis operations in any jurisdiction where retailer commercial cannabis operations are permitted.

2. Plans, renderings, and overall location – 50 points

The 50 points awardable under this Subsection (2) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – A premise diagram in accordance with Section 5006 of Division 42 of Title 16 of the State Code of Regulations.
- b. Up to 10 points – A site development plan that provides information on existing conditions and proposed improvements to the site and how it meets or will meet the development standards outlined in this Code. Information on existing conditions shall include:
 - i. Exterior photographs showing all sides of any existing

- structure(s);
- ii. Photographs of existing parking areas, landscaping, trash enclosure, and signage;
- iii. Information on existing use on the site, including the addresses, uses, and square footages;
- iv. Photographs of the existing site if the site is vacant; and
- v. Photographs of adjacent properties for context.
- c. Up to 10 points – A floor plan showing information on the existing layout and proposed layout of the building interior.
- d. Up to 10 points – Building elevations that provide information on existing conditions and proposed improvements.
- e. Up to 5 points – A conceptual landscape plan with the percentage of landscaping in the parking lot, setback areas, and tree size and species.
- f. Up to 5 points – Colored interior renderings and exterior elevation renderings (for both existing and/or proposed improvements).

3. Business and operations plan – 100 points

The 100 points awardable under this Subsection (3) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – A written description of the total square footage of the facility with estimated square footage of proposed uses.
- b. Up to 10 points – A schedule for beginning operations, including a narrative outlining any proposed construction improvements and a timeline for completion.
- c. Up to 10 points – A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operating costs.
- d. Up to 5 points – A description of the sources(s) of capital and use(s) of capital.
- e. Up to 10 points – Pro forma financial statements for at least three (3) years of operation.
- f. Up to 5 points – A description of the type of products to be sold and the estimated quantity and value of product(s) to be sold.
- g. Up to 5 points – A description of marketing procedures and tactics.
- h. Up to 10 points – A description of day-to-day operations that should acknowledge both state and local laws and should be consistent with industry best practices.
- i. Up to 5 points – A description of hours of operation and opening procedures.
- j. Up to 10 points – A description of cash handling

Ordinance No. 1260

Page 18 of 53

procedures.

- j. Up to 10 points – A description of inventory control procedures to include identification of point-of-sale systems, and track and trace software.
- k. Up to 10 points – A description of transportation, loading and unloading, distribution, or delivery procedures.

4. Security plan – 100 points

The 100 points awardable under this Subsection (4) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 20 points – The security plan shall be prepared by a professional security consultant.
- b. Up to 10 points – A premises security diagram.
- c. Up to 50 points – A description of access control, inventory control, cash handling, and other security procedures and security equipment demonstrating compliance with the security requirements under this chapter.
- d. Up to 10 points – A description of the intrusion alarm and monitoring system including the name and contact information for the monitoring company.
- e. Up to 10 points – A description of the services of on-site security guards to include the (i) number of security guards; (ii) the hours security guards will be on-site; (iii) locations where security will be positioned; and (iv) security guard responsibilities.

5. Safety plan – 100 points

The 100 points awardable under this Subsection (5) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 20 points – The safety plan shall be prepared by a professional fire prevention and suppression consultant.
- b. Up to 10 points – A premises safety diagram to include (1) a description / illustration of evacuation routes and (2) location of fire extinguishers and other fire suppression equipment.
- c. Up to 50 points – A description of safety procedures, training for emergency situations, and safety equipment demonstrating compliance with the safety requirements under this chapter.
- d. Up to 10 points – Identify all gases, pesticides, and chemicals to be used and their storage locations.
- e. Up to 10 points – A description of the firm alarm and monitoring system

Ordinance No. 1260

Page 19 of 53

including the name and contact information for the monitoring company.

6. Neighborhood compatibility plan – 100 points

The 100 points awardable under this Subsection (6) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 40 points – A “Good Neighbor Policy” that (i) includes policies and measures in place to protect adjacent uses from any potential impacts (*e.g.*, noise, light, odor, traffic, etc.) related to the proposed cannabis business and (ii) describes how the cannabis business and its operating characteristics will be proactively managed so the business is not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding area and will not result in the creation of a nuisance.
- b. Up to 20 points – A description of odor mitigation practices to include: (i) identifying potential sources of odor; (ii) a description of odor control devices and techniques employed to ensure that odors from cannabis are not detectable beyond the permitted premises; and (iii) all proposed staff odor training and system maintenance.
- c. Up to 20 points – A description of a waste management plan that includes waste disposal locations within the proposed premises and the applicant’s security measures and methods of rendering waste unusable and unrecognizable.
- d. Up to 20 points – A description of efforts at sustainability / environmental impact mitigation.

7. Community benefits plan – 100 points

The People of the City find that monetary donations to local non-profit organizations, financial support of City sponsored activities or organizations, in kind donations to the City or other charitable organizations, and economic incentives to the City carry out the purpose and intent of the Program and are, therefore, critical for an applicant to demonstrate an effective community benefits plan. Accordingly, 50 of the 100 points awardable under this Subsection (7) shall only be awarded if the applicant pledges to voluntarily provide a public benefit to a public use (or a combination thereof), which is defined as a direct financial contribution equal to two (2) percent of projected gross receipts of the applicant to a public school located within the City, a public park located within the City, and/or a public or nonprofit community organization serving the City or its residents. Beyond the above and as a ministerial duty, no further direct financial contributions shall be considered as part of an applicant’s community benefits plan.

~~The remaining 50 of the 100 points awardable under this Subsection (7) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:~~

- a. Up to 25 points – A description of a social responsibility plan to include identification of a community liaison, plans to serve as a social equity business incubator, plans to aide and participate in the work of local non-profits, community- based organizations, civic organizations, or social services organizations.
- b. Up to 25 points – A description of a plan to develop a public health outreach and educational program that outlines the risks of youth use of cannabis and that identifies resources available to youth related to drugs and drug addiction.

8. Labor and employment plan – 200 points

The People of the City find that a proven track-record of cannabis retailer operations ~~with high labor standards and commitment to labor peace carries out the purpose and~~ intent of the Program and are, therefore, critical for an applicant to demonstrate an effective labor and employment plan. Accordingly, 100 of the 200 points awardable under this Subsection (8) shall only be awarded if the applicant provides documentation that the individual or natural person owner or owners of the applicant (disregarding any intervening or intermediary entity owner or owners of the applicant) with an aggregate ownership interest of fifty (50) percent or more have entered into collective bargaining agreements with a labor organization that currently represents cannabis workers in the United States effective since at least July 1, 2021, inclusive of renewals (and remaining effective, inclusive of renewals, on the date of the application submission under this Section) and such collective bargaining agreements accrete or automatically apply to all cannabis retailers permitted or licensed in the State after July 1, 2021 (notwithstanding the fact that employees of such cannabis retailers permitted or licensed in the State after July 1, 2021 (if any), have yet to have had an opportunity to recognize the labor organization that currently represents cannabis workers in the United States), by the individual or natural person owner or owners of the applicant (disregarding any intervening or intermediary entity owner or owners of the applicant) with an aggregate ownership interest of ninety (90) percent or more referenced above.

The remaining 100 of the 200 points awardable under this Subsection (8) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – An organizational chart of showing owners, managers, and employees.
- b. Up to 10 points – A description of the owner’s and manager’s roles in day-to-day operations and decisions.
- c. Up to 10 points – A description of the number of employees, title / position, and their respective responsibilities
- d. Up to 15 points – A description of compensation to employees,

opportunities for continuing education, and employee training.

- e. Up to 15 points – A description of whether the cannabis business is committed to offering employees a living wage.
- f. Up to 15 points – A description of benefits provided to employees such as health care, vacation, and medical leave, to the degree they are offered as part of employment.
- g. Up to 15 points – A description of a plan to recruit employees from socially and economically disadvantaged backgrounds.
- h. Up to 10 points – A description of a plan to have at least 50% of employee positions filled and hours worked by employees residing in the City.

- E. Upon timely receipt of a Commercial Cannabis Operation Permit application, the City Manager shall conduct background checks in accordance with Section 5.26.110(H). Following review and scoring of applications completed pursuant to objective review criteria under Subsection (D), the City Manager shall, as a ministerial duty, recommend that the City Council issue Commercial Cannabis Operation Permits to applicants in order of their rank under Subsection (D) up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060. The City Council shall consider the City Manager's recommendations, and may conduct its own independent review and scoring of applications completed pursuant to objective review criteria under Subsection (D) and substitute such review and scoring for that of the City Manager in whole or in part if it sees fit to do so, and shall thereupon, as a ministerial duty, issue Commercial Cannabis Operation Permits to applicants in order of their rank under Subsection (D) up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060. For the initial iteration of the application process pursuant to this section, the number of Commercial Cannabis Operation Permits issued shall be no more than two (2) retailer (medical-only) and one retailer (medical/adult use) Commercial Cannabis Operation Permits. In the event of a tie in the order of ranking under Subsection (D) between one or more applicants up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060, the City Council shall, as a ministerial duty, break the tie and issue Commercial Cannabis Operation Permits to the applicants with the highest scoring application component in the following order: (1) Qualifications of the applicant's owners and managers; (2) labor and employment plan; (3) security plan; (4) safety plan; (5) community benefits plan; (6) neighborhood compatibility plan; (7) business and operations plan; and (8) plans, renderings, and overall location. In the event of a tie on all application components between one or more applicants up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060, the City Manager shall not hold a public lottery, but rather arrange for the tied applicants to provide public presentations before the City Council, after which the City Council shall publicly rank the applicants pursuant to ranking sheets prepared by the City Manager that achieve a forced ranking based on all of the objective review criteria and quantitative evaluation scale in Subsection (D), and the City Council shall

Ordinance No. 1260

Page 22 of 53

issue Commercial Cannabis Operation Permits to applicants in order of their rank up to the maximum number of Commercial Cannabis Operation Permits available following the City Manager/City Council's original ranking and issuance of Commercial Cannabis Operation Permits and the limits contained in Section 5.26.060. However, the City Council shall not issue a Commercial Cannabis Operation Permit to any applicant with an applicant, owner, or manager that:

1. Provided false or misleading information on the applicant's Commercial Cannabis Operation Permit application;
 2. Has been convicted of (or pled no contest to) "an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made" as that term is defined in 26057(b)(4) of the State Business and Professions Code; or
 3. Has been sanctioned by a licensing authority or a city, county, or state for unlicensed commercial cannabis operations or has had a license suspended or revoked under MAUCRSA in the three (3) years immediately preceding the date the application was submitted.
- F. Any decision of the City Council under this Section 5.26.070 shall be a final administrative decision not subject to administrative appeal under any provisions of this chapter or any provisions of this Code but, rather, subject to judicial review and remedies.
- G. In the event that (1) the number of active, operating retailer (medical-only or medical/adult-use) ~~commercial cannabis operations and issued Commercial Cannabis~~ Operation Permits falls below the maximum number of Commercial Cannabis Operation Permits for retailer (medical-only or medical/adult-use) commercial cannabis operations authorized in Section 5.26.060 or (2) the City Council is ordered to increase the maximum number of Commercial Cannabis Operation Permits issued for retailer (medical-only or medical/adult-use) commercial cannabis operations by a court of competent jurisdiction as a judicial remedy (*e.g.*, if a court of competent jurisdiction orders the City Council to make Commercial Cannabis Operation Permits available for non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City), the City Manager shall, as a ministerial duty, within thirty (30) days reinstitute the application procedure under this Section 5.26.070, subject to the maximum number of Commercial Cannabis Operation Permits authorized and available (not allocated to an active, lawfully operating retailer) for issuance pursuant to Section 5.26.060. For the purpose of this Section, a retailer (medical-only or medical/adult-use) commercial cannabis operation shall be considered operating if (1) upon initial issuance of Commercial Cannabis Operation Permit (or approval of a change in location pursuant to Section 5.26.100), the retailer commercial cannabis operation commences lawful operations within twenty-four (24) months or (2) following initial commencement of lawful operations, the retailer commercial cannabis operation does not cease or abandon operations for one-hundred eighty (180) consecutive or cumulative days in any one (1) year period.
- H. Additionally, at any time during the second year from the operative date of this

chapter, the City Council may, by resolution or minute action, reinstitute the application procedure under this Section 5.26.070 for the purpose of considering issuance of one additional retailer (medical/adult-use) Commercial Cannabis Operation Permit, in which case the maximum number of Commercial Cannabis Operation Permits for retailer (adult-use/medical) commercial cannabis operations based in the City shall increase from one to two as stated in Section 5.26.060(B).

Sec. 5.26.080 - Limitations on the City's liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Operation Permit pursuant to this chapter or otherwise approving any retailer commercial cannabis operation. As a condition to the approval of any Commercial Cannabis Operation Permit, the applicant shall be required to meet all of the following conditions before they can receive a Commercial Cannabis Operation Permit:

- A. Execution of 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, 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 Operation Permit, the City's decision to approve the retailer commercial cannabis operation, the process used by the City in making its decision, or the alleged violation of any federal, State, or local laws by the retailer commercial cannabis operation or any of its owners, managers, officers, employees, or agents.
- B. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney.
- C. Defend and indemnify the City for all costs and expenses, including but not limited to attorneys' fees and court costs, that the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's Commercial Cannabis Operation Permit or related to the City's approval of retailer commercial cannabis operations. The City, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall neither relieve nor increase any of the obligations imposed on the applicant hereunder.
- D. Provides written authorization to the Operations Officers to conduct reasonable unannounced inspections of the location of the commercial cannabis operation at the reasonable discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the commercial cannabis operation, for the purposes of ensuring compliance with this chapter and all laws of the City and the State.

Sec. 5.26.090 - Commercial Cannabis Operation Permit term.

- A. Subject to this Section 5.26.090 and Section 5.26.160, the term of each Commercial Cannabis Operation Permit shall be indefinite.

- B. Upon the one (1) year anniversary of the date of issuance for each Commercial Cannabis Operation Permit and every year thereafter, the City Manager shall conduct a performance review of the permittee to assess compliance with the requirements of this chapter and State law. Within thirty (30) days of the conclusion of the annual performance review of the permittee, the City Manager shall issue a letter of compliance or noncompliance outlining all items to be corrected to ensure full compliance. In the event of any noncompliance, the permittee shall have sixty (60) days to remedy such noncompliance. However, in the event such noncompliance items cannot be reasonably remedied within sixty (60) days, such noncompliance items shall not constitute a serious material violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this chapter subject to suspension or revocation under Section 5.26.160 if the permittee commences correction of such noncompliance items within sixty (60) days and thereafter diligently prosecutes correction of such noncompliance items to completion.
- C. The permittee shall pay a fee in an amount to be set by the City Council via resolution to cover the costs of conducting the performance review, together with any costs incurred by the City to administer the Program created under this chapter.

Section 5.26.100 – Change in location; transfer, updated application information.

- A. A permittee may change the business location specified in a Commercial Cannabis Operation Permit upon submission and approval of a change in location application promulgated, as a ministerial duty, by the City Manager pursuant to regulations adopted under Section 5.26.140 within one-hundred eighty (180) days following the effective date of this chapter. The permittee shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the review and processing of change in location applications. The City Manager shall process such change in location applications as a ministerial duty within thirty (30) days of receipt.
- B. An owner of a Commercial Cannabis Operation Permit shall not transfer ownership or control of such Commercial Cannabis Operation Permit to another person unless and until the permittee and transferee obtain an amendment to the Commercial Cannabis Operation Permit from the City Manager stating that the transferee is now an owner of the permittee. A permittee may change the ownership specified in a Commercial Cannabis Operation Permit upon submission and approval of a change in ownership application promulgated, as a ministerial duty, by the City Manager pursuant to regulations adopted under Section 5.26.140 within one-hundred eighty (180) days following the effective date of this chapter. The permittee shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the review and processing of change in ownership applications. The City Manager shall process such change in ownership applications as a ministerial duty within five (5) business days once the City Manager reasonably determines that the transferee passed the background check required for owners and meets all other requirements of this chapter.

- C. Notwithstanding Subsection (B), during the first three years following the issuance of a Commercial Cannabis Operation Permit, the City Manager shall not process any application to change the ownership or control of a Commercial Cannabis Operation Permit that results in the permittee altering its ownership composition in a manner that would result in the permittee not being entitled to points it was awarded when the permittee was an applicant pursuant to Section 5.26.070. For example, if a permittee received 100 points when it was an applicant for providing documentation that the individual or natural person owner or owners of the applicant (disregarding any intervening or intermediary entity owner or owners of the applicant) with an aggregate ownership interest of ninety (90) percent or more have entered into a collective bargaining agreement with a labor organization that currently represents cannabis workers in the United States effective since at least July 1, 2021, inclusive of renewals (and remaining effective, inclusive of renewals, on the date of the application submission under this Section), the City Manager shall not process or authorize any change in ownership or control of the permittee if the change would result in the permittee being unable to continue to satisfy the aforementioned criteria subsequent to its approval.
- D. Notwithstanding Subsection (B), no Commercial Cannabis Operation Permit may be transferred when the City Manager has notified the permittee that its Commercial Cannabis Operation Permit has been or may be suspended or revoked.
- E. Any attempt to transfer a Commercial Cannabis Operation Permit either directly or indirectly in violation of this Section 5.26.100 is hereby declared void, and such an unpermitted transfer shall be deemed a ground for revocation of the permit.
- F. An applicant or permittee shall notify the City Manager or designee(s) within fifteen (15) calendar days of any material change in the information provided in the applicant or permittee's Commercial Cannabis Operation Permit application or any change in status of compliance with the provisions of this chapter, including any change in ownership or management...

Sec. 5.26.110 - General operating standards and restrictions.

A commercial cannabis operation shall operate in conformance with the following minimum standards, and such standards shall be deemed to be part of the conditions on the permit for a commercial cannabis operation to ensure that its operation is in compliance with State law and this Code, and to mitigate any potential adverse impacts of the commercial cannabis operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the City Manager pursuant to Section 5.26.140.

- A. State Standards. All state requirements and regulations that govern the operation of a commercial cannabis operation, including but not limited to ones related specifically to certain types of commercial cannabis operations, shall apply as minimum requirements and regulations and requirements for commercial cannabis operations within the City of South El Monte, in addition to the requirements and regulations of this chapter and this Code.

B. Security.

1. General. All cannabis, cannabis products and cash present or kept at the premises shall be securely stored against both unauthorized access as well as theft.
2. Security Cameras.
 - a. Security cameras shall be installed and maintained in good condition, with at least ninety (90) days of digitally recorded documentation in a format approved by the City Manager and the Police Chief.
 - b. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present at the site of the commercial cannabis operation.
 - c. The cameras shall be in continuous use 24 hours per day, 7 days per week.
 - d. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium approved by the City Manager, such as DVD and/or a USB drive.
 - e. The areas to be covered by the security cameras include, but are not limited to, the storage areas, operation areas, all doors and windows, the parking lot, all exterior sides of the property adjacent to the public rights of way, and any other areas as determined by the City Manager and Police Chief.
 - f. Remote log-in information will be provided to the Operations Officers to allow them to view live and recorded security camera images remotely at any time.
3. Alarm System. The location of the commercial cannabis operation shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with Sections 7590, *et seq.* of the State Business and Professions Code . and whose agents are properly licensed and registered under applicable law.
4. Locked Entrances. All entrances into the building housing a commercial cannabis operation shall be locked from the exterior at all times with entry controlled by employees.
5. Windows. All windows on the building that houses the commercial cannabis operation shall be secured against entry from the outside.
6. No employee shall refuse, impede, obstruct or interfere with an inspection conducted pursuant to the authorizations provided by this chapter.

C. Odors.

1. A commercial cannabis operation shall have an air treatment system that ensures off-site odors shall not result from its activities.
2. This requirement at a minimum means that the commercial cannabis operation shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location of the commercial

Ordinance No. 1260

Page 27 of 53

cannabis operation is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the commercial cannabis operation, if the use only occupies a portion of a building.

D. Authorizations.

1. The Operations Officers shall have the right to enter all areas of the commercial cannabis operation from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter and all laws of the City and State.
2. Recordings made by security cameras required pursuant to this chapter shall be made available to the Operations Officers upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

E. Records.

1. Commercial cannabis operations shall maintain on-site the following records either in paper or electronic form:
 - a. The full name, address, and telephone numbers of the owner and lessee of the property.
 - b. The name, date of birth, address, and telephone number of each employee of the commercial cannabis operation; the date each was hired; and the nature of each employee's participation in the commercial cannabis operation.
 - c. Copies of all required state licenses.
 - d. An inventory record documenting the dates and amounts of cannabis and cannabis products received at the site, the daily amounts of cannabis and cannabis products on the site, and the daily amounts of cannabis and cannabis products leaving the site for any reason, including but not limited to being sold, delivered, or distributed.
 - e. A written accounting of all expenditures, costs, revenues and profits of the commercial cannabis operation, including but not limited to cash and in-kind transactions.
 - f. A copy of all insurance policies related to the operation of the commercial cannabis operation.
 - g. A copy of the commercial cannabis operation's most recent year's financial statement and tax return.
 - h. Proof of a valid and current permit issued by the City in accordance with this chapter, and the equivalent State of California license to operate the commercial cannabis operation. Every commercial cannabis operation shall display at all times during business hours the City permit issued pursuant to the provisions of this chapter, and the equivalent State license, in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.
2. All records required to be maintained by the commercial cannabis operation must be maintained for no less than seven (7) years and are subject to

immediate inspection (consistent with requirements pertaining to qualified patient confidentiality pursuant to applicable State and federal law) upon a lawful written request by an Operation Officer.

3. A commercial cannabis operation shall report any loss, damage, or destruction of these records to the Operation Officers within twenty-four (24) hours of the loss, damage, or destruction.

F. Site Management.

1. Commercial cannabis operations shall not result in a nuisance or adversely affect the health, welfare, or safety of nearby persons by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or waste. The permittee shall promptly and diligently both prevent as well as eliminate conditions on the site of the commercial cannabis operation that constitute a nuisance.
2. A permittee shall maintain the exterior of the site, including any parking lots under the control of the permittee, free of litter, debris, and trash.
3. The Commercial Cannabis Operation permittee shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations.
4. Notwithstanding any provisions of this code to the contrary, the Commercial Cannabis Operation permittee shall remove all graffiti from the site and parking lots under the control of the Commercial Cannabis Operation Permittee within 72 hours of its application.

G. State Board of Equalization Seller's Permit Required.

1. Commercial cannabis operations must obtain a Seller's Permit from the State Board of Equalization as applicable.
2. Such permit shall be displayed in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.

H. Employees.

1. All employees must submit to fingerprinting and criminal background checks by the City.
 - a. No employee convicted within the last ten years of a felony substantially related to the qualifications, functions or duties of an employee of a commercial cannabis operation (such as a felony conviction for distribution of controlled substances, money laundering, racketeering, etc.) shall be employed by a commercial cannabis operation, unless such employee has obtained a certificate of rehabilitation (expungement of felony record) under State law or under a similar federal statute or state law where the expungement was granted.
 - b. At the request of the commercial cannabis operation, the City Manager and Police Chief shall determine the applicability of this Section to a potential employee within a reasonable period of time after a written request has been made to the City Manager and Police Chief for such determination.

2. All employees must possess a valid government issued (or equivalent) form of identification containing an identifying photograph of the employee, the name of the employee, the date of birth of the employee, and the residential address of the employee. Color copies of such identification shall be maintained at the location of the commercial cannabis operation. A valid State driver's license will satisfy this requirement.

I. Cannabis Transfer Between Permitted Operations Only.

A commercial cannabis operation shall not transfer cannabis or cannabis products to or from another commercial cannabis operation, unless both operations are in possession of all required State and local licenses and permits.

J. Commercial Cannabis Operation Signage.

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

K. Prohibited Personal Activities.

1. Cannabis Use. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 20 feet of, the site of the commercial cannabis operation.
2. Alcohol Use. No person shall possess, consume, or store any alcoholic beverage on the site of the commercial cannabis operation.

L. No Minors. No minor shall be an employee of, or participate in, a commercial cannabis operation in any capacity, including but not limited to, as a manager, employee, contractor, adviser, or volunteer.

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

N. Building Design. A permittee must maintain the design of the buildings on the site in accordance with the plans that are approved by the City pursuant to this chapter and otherwise approved by the City. No permittee shall modify the buildings on the site contrary to the approved plans, without the approval of the City Manager.

O. Nuisance. A permittee shall take all reasonable steps to discourage and correct conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if related to the members of the subject commercial cannabis operation.

1. "Reasonable steps" shall include immediately calling the Police Department upon observation of the activity, and requesting that those engaging in activities that constitute a nuisance or are otherwise illegal to cease those

Ordinance No. 1260

Page 30 of 53

activities, unless personal safety would be threatened in making the request.

2. “Nuisance” includes but is not limited to disturbances of peace, open public consumption of cannabis, alcohol or controlled substances, excessive pedestrian or vehicular traffic, including the formation of any pedestrian lines outside the building, illegal drug activity, harassment of those passing by, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or law enforcement detentions and arrests.

P. Upon and after receiving possession of a Commercial Cannabis Operation Permit as provided for in this chapter, a permittee shall:

1. Maintain continuing compliance with criminal background check requirements of this chapter by ensuring that:
 - a. Upon the hiring, association or retention of an employee by the commercial cannabis operation, the requirements of Section 5.26 are immediately met for such employee by provision of appropriate documentation to the City Manager; and
 - b. the City Manager and Police Chief are immediately informed in writing of any felony conviction as described in 5.26.110(H) for any current employee.
2. Maintain continuing compliance with all applicable insurance requirements, including, but not limited to, those imposed by City and this chapter.

Q. Workforce Plan. A permittee shall implement a workforce plan that includes at least the following provisions:

1. Commitment for thirty percent (30%) of employees to be local hires; this local hiring requirement is satisfied when a permittee shows that it has either hired or made a good faith effort to hire bona fide residents of the City or persons that may establish residency after initial employment with the permittee;
2. Commitment to offer apprenticeships and/or compensation for continuing education in the field of commercial cannabis operations; and
3. Paying a living wage to employees. “Living wage” means compensation equivalent to \$20 per hour inclusive of benefits but excluding tips.

R. Exemption. The regulations contained in this chapter shall not apply to a commercial cannabis operation engaged in the following uses, as long as such use complies strictly with applicable law, including this Code, regulating such use and the location of such use, including, but not limited to, Section 11362.5 of the State Health and Safety Code and Sections 11362.71 *et seq.* of the State Health And Safety Code: A clinic licensed pursuant to Chapter 1 of Division 2 of the State Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the State Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the State Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the State Health and Safety Code; and, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the State Health and Safety

Code.

Sec. 5.26.120 – Retailer operating standards and restrictions.

A retailer commercial cannabis operation shall operate in conformance with both Section 5.26.110, as well as the following minimum standards, and such standards shall be deemed to be part of the conditions of the Commercial Cannabis Operation Permit for a retailer commercial cannabis operation to ensure that its operation is in compliance with State law and this Code, and to mitigate any potential adverse impacts of the commercial cannabis operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the City Manager pursuant to Section 5.26.140.

- A. City Permit and State License. No person shall engage in retailer commercial cannabis operations without both a current and valid Commercial Cannabis Operation Permit and a current and valid equivalent State license as provided for under Section 26200 of the State Business and Professions Code, and as may be amended. Retailer (medical-only) commercial cannabis operations shall only sell, dispense, or provide medical cannabis or medical cannabis products to a qualified patient with a written physician's recommendation, a person with an identification card, or a primary caregiver with written documentation attesting to lawful status as a primary caregiver.
- B. State Standards. All state requirements and regulations that govern retailer commercial cannabis operations, including but not limited to the regulations promulgated by the State Department of Cannabis Control, and as may be amended, shall apply as minimum requirements and regulations and requirements for retailer commercial cannabis operations within the City, in addition to the requirements and regulations of this chapter and this Code.
- C. Location and Design Requirements.

Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code and overriding the location and design requirements contained in Section 26054(b) of the State Business & Professions Code, retailer commercial cannabis operations in the City shall be subject to the following location and design requirements:

- 1. Retailer commercial cannabis operations shall be a permitted use subject to this chapter on property (1) located more than one-thousand (1,000) feet any retailer commercial cannabis operation permitted under this chapter, alcohol or drug treatment facility, day care center, religious institution, school, or youth center, (2) located more than three-hundred-fifty (350) feet from the City's jurisdictional boundary or any park or residentially zoned property, and (3) zoned: C (Commercial Zone) or C-M (Commercial-Manufacturing Zone) including any overlay zone districts covering the C (Commercial Zone) or C-M (Commercial-Manufacturing Zone).
- 2. The distances specified in Subsection (C) shall be the horizontal distance measured in a straight line from the parcel line of the sensitive use to the closest parcel line of the lot on which the cannabis retailer is to be located without regard to intervening structures. The 1,000 foot distance specified in

Ordinance No. 1260

Page 32 of 53

Subsection (C) may be reduced to as little as 800 feet by administrative regulation pursuant to Section 5.26.140 if necessary to allow for issuance of the number of Commercial Cannabis Operation Permits provided by this chapter.

3. Each retailer commercial cannabis operation shall:

- a. Be constructed in a manner that prevents odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. Odors from the cannabis retailer shall not be detectable from outside the premises and adequate odor control technology shall be utilized;
- b. Be provided with adequate electricity, sewerage, disposal, water, fire protection, and storm drainage facilities for the intended purpose; and
- c. Provide and maintain a neighborhood compatibility plan so the City Manager or designee(s) may find that the cannabis retailer and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.

D. Customers.

1. Prior to dispensing medical cannabis or medical cannabis products to a qualified patient, a retailer commercial cannabis operation shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and obtain verification from the recommending physician that the person requesting medical cannabis or medical cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation, or identification card, as described in Sections 11362.71 et seq. of the State Health and Safety Code, as may be amended from time to time, on site for period of not less than seven (7) years.
2. Prior to dispensing cannabis or cannabis products to an adult-use customer, a retailer (medical/adult-use) commercial cannabis operation shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of twenty-one (21) years.

E. Opaque Packaging. All cannabis or cannabis products sold to a customer shall be prohibited from leaving the site unless placed in opaque packaging which conceals the nature of the product from human vision.

F. Dispensing and Storage Areas. Entrance to the retailer sales floor and any storage areas shall be locked at all times, and under the control of employees.

G. Interior Lighting. The premises within which the commercial cannabis operation is operated shall be equipped with and, at all times during which is open to the public, shall remain illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which members of the public or portions thereof are

permitted access with an illumination of not less than two foot-candles as measured at the floor level.

- H. Signs. A retailer commercial cannabis operation shall notify customers (verbally or by written agreement) and by posting a notice or notices conspicuously at least 15-point type within permitted premises that state as follows:
1. "The sale or diversion of cannabis or cannabis products without a license issued by persons entering the site, the City of South El Monte is a violation of State law and the South El Monte Municipal Code."
 2. "Secondary sale, barter, or distribution of cannabis or cannabis products purchased from a permittee is a crime and can lead to arrest."
 3. "Customers must not loiter in or near these premises and may not consume cannabis or cannabis products in the vicinity of this business or in any place not lawfully permitted. These premises and vicinity are monitored to ensure compliance."
 4. "WARNING: The use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate heavy machinery."
 5. "CALIFORNIA PROP. 65 WARNING: Smoking of cannabis and cannabis-derived products will expose you and those in your immediate vicinity to cannabis smoke. Cannabis smoke is known by the State of California to cause cancer and reproductive harm."
- I. "No Recommendations On-site. A retailer commercial cannabis operation shall not have a physician or any person licensed to recommend medical cannabis for medical use at the location of the retailer commercial cannabis operation to provide a recommendation or physician's recommendation, for the use of medical cannabis.
- J. Sanitation. A permittee shall establish and implement written procedures that maintain the highest industry standards of sanitation and cleanliness for the operation so as to ensure cannabis and cannabis products sold to the public are free of harmful contaminants.
- K. Training. A permittee shall establish and implement written procedures that provide for the highest industry standards of training for employees.
- L. Prohibited Activities. No cannabis cultivation, testing or manufacturing shall occur within the premises of the retailer operation.
- M. No Alcohol. Retailer commercial cannabis operations shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
- N. No Lounge or Cafe. Retailer commercial cannabis operations shall not operate as a lounge, cafe or restaurant serving food or drinks for consumption on-site. There shall be no seating area, tables, couches, or chairs for the gathering or congregating of members.
- O. Age Restriction. Minors, except qualified patients or primary caregivers over the age of eighteen (18) years old as verified customers, are prohibited from entering the location of the retailer cannabis operation.
- P. Public Information. The permittee shall make available to customers a list of the rules

and regulations governing medical cannabis use and consumption within the City and recommendations on sensible medical cannabis etiquette.

Sec. 5.26.120.5 – Delivery operating standards and restrictions.

- A. Delivery shall comply with State law at all times.
- B. Security plans developed pursuant to this chapter shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
- C. A commercial cannabis operation engaged in delivery shall facilitate the delivery of cannabis or cannabis products with a technology platform owned by or licensed to the delivery-only commercial cannabis operation engaged in delivery that uses point-of-sale technology to track and database technology to record and store the following information for each transaction involving the exchange of cannabis or cannabis products between the commercial cannabis operation engaged in delivery and customer:
 - 1. The identity of the individual dispensing cannabis or cannabis products on behalf of the commercial cannabis operation engaged in delivery;
 - 2. The identity of the customer receiving cannabis or cannabis products from the commercial cannabis operation engaged in delivery;
 - 3. The type and quantity of cannabis or cannabis products dispensed and received;
 - 4. The gross receipts charged by the commercial cannabis operation engaged in delivery and received by the individual dispensing cannabis or cannabis products on behalf of the commercial cannabis operation engaged in delivery for the cannabis or cannabis products dispensed and received; and
 - 5. The location or address where the sale or retail sale took place or closed.
- D. A commercial cannabis operation engaged in delivery shall maintain a database and provide a list of the individuals and vehicles authorized to conduct delivery, and a copy of the valid State driver's license issued to the driver of any such vehicle on behalf of the commercial cannabis operation engaged in delivery to the City Manager.
- E. Individuals making deliveries of cannabis or cannabis products on behalf of the commercial cannabis operation engaged in delivery shall maintain a physical copy of the delivery request (and invoice) and shall make it available upon the request of agents or employees of the City requesting documentation.
- F. During delivery, a copy of the commercial cannabis operation engaged in delivery's Commercial Cannabis Operation Permit and State license shall be in the vehicle at all times, and the driver shall make it available upon the request of agents or employees of the City requesting documentation.
- G. A commercial cannabis operation engaged in delivery shall only permit or allow

delivery of cannabis or cannabis products in a vehicle that is (1) insured at or above the legal requirement in the State; (2) capable of securing (locking) the cannabis or cannabis products during transportation; (3) capable of being temperature controlled if perishable cannabis or cannabis products is being transported; and (4) does not display advertising or symbols visible from the exterior of the vehicle that suggest the vehicle is used for cannabis delivery or affiliated with a commercial cannabis operation engaged in delivery.

- H. A commercial cannabis operation engaged in delivery shall facilitate deliveries with a technology platform owned by or licensed to the commercial cannabis operation engaged in delivery that uses global positioning system technology to track, and database technology to record and store the following information:
1. The time that the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery departed its premises.
 2. The time that the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery completed delivery to the customer.
 3. The time that the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery returned to its premises.
 4. The route the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery traveled between departing and returning to its premises to conduct delivery.
 5. For each individual delivery transaction, the identity of the individual conducting deliveries on behalf of the commercial cannabis operation engaged in delivery.
 6. For each individual delivery transaction, the vehicle used to conduct delivery on behalf of the commercial cannabis operation engaged in delivery.
 7. For each individual delivery transaction, the identity of the customer receiving cannabis or cannabis products from the commercial cannabis operation engaged in delivery.
 8. For each individual delivery transaction, the type and quantity of cannabis or cannabis products dispensed and received.
 9. For each individual delivery transaction, the gross receipts charged by the commercial cannabis operation engaged in delivery and received by the individual conducting deliveries on behalf of the commercial cannabis operation engaged in delivery for the cannabis or cannabis products dispensed and received.
- I. The individual making deliveries on behalf of the commercial cannabis operation engaged in delivery shall personally verify for each individual delivery transaction the identity of the customer receiving cannabis or cannabis products from the commercial cannabis operation engaged in delivery and (1) for medical cannabis or medical

cannabis products to a qualified patient, the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation or identification card as described in Sections 11362.71 *et seq.* of the State Health and Safety Code, as may be amended from time to time, on site for period of not less than seven (7) years or (2) for cannabis or cannabis products to an adult-use customer, age and all necessary documentation of each customer to ensure the customer is not under the age of twenty-one (21) years.

Sec. 5.26.130 – Community Benefit Agreement.

The applicant may propose entering into a community benefit agreement with the City setting forth the terms and conditions under which the facility will operate that is 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 of the City and its residents and visitors.

Sec. 5.26.140 – Administration.

- A. Consistently with stated requirements of this chapter (and in particular not to repeal or constructively repeal this chapter), in addition to any regulations adopted under State law, the City Manager is authorized to establish any additional rules, regulations, and standards governing the issuance or denial of Commercial Cannabis Operation Permits, the ongoing operation of commercial cannabis operations and the City's oversight thereof, or concerning any other subject determined to be necessary to carry out the purposes of this chapter.
- B. Such regulations shall be approved by resolution of the City Council published on the City's website.
- C. Regulations promulgated, by the City Manager, shall become effective upon date of publication. Commercial cannabis operations shall be required to comply with all State and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

Sec. 5.26.150 - Fees.

An application fee set by resolution of the City Council shall be required for formal processing of every application made under this chapter. The City Council is further authorized to pass resolutions to recover any and all fees and costs incurred by the administration and implementation of this chapter through an appropriate fee recovery mechanism to be imposed upon commercial cannabis operations.

Sec. 5.26.160 - Suspension and revocation.

- A. The City Manager is authorized to suspend and/or revoke a Commercial Cannabis Operation Permit issued pursuant to this chapter upon the determination through written findings of a failure to materially comply with any provision of this chapter, any Commercial Cannabis Operation Permit condition, or any agreement or covenant required or made pursuant to this chapter.
- B. Notwithstanding Subsection (A), the City Manager may suspend or revoke a Commercial Cannabis Operation Permit if any of the following occur:

Ordinance No. 1260

Page 37 of 53

1. The equivalent State license has been suspended or revoked by the State; or
 2. Operations cease for more than one hundred eight (180) consecutive or cumulative days in any one (1) year period; or
 3. Ownership is changed or transferred without complying with Section 5.26.100; or
 4. The commercial cannabis operation fails to maintain required security camera recordings; or
 5. The commercial cannabis operation fails to allow inspection of the security recordings, the activity logs, the records, or of the site by Operations Officers pursuant to this chapter.
- C. Conditions (if any) of suspension or revocation are at the reasonable discretion of the City Manager and may include, but are not limited to, a prohibition on all owners, managers and employees of the suspended or revoked commercial cannabis operation from operating within the City for a period of time set forth in writing and/or a requirement (when operations may resume, if at all, pursuant to the City Manager's reasonable determination) for the holder of the suspended or revoked Commercial Cannabis Operation Permit to resubmit an application for a Commercial Cannabis Operation Permit pursuant to the requirements of this chapter.

Sec. 5.26.170 – Appeals.

Any decision regarding the City Manager's suspension or revocation of a Commercial Cannabis Operation Permit pursuant to Section 5.26.160 may be appealed to the City Council by a permittee or interested party as follows:

- A. If the appellant wishes to appeal a decision to the City Council, the appellant must file a written appeal with the City Clerk within ten (10) calendar days of the decision. The written appeal shall specify the person making the appeal, the decision appealed from, state the reasons for the appeal, and include any evidence in support of the appeal which the applicant seeks to be considered by the City Council.
- B. Notice of the time and place of an appeal hearing shall be providing to the appellant within thirty (30) days of receipt by the City Clerk of the written appeal.
- C. The appeal hearing shall be held within sixty (60) days of the filing of the written appeal with the City Clerk, unless the 60 day time limit is waived by the appellant, or unless the City Council continues the appeal hearing date for good cause and upon written notification to the appellant.
- D. The City Council shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determine whether the appealed decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final.
- E. The provisions of Section 1094.6 of the Code of Civil Procedure sets forth the procedure for judicial review of any final determination. Parties seeking such judicial review shall file such action within ninety (90) days of a determination being made final.

Sec. 5.26.180 – Violations and penalties; public nuisance.

- A. Any material violation of the provisions of this chapter is punishable as a misdemeanor or an infraction, at the discretion of the City Attorney, pursuant to Chapters 1.14 and 1.16 of this Code, except for as preempted by State law and material any violation of the provisions of this chapter is subject to administrative citation, at the reasonable discretion of the City, pursuant to Chapters 1.14 and 1.16 of this Code.
- B. Public Nuisance Abatement.
 - 1. Any commercial cannabis operation that is conducted in material violation of any provision of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 8.36 of this Code.
 - 2. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance, including the commercial cannabis operation and the property owner where the nuisance is occurring.
- C. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude City from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.
- D. Any material violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

Sec. 5.26.190 - Service of notices.

Any notice required by this chapter is deemed issued and served upon the earliest date that either: the notice is deposited in the United States mail, postage pre-paid, addressed to the most recent mailing address provided to the City pursuant to the requirements of this chapter; or, the date upon which personal service of the notice is provided to a responsible party.

Sec. 5.26.200 - Prohibitions.

- A. Any commercial cannabis operation in violation of this chapter, or any other applicable State law is expressly prohibited.
- B. It is unlawful for any commercial cannabis operation in the City, or any agent, employee or representative of such commercial cannabis operation, to permit any breach of peace or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct at the site of the commercial cannabis operation.

Sec. 5.26.210 - Nonconforming use.

No use which purports to have engaged in commercial cannabis operations of any nature prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of this Code, or any other City ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

Sec. 5.26.220 – Exceptions

- A. To the extent that the following activities are permitted by state law, nothing in this chapter shall prohibit a person twenty-one (21) years of age or older from:
 - 1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons twenty-one (21) years of age or older, without compensation

Ordinance No. 1260

Page 39 of 53

whatsoever, not more than twenty-eight and one-half (28.5) grams of cannabis not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons twenty-one (21) years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;
3. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons twenty-one (21) years of age or older without compensation whatsoever; or
4. Engaging in the indoor cultivation of six (6) or fewer live cannabis plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by Sections 11362.1 and 11362.2, of the State Health and Safety Code, as may be amended from time to time.

- B. This chapter shall also not prohibit any commercial cannabis operations that the City is required by law to permit within its jurisdiction pursuant to State law.

Sec. 5.26.230 – Operative date.

This chapter shall be operative ten (10) days after the date that the City Council declares that a majority of the City’s voters voting at the November 8, 2022, election have voted in favor of this chapter at such election.

Sec. 5.26.240 - Severability.

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

Sec. 5.26.250. City Council Authority to Amend.

The City Council has the right and authority to amend this chapter, with the exception of Section 5.26.060 (which may only be amended (i) if ordered to do so by a court of competent jurisdiction as a judicial remedy or (ii) by a vote of the People of the City), to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Elections Code Section 9217.

Sec. 5.26.260. City Councilmember Conflicts of Interest.

Notwithstanding any other provision of this Chapter, if a councilmember has an ownership or partnership interest in a commercial cannabis operation, receives any compensation beyond lawful campaign contributions from a commercial cannabis operation, or receives any benefits beyond permitted benefits or gifts allowed by FPPC regulations from a commercial cannabis operation, then that councilmember is disqualified from voting on an item involving that commercial cannabis operation where there is that conflict of interest.”

SECTION 3. REPEAL OF CHAPTER 17.31. Chapter 17.31 of Title 17 of the City Municipal Code is hereby repealed in its entirety.

SECTION 4. AMENDMENT TO SECTION 17.18.030(O). Section 17.18.030(O) of Chapter 17.18 of Title 17 of the South El Monte Municipal Code is hereby repealed in its entirety.

SECTION 5. ADDITION OF SECTION 9.08.045. Section 9.08.045 shall be added to Chapter 9.08 of Title 9 of the South El Monte Municipal Code as follows:

“This Chapter shall not apply to a retailer commercial cannabis operation permitted pursuant to Chapter 5.26 of Title 5 of this Code.”

SECTION 6. AMENDMENT TO SECTION 17.14.030. Section 17.14.030 of Chapter 17.14 of Title 17 of the City Municipal Code is hereby amended by adding Subsection (S) as follows:

“Retailer commercial cannabis operations in accordance with Chapter 5.26 of Title 5 of this Code.”

SECTION 7. AMENDMENT TO SECTION 17.16.030. Section 17.16.030 of Chapter 17.16 of Title 17 of the City Municipal Code is hereby amended by adding Subsection (F) as follows:

“Retailer commercial cannabis operations in accordance with Chapter 5.26 of Title 5 of this Code.”

SECTION 8. SENSITIVE USES. The People of the City find that the definitions of the sensitive uses (alcohol or drug treatment facilities, day care centers, parks, religious institutions, schools, and youth centers) under the amendment to Chapter 5.26 of the City Municipal Code in this Ordinance are subject to some degree of interpretation. However, the People of the City also find that certainty regarding the identification of sensitive uses (alcohol or drug treatment facilities, day care centers, parks, religious institutions, schools, and youth centers) under the amendments to Chapter 5.26 of the City Municipal Code in this Ordinance is required to carry out the purpose and intent of the Ordinance so the that People, the City, and prospective applicants can clearly identify where and where not lawful retailer commercial cannabis operations under this Ordinance may be located. Accordingly and pursuant to the authority delegated by the State to the People of the City under Section 26054(b) of the State Business and Professions Code and overriding the location and design requirements contained in Section 26054(b) of the State Business and Professions Code, the sensitive uses established by resolution of the City Council (including alcohol or drug treatment facilities, day care centers, parks, religious institutions, schools, and youth centers) and only those sensitive uses shall be considered under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance for the purpose of the initial establishment of retailer commercial cannabis operations pursuant to the initial iteration of the retailer commercial cannabis operations application procedure under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance (to include any review and scoring of any applications pursuant to the objective review criteria and quantitative evaluation scale under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance). Only following the initial iteration of the retailer commercial cannabis operations application procedure and the initial issuance of Commercial Cannabis Operation Permits under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance, and except as otherwise provided by the City Council resolution, may the City Manager designee reinterpret the list of sensitive uses for the purpose of subsequent iterations of the retailer commercial cannabis operations application procedure under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance and change in location applications under the amendment to Section 5.26.130 of the City Municipal Code in this Ordinance.

SECTION 9. AMENDMENT TO SECTION 5.04.045. Section 5.04.045 of Title 5 of the South El Monte Municipal Code is hereby amended to add “Retailer (Type 10) Commercial Cannabis Operations (Medical / Adult-Use / Non-Medical) in accordance with Chapter 5.26 of Title 5 of this Code” as a new item number 9 to the list of businesses, occupations, or other activities requiring licenses in the City as set forth in Los Angeles County Code Section 7.04.010 as amended by South El Monte Municipal Code Section 5.04.045, and to renumber existing items 9 through 45 of the list accordingly.

SECTION 10. ADDITION OF CHAPTER 3.40 (CANNABIS BUSINESS TAX). Chapter 3.40 (Cannabis Business Tax) is hereby added to Title 3 (Revenue and Finance) of the South El Monte Municipal Code, to read in its entirety as follows:

“CHAPTER 3.40 CANNABIS BUSINESS TAX

Section 3.40.010. Definitions.

Section 3.40.020. Tax.

Section 3.40.030. Operation of Tax.

Section 3.40.040. Returns and Remittances.

Section 3.40.050. Failure to Pay Tax.

Section 3.40.060. Refunds and Claims.

Section 3.40.070. Enforcement.

Section 3.40.080. Debts; Deficiencies; Determinations; Hearings.

Section 3.40.090. Operative Date.

Section 3.40.100. City Council Authority to Amend.

Section 3.40.110. City Councilmember Conflicts of Interest.

Sec. 3.40.010. Definitions.

The following definitions apply to this chapter unless the context clearly denotes otherwise. Terms not defined herein shall be given the definitions set forth in Chapter 5.26 of this Code.

- A. “Cannabis” shall have the meaning set forth in Section 5.26.030 of this Code.
- B. “Cannabis products” shall have the meaning set forth in Section 5.26.030 of this Code.
- C. “City” means the City of South El Monte.
- D. “Code” shall mean the South El Monte Municipal Code.
- E. “Commercial cannabis operation” shall have the meaning set forth in Section 5.26.030 of this Code. “Commercial cannabis activity” and “cannabis business” shall be synonymous with “commercial cannabis operation.”
- F. “Cultivation” shall have the meaning set forth in Section 5.26.030 of this Code.
- G. “Delivery” shall have the meaning set forth in Section 5.26.030 of this Code.
- H. “Distribution” shall have the meaning set forth in Section 5.26.030 of this Code.
- I. “Distributor” shall have the meaning set forth in Section 5.26.030 of this Code.

- J. “Edible” shall have the meaning set forth in Section 5.26.030 of this Code.
- K. “City Manager” means the City’s City Manager, or his or her designee.
- L. “Location” shall have the meaning set forth in Section 5.26.030 of this Code.
- M. “Manufacture” or “manufacturing” shall have the meaning set forth in Section 5.26.030 of this Code.
- N. "Manufactured cannabis" 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.
- O. “Manufacturer” shall have the meaning set forth in Section 5.26.030 of this Code.
- P. “Marijuana” has the same definition as “cannabis.”
- Q. “Operation” means a “commercial cannabis operation.”
- R. "Permit," or "local permit" means a Commercial Cannabis Operation Permit, as that term is defined in Section 5.26.030 of this Code.
- S. “Person” shall have the meaning set forth in Section 5.26.030 of this Code.
- T. “Proceeds” means total amount of gross revenue actually received or receivable by a commercial cannabis operation from all sales of goods of any kind, including but not limited to cannabis and cannabis products; the total amount of compensation actually received or receivable for the performance of any act or service whatever nature it may be, including but not limited to commercial cannabis activity, from which a charge is made or credit allowed, whether such service is done singly and/or as part of or in connection with the sale of materials; goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends or other gains. Proceeds includes all receipts, cash, credits and property of any kind or nature, consideration of any nature, without any deduction therefrom on account of the cost of property sold, the cost of materials used, labor or services costs, interest paid or payable or losses or other expenses or deduction whatsoever. Excluded from Proceeds are any taxes required by law to be added to the purchase and collected from the consumer or purchaser, such part of the sales price of any property returned by the purchaser to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in Proceeds. Proceeds may also exclude such other amounts that may be permitted by the City Manager as not being included in Proceeds pursuant to administrative rulings or instructions provided by the City Manager. “Proceeds” is intended to include all gross revenue of the commercial operation whether for commercial cannabis activities or other activities (e.g., revenue from sales of other goods at the location).
- U. “Retailer” means a person engaged in the retail sale or delivery of cannabis or cannabis products to a customer. A retailer may be a storefront or non-storefront retailer.
- V. “Space utilized as cultivation area” shall mean any space or ground, floor or other surface area (whether horizontal or vertical) which is used during the cannabis germination, seedling, vegetative, pre-flowering, flowering and/or harvesting phases, including without limitation any space used for activities such as growing, planting, seeding, germinating, lighting, warming, cooling, aerating, fertilizing, watering, irrigating, topping, pinching, cropping, trimming, curing or drying cannabis or any

such space available for or used for storing any products, supplies or equipment related to any such activities, no matter where such storage may take place or such storage space may be located. "Space used as cultivation area" shall include space used to cultivate cannabis plants on platforms and stack them in multiple layers on top of each other (i.e., vertical cultivation). "Space utilized as cultivation area" shall be calculated in square feet and measured using clearly identifiable and/or apparent boundaries, including all of the space within the boundaries. Such space may be noncontiguous but each unique area included in the total calculation shall be separated by an identifiable and/or apparent boundary, including but not limited to, interior walls, shelves, and greenhouse walls, nursery wall or canopy walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots. "Space used as cultivation area" includes space which is immediately available for the activities described herein even if not being used at the time of determination. The City Manager shall determine the "space utilized as cultivation area" during the initial Term of the operation, and at least annually thereafter.

- W. "Tax" means the commercial cannabis tax and commercial cannabis cultivation tax imposed by this chapter.
- X. "Term" means such term or period of time as may be designated by the City Manager for reporting or payment of tax, provided, however, that if no such term is designated, Term shall mean a calendar month (meaning that the annual tax shall be divided by 12 for the appropriate fiscal year). Notwithstanding the foregoing, the Term for payment of tax may be set on a monthly, quarterly, semi-annual or annual basis by the City Manager. Taxes may be prorated to the extent the City Manager provides for a term other than that specified above, to the extent a commercial cannabis operation commences on a date other than the first date of a Term, upon cessation of the business, or for other appropriate reasons.
- Y. "Testing laboratory" shall have the meaning set forth in Section 5.26.030 of this Code.

Sec. 3.40.020. Tax.

- A. Commercial Cannabis Tax (non-cultivation). Every person conducting a commercial cannabis operation other than cultivation in the City, regardless of whether such operation has a valid permit pursuant to this Code, shall pay, on a per-Term basis, a commercial cannabis tax (non-cultivation) of not more than six percent (6%) of the proceeds of the commercial cannabis operation.
- B. Commercial Cannabis Cultivation Tax. Every person conducting a commercial cannabis operation involving cultivation in the City, regardless of whether such operation has a valid permit pursuant to this Code, shall pay a maximum commercial cannabis cultivation tax of no more than ten dollars (\$10) per square foot per fiscal year (July 1 to June 30) for space utilized as cultivation area. Notwithstanding the foregoing, taxes imposed on space utilized as cultivation area shall be adjusted annually on July 1 of each year, commencing July 1, 2023, after the date of imposition based on changes in the Consumer Price Index ("CPI") for all urban consumers in the Los Angeles-Long Beach-Anaheim areas (or similar index) as published by the United States Government Bureau of Labor Statistics for the prior calendar year; provided, however, no adjustment shall decrease any maximum tax imposed by this chapter.
- C. Purpose of Tax. The revenue generated by the commercial cannabis tax and the commercial cannabis cultivation tax may be spent for unrestricted general revenue purposes.

Ordinance No. 1260

Page 44 of 53

- D. Intent of Tax. The taxes provided for in this chapter do not authorize any commercial cannabis operation or use that is not otherwise expressly allowed by this Code. The taxes provided for in this chapter are intended to both allow the City to levy the taxes on commercial cannabis operations and uses that are authorized or allowed in the City as of the date of enactment of this chapter and to provide the City with the ability to levy the taxes on potential future commercial cannabis operations and uses that may after enactment of this chapter be allowed in the City by local ordinance or initiative. The taxes imposed by this chapter are in addition to all other applicable taxes imposed by this Code, including, but not limited to, the sales and use tax imposed by Chapter 3.04 of Title 3 and the business license fees imposed by Chapter 5.04 of Title 5.
- E. Automatic Maximum Rates. The tax rates of the commercial cannabis tax (non-cultivation) and the commercial cannabis cultivation tax shall automatically be set at the maximum rates specified in this chapter each July 1 unless established otherwise at a lower rate by resolution or ordinance of the City Council.
- F. Authority to Levy Tax at Lower than Maximum Authorized Rate. The City Council may, at any time, by resolution or ordinance and without voter approval, levy the tax at any rate lower than the maximum rate authorized by this chapter; provided, however, the maximum tax rate permitted to be levied without further voter approval shall be and remain the maximum tax rate set forth in this chapter.
- G. Future Exemptions, Exceptions, Penalties and Interest Permitted. The City Council may establish exemptions, incentives, or other reductions, and penalties and interest charges or determinations of tax due for failure to pay the tax in a timely manner, as otherwise allowed by this Code or California law. No action by the City Council under this section shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction, and thereby restoring the maximum tax specified in this chapter.

Sec. 3.40.030. Operation of Tax.

- A. Failure to pay the taxes set forth in this chapter shall be subject to penalties, interest charges, and determinations of tax due as set forth in this chapter and as the City Council may establish, and the City may use any or all other enforcement remedies provided for in this Code, or pursuant to state law.
- B. The payment of the tax required pursuant to this chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this chapter shall be construed to authorize commercial cannabis operations.
- C. Taxes provided for hereunder are not sales or use taxes and shall not be calculated or assessed as such. The taxes shall not be separately identified or otherwise specifically assessed or charged to any individual, consumer or customer; rather, the taxes are imposed upon the commercial cannabis operation.
- D. The City Manager shall promulgate rules, regulations, and procedures to implement and administer this chapter to ensure the efficient and timely collection of the tax imposed by this chapter, including without limitation, formulation and implementation of penalties and interest to be assessed for failure to pay the tax as provided.

Sec. 3.40.040. Returns and Remittances.

The tax shall be due and payable as follows:

- A. Each person owing tax, within 45 days (or such other period as may be established by the City Manager) after the conclusion of each Term, shall prepare and submit a tax return to the City Manager. The tax return shall include all information necessary to determine the amount of tax owed for the subject Term, including the proceeds of the commercial cannabis operation (for all operations other than cultivation) and the total square footage of space utilized as cultivation area, for cultivation operations. At the time the tax return is filed, the full amount of the tax owed for the preceding term shall be remitted to the City. Where the Term is set on an annual basis, the City Manager may require prorated payments or estimated tax payments on more frequent intervals during the Term, as such intervals may be established by the City Manager.
- B. All tax returns shall be completed on forms provided by the City Manager.
- C. Tax returns and payments for all outstanding taxes owed the City are immediately due to the City Manager upon cessation of business of a commercial cannabis operation for any reason or upon sale of a commercial cannabis operation.
- D. Whenever any payment, statement, report, request or other communication received by the City Manager is received after the time prescribed by this section for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this section for the receipt thereof, or whenever the City Manager is furnished substantial proof that the payment, statement, report, request, or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the City Manager may regard such payment, statement, report, request, or other communication as having been timely received. If the due date falls on a date the City Hall is closed, or on a Saturday, Sunday, or federal holiday, the due date shall be the next regular business day on which the City Hall is open to the public following the due date.
- E. Unless otherwise specified in this chapter, taxes shall be deemed delinquent if not paid on or before the due date pursuant to this section.
- F. The City Manager is not required to send a delinquency or other notice or bill to any person subject to payment of tax pursuant to this chapter, and failure to send such notice or bill shall not affect the validity of any tax or penalty due under this chapter.

Sec. 3.40.050. Failure to Pay Tax.

Any person who fails or refuses to pay any tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

- A. A penalty of no more than twenty-five percent (25%) of the amount of tax remaining unpaid (in addition to the amount of unpaid tax), plus interest on the unpaid tax calculated from the due date of the tax at a rate not to exceed twelve percent (12%) per year (or one percent (1%) per month), and these penalties and interest rates will automatically be set at the maximum amounts unless established otherwise as a lower amount by resolution of the City Council.
- B. Whenever a check is submitted in payment of a tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus penalties and interest as provided for in this section, as well as any other amount

Ordinance No. 1260

Page 46 of 53

allowed under state law.

- C. The tax due shall be that amount due and payable from the operative date of this chapter.
- D. The City Manager may waive the penalties of up to twenty-five percent (25%) each imposed upon any person if:
 - 1. The person provides evidence satisfactory to the City Manager that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent tax and accrued interest owed the City prior to applying to the City Manager for a waiver.
 - 2. The waiver provisions specified in this subsection shall not apply to interest accrued on delinquent tax, and a waiver shall be granted no more than once during any twenty-four month period for any given payor of commercial cannabis tax (non-cultivation), and no more than once during any five (5) year period for any given payor of commercial cannabis cultivation tax.

Sec. 3.40.060. Refunds and Claims.

- A. No refund or claim shall be made of any tax collected pursuant to this chapter, except as provided in this section.
- B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of an operation.
- C. Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against cannabis business taxes for the next term.
- D. Whenever the amount of any tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, such amount may be refunded to the claimant who paid the tax, provided that a written claim for refund is filed with the City Manager if the claim is equal to or less than \$5,000 and the City Council if the claim is more than \$5,000. Refund claims must be filed as set forth above within one year of the subject tax payment pursuant to Government Code Section 911.2. Each person requesting a refund or making a claim shall file the claim as provided herein. The submission of a written claim, which shall be acted upon by the City Manager if less than or equal to \$5,000 or the City Council if more than \$5,000, shall be a prerequisite to suit thereon. (See Section 935 of the California Government Code). The City Manager, or the City Council where the claim is in excess of \$5,000, shall act upon the refund claim within the time period set forth in Government Code Section 912.4. If the City Council fails or refuses to act on a refund claim within the time prescribed by Government Section 912.4, the claim shall be deemed to have been rejected by the City Council on the last day of the period within which the City Council was required to act upon the claim as provided in Government Code Section 912.4. The City Manager or City Clerk or other officer charged with such duty shall give notice of the action in a form that substantially complies with that set forth in Government Code Section 913. To the extent allowed by law, nothing herein shall permit the filing of a claim on behalf of a class or group of taxpayers unless each member of the class has submitted a written claim as provided by this Section 3.40.060.

- E. The City Manager shall have the right and authority to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant therefor refuses to allow such examination of claimant's books and business records after request by the City Manager to do so. The authorization herein shall extend to any agent hired by the City to audit the books, including an independent auditor.
- F. In the event that the tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this chapter from the amount to be refunded to cover expenses.
- G. The City Manager shall initiate a refund of any tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is revealed by a City audit of tax receipts. In the event that the tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this chapter from the amount to be refunded to cover expenses.

Sec. 3.40.070. Enforcement.

- A. It shall be the duty of the City Manager to enforce each and all of the provisions of this chapter.
- B. For purposes of administration and enforcement of this chapter generally, the City Manager, with the assistance of the City Attorney, may from time to time promulgate administrative rules and regulations.
- C. The City Manager shall have the power to audit and examine all books and records of operations as well as persons engaged in the conducting of an operation, including both state and federal income tax returns, California sales tax returns, logs, receipts, bank records, or other evidence documenting the proceeds of the operation and/or space utilized as cultivation area, or persons engaged in the conduct of an operation, for the purpose of ascertaining the amount of tax, if any, required to be paid by the provisions of this chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this chapter. If such operation or person, after written demand by the City Manager, refuses to make available for audit, examination or verification such books, records, or equipment as the City Manager requests, the City Manager may, after full consideration of all information within the City Manager's knowledge concerning the operation and activities of the person so refusing, make a determination of tax due in the manner provided in Section 3.40.080.
- D. The City Manager shall have the power to enter upon the premises upon reasonable notice to the commercial cannabis operation at least once per Term for the purposes of determining space utilized as cultivation area, to review items requested in subsection C of this section or as otherwise needed for enforcement of this chapter.
- E. The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.
- F. Any person violating any provision of this chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or

Ordinance No. 1260

Page 48 of 53

employee of the City any material fact, either concerning the operation and administration of this chapter, or as provided for in this chapter, shall be deemed guilty of a misdemeanor. Notwithstanding the foregoing, the City Attorney/Prosecutor, in his or her discretion, may elect to charge and prosecute any violation as an infraction in lieu of a misdemeanor or to not charge and prosecute at all.

Sec. 3.40.080. Debts; Deficiencies; Determinations; Hearings.

- A. The amount of any tax, penalties, and interest imposed by this chapter shall be deemed a debt to the City, and any person conducting an operation without also making payment to the City of the taxes, penalties and interest imposed by this chapter shall be liable in an action in the name of the City in any court of competent jurisdiction for the full amount of the tax, and penalties and interest owed by such operation.
- B. If the City Manager is not satisfied that any statement filed as required by this chapter is correct, or that the amount of tax is correctly computed, the City Manager may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person ceases or discontinues an operation, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due.
- C. Under any of the following circumstances, the City Manager may make and give notice of a determination of the amount of tax owed by a person under this chapter:
 - 1. If the person has not filed any statement or return required by this chapter.
 - 2. If the person has not paid any tax due under the provisions of this chapter.
 - 3. If the person has not, after demand by the City Manager, filed a corrected statement or return, or furnished to the City Manager adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under this chapter.
 - 4. If the City Manager determines that the nonpayment of any tax due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this chapter.
 - 5. The notice of determination shall separately set forth the amount of any tax known or estimated by the City Manager, after consideration of all information within his or her knowledge concerning the business and activities of the person assessed, to be due under this chapter, and such notice shall include the amount of any penalties or interest accrued on each amount to the date of the notice of determination.
 - 6. The notice of determination shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business appearing on the face of the business tax certificate issued under this Code or to such other address as such person shall register with the City Manager for the purpose of receiving notices provided under this

chapter; or, should the person have no business tax certificate issued and should the person have no address registered with the City Manager for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

- D. Within ten days after the date of service of a notice of determination of the amount of tax owed by a person under this chapter, or other determination of the City Manager pursuant to subsection (C)(5) of this section, the person may apply in writing to the City Manager for a hearing on the determination. If application for a hearing before the City is not timely made, the tax assessed by the City Manager shall become final. The procedures for such a hearing shall be conducted as required by law and as follows:
1. The City Council delegates its authority to conduct such a hearing on the determination to an independent hearing officer. The compensation of the hearing officer shall not depend on any particular outcome of the appeal. The hearing officer shall have full authority and duty to preside over the hearing on the determination in the manner set forth herein and as required by law.
 2. Within 30 days of the receipt of any such application for hearing, the City Manager shall cause the matter to be set for hearing before the independent hearing officer, unless a later date is agreed to by the City Manager and the person requesting the hearing.
 3. Notice of the hearing shall be given by the City Manager to the person requesting the hearing not later than five days prior to the date of the hearing. For good cause, the hearing officer may continue the administrative hearing from time to time. At the hearing, the applicant may appear and offer evidence to show why the determination of the City Manager should not be confirmed and fixed as the tax due or the other determination of the City Manager pursuant to subsection (C)(5). In conducting the hearing, the hearing officer shall not be limited by the technical rules of evidence. Failure of the person who applied for a hearing on the determination to appear shall not affect the validity of the proceedings or order issued thereon.
 4. Upon conclusion of the hearing, or no later than 10 days after the conclusion of the hearing, the hearing officer shall determine and reassess the proper tax to be charged or make such other determination as provided in subsection (C)(5) and shall give written notice to the person in the manner prescribed in this chapter for giving notice of determination, and the hearing officer shall submit its decision and the record to the City Clerk. The decision of the hearing officer shall be final.
 5. The provisions of this section apply to any decision, deficiency determination, assessment, or other decision or ruling of the City Manager, except decisions made pursuant to Section 3.40.060 (Refunds and Claims). Any person aggrieved by any decision subject to this section shall comply with the hearing procedure of this section. Pursuant to Government Code Section 935(b), compliance with this section shall be a prerequisite to a suit thereon. To the extent allowed by law, nothing herein shall permit the filing of a claim or action on behalf of a class or group of taxpayers.

Sec. 3.40.090. – Operative date.

This chapter shall be operative ten (10) days after the date that the City Council declares that a majority of the City’s voters voting at the November 8, 2022, election have voted in favor of this chapter at such election.

Sec. 3.40.100. City Council Authority to Amend.

The City Council has the right and authority to amend this chapter, to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Elections Code Section 9217.

Sec. 3.40.110. City Councilmember Conflicts of Interest.

Notwithstanding any other provision of this Chapter, if a councilmember has an ownership or partnership interest in a cannabis business, receives any compensation beyond lawful campaign contributions from a cannabis business, or receives any benefits beyond permitted benefits or gifts allowed by FPPC regulations from a cannabis business, then that councilmember is disqualified from voting on an item involving that cannabis business where there is that conflict of interest.”

SECTION 11. SEVERABILITY. If any provision, section, paragraph, sentence, phrase, or word of this Ordinance is, rendered or declared invalid, illegal, or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, such constitutionality, illegality or invalidity shall only affect such provision, section, paragraph, sentence, phrase, or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases, or words, or the application of this Ordinance to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to the intent of the People of the City that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

SECTION 12. APPROPRIATIONS LIMIT. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of South El Monte is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

SECTION 13. CONFLICTING MEASURES. The People of the City find and declare that the provisions of this Ordinance relating to the regulation and taxation of commercial cannabis operations in the City may conflict with one or more provisions of other initiative measures. It is the intent of the People that if this Ordinance receives a greater number of affirmative votes than a conflicting measure at the same election, this Ordinance shall prevail in its entirety over a conflicting measure.

SECTION 14. AMENDMENT. Following the operative date of this Ordinance, the City Council may, pursuant to the procedures set forth in the State Government Code and the City Municipal Code and without prior approval of the electorate, amend this Ordinance including Chapter 5.26 (Cannabis Activities) of Title 5 (Business Taxes, Licenses, and Regulations) of the City Municipal Code, with the exception of Section 5.26.060 of the City Municipal Code, which may only be amended (i) if ordered to do so by a court of competent jurisdiction as a judicial remedy or (ii) by a vote of the People of the City.

SECTION 15. CEQA. The City Council finds that this Ordinance is not subject to the CEQA

pursuant to both the exemption provided by Sections 15060(c)(3) and 15061(b)(3) of the CEQA Guidelines.

SECTION 16. OPERATIVE DATE. This Ordinance shall be operative 10 days after the date that the City Council declares that a majority of the City's voters voting at the November 8, 2022, election have voted in favor of a cannabis-related measure at such election.

SECTION 17. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2022.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

Anthony R. Taylor, City Attorney

ATTACHMENT E

DRAFT

ORDINANCE NO. ____

AN ORDINANCE ("ORDINANCE") OF THE ~~CITY COUNCIL~~ PEOPLE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, AMENDING CHAPTER 5.26 (CANNABIS ACTIVITIES) OF TITLE 5 OF THE SOUTH EL MONTE MUNICIPAL CODE TO ONLY PERMIT CANNABIS COMMERCIAL ~~CANNABIS USE OF RETAIL SALES (MEDICAL OPERATIONS THAT INVOLVE THE ACTIVITY OF RETAILER (MEDICAL-ONLY AND MEDICAL/ADULT USE))~~; REPEALING CHAPTER 17.31 OF TITLE 17 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO CANNABIS ACTIVITY PROHIBITIONS; AMENDING SOUTH EL MONTE MUNICIPAL CODE ~~SECTION~~ SECTIONS 17.14.030, 17.16.030, AND 17.18.030(O), RELATING TO PERMITTED USES IN THE COMMERCIAL ~~MANUFACTURING (CM) C).~~ COMMERCIAL-MANUFACTURING (C-M), AND MANUFACTURING (M) ZONES; ~~AND-ADDING SECTION 9.08.050~~ 9.08.045 TO CHAPTER 9.08 OF TITLE 9 OF THE SOUTH EL MONTE MUNICIPAL CODE, RELATING TO THE DISPLAY AND SALE OF PARAPHERNALIA FOR THE CONSUMPTION OF CANNABIS IN PERMITTED COMMERCIAL CANNABIS OPERATIONS; ~~AMENDING SOUTH EL MONTE MUNICIPAL CODE SECTION 5.04.045, RELATING TO BUSINESS LICENSE REQUIREMENTS FOR COMMERCIAL CANNABIS RETAILERS; AND APPROVING A GENERAL CANNABIS BUSINESS TAX BY ADDING CHAPTER 3.40 (CANNABIS BUSINESS TAX) TO TITLE 3 OF THE SOUTH EL MONTE MUNICIPAL CODE~~

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

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

WHEREAS, in October 2015, the State ~~of California~~ legislature adopted AB 266, AB 243, and SB 643, collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"), which established a comprehensive regulatory and licensing scheme for commercial medical cannabis operations; and

WHEREAS, at the November 8, 2016 general election, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA") was approved by ~~California State~~ voters as Proposition 64, which established a comprehensive regulatory and licensing scheme for commercial adult-use (recreational) cannabis operations, and which also legalized limited personal recreational cannabis use, possession,
01257.0002/793102.15

Ordinance No. ____

Page 1 of ~~33~~70

and cultivation; and

WHEREAS, on June 27, 2017 Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

WHEREAS, ~~the under~~ MAUCRSA ~~provides that~~ the State ~~of California will begin began~~ issuing licenses in 2018 for both medical and adult-use (recreational) cannabis businesses in ~~20~~ twenty (20) different categories, which are found in Section 26050 of the State Business & Professions Code, ~~and which categories include cannabis cultivation, manufacturer, testing, retailer, distributor, and microbusiness~~ to include licensing categories cannabis cultivators, manufacturers, testers, retailers, distributors, and microbusinesses; and

WHEREAS, the MAUCRSA, through Section 26200(a)(1) of the State Business & and Professions Code, provides ~~that~~ local jurisdictions ~~may the right to~~ completely prohibit the establishment or operation of any or all of the ~~20 twenty (20)~~ different categories of medical and recreational business operations to be licensed by the ~~state~~ State under Section 26050 of the State Business & and Professions Code; and

WHEREAS, the MAUCRSA, through Section 26055(d) of the State Business & and Professions Code, provides that a ~~state~~ State commercial cannabis license may not be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation; and

WHEREAS, the MAUCRSA, through Section 26200(a)(1) of the State Business & Professions Code, provides ~~that~~ local jurisdictions ~~may the right to~~ adopt and enforce local ordinances to regulate any or all of the ~~20 twenty (20)~~ different categories of medical and adult-use business operations to be licensed by the ~~state~~ State under Section 26050 of the State Business & and Professions Code, including, but not limited to, local zoning and land use requirements; and

WHEREAS, the MAUCRSA, Section 26201 of the State Business & and Professions Code, provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state for the ~~20 twenty (20)~~ different categories of medical and adult-use business operations to be licensed by the ~~state~~ State under Section 26050 of the State Business & and Professions Code ~~§ 26050~~, shall be the minimum standards, and a local jurisdiction may establish additional standards, requirements, and regulations; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City of South El Monte (the “City”) now desires to amend Chapter 5.26 (Cannabis Activities) of Title 5 of the South El Monte City Municipal Code to permit certain commercial adult-use cannabis uses (retail (medical / adult-use / non-medical) sales); and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City now desires to amend Chapter 5.26 (Cannabis Activities) of Title 5 of the ~~South~~

01257.0002/793102.15

DRAFT

~~El Monte City~~ Municipal Code so as to expressly authorize the City Manager to issue administrative rules and regulations governing commercial cannabis uses within the City ~~of South El Monte; and, and~~

WHEREAS, as part of this Ordinance, the City desires to impose a tax upon commercial cannabis operations, to be known as the "Cannabis Business Tax," pursuant to voter approval, so that every person engaged in conducting a commercial cannabis operation shall pay a cannabis business tax, regardless of whether such operation has a valid permit pursuant to the South El Monte Municipal Code; and

~~WHEREAS, this Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act of 2003, the Medical Cannabis Regulation and Safety Act of 2015, the Adult Use of Marijuana Act of 2016, and the Medicinal and Adult Use of Cannabis Regulation and Safety Act of 2017, to protect, promote and maintain the public health, safety, and welfare of City residents and visitors in relation to cannabis related uses and activities; and~~

~~WHEREAS, pursuant to the above-described express statutory authority and the City's police power, the City has the authority to prohibit, permit and regulate any and all commercial cannabis activities (whether not for profit or for profit) that may otherwise be permitted by the State of California under the MCRSA, the AUMA, and the MAUCRSA; and~~

WHEREAS, pursuant to subdivision (b) of Section 2 of Article XIIC of the California Constitution and Section 53720 *et seq.* of the Government Code, the City Council is authorized to impose a general tax upon submission of such general tax to the voters of the City and approval by a majority of the voters voting on the issue, at an election consolidated with a regularly scheduled general election for members of the City Council; and

WHEREAS, presently the City has no specific local tax on cannabis commercial operations;
and

WHEREAS, MAUCRSA and AUMA do not preempt local taxation of commercial cannabis operations; and

WHEREAS, pursuant to Government Code Section 9222 and Government Code Sections 53720 *et seq.*, on August 2, 2022, the City Council approved this Ordinance for submittal to the voters of the City, and called a General Municipal Election for that purpose to be held on November 8, 2022, and consolidated with the Statewide General Election that will be held on the same date; and

WHEREAS, although the City does not desire nor intend by this Ordinance to allow any commercial cannabis uses in the City other than the medical cannabis retailers that may be permitted pursuant to Chapter 5.26 of the City's Municipal Code, the City does desire to seek voter approval for a broad cannabis tax that is applicable to permitted commercial cannabis uses, any unlawful or unpermitted commercial cannabis uses which may be in operation at any time, and any potential commercial cannabis uses that may be allowed in the future; and

WHEREAS, if this Ordinance is approved by a majority of voters, then this Ordinance will,

01257.0002/793102.15

Ordinance No. _____
Page 3 of 370

DRAFT

among other amendments, amend the South El Monte Municipal Code to add a new Chapter 3.40 ("Cannabis Business Tax") to Title 3 (Revenue and Finance) of the South El Monte Municipal Code to enact the Cannabis Business Tax, which includes a "commercial cannabis tax" and a "commercial cannabis cultivation tax," as such terms are used in said Chapter 3.40; and

WHEREAS, the City desires and intends that revenue generated from said cannabis taxes can be spent for unrestricted general revenue purposes; and

WHEREAS, the City finds that this ~~ordinance~~ Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to both the exemption provided by Section 26055(h) of the State Business and Professions Code as well as Sections 15060(c)(3) and 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, nothing in this Ordinance shall be construed to allow any person to engage in conduct that endangers others or causes a public nuisance;

NOW, THEREFORE, THE ~~CITY COUNCIL~~ PEOPLE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA ~~FINDS~~ FIND AND ~~ORDAINS~~ ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS. The ~~City Council~~ people of the City of South El Monte hereby ~~makes~~ make the following findings:

- A. ~~A.~~ The recitals set forth above are all true and correct and are incorporated herein ~~as~~ findings of fact.
- B. ~~B.~~ The regulation of commercial cannabis activities established by this Ordinance amendment are to protect and promote the public health, safety and welfare, and are enacted pursuant to the authority granted to the City by ~~state~~ State law.
- C. Tax revenue from commercial cannabis operations can provide funds for additional City services to promote and protect the general health and welfare of the citizens of the City.

SECTION 2. NEW CANNABIS REGULATIONS. Chapter 5.26 (Cannabis Activities) of Title 5 (Business Taxes, Licenses, and Regulations) of the ~~South El Monte~~ City Municipal Code is hereby retitled and amended in its entirety to read as follows:

"CHAPTER 5.26 - COMMERCIAL CANNABIS OPERATIONS REGULATORY PROGRAM

Sec. 5.26.010 - Purpose and intent.

Sec. 5.26.020 - Commercial cannabis ~~operations~~ operation prohibited without City ~~permit~~ Commercial Cannabis Operation Permit.

Sec. 5.26.030 - Definitions.

Sec. 5.26.040 - Prohibited commercial cannabis operations.

Sec. 5.26.050 - ~~Permitted~~ commercial cannabis operations.

Sec. 5.26.060 - Maximum number of Commercial ~~cannabis operation permit~~ Cannabis Operation Permits.

01257.0002/793102.15

Ordinance No. _____
Page 4 of ~~33~~ 70

Formatted: Level 2, Line spacing: Exactly 12 pt

DRAFT

Sec. 5.26.070 - ~~Applications for commercial cannabis operation permit~~[Commercial Cannabis Operation Permit application procedure](#).

Sec. 5.26.080 - ~~Compliance review of commercial cannabis operation permit application~~[Limitations on the City's liability](#).

Sec. 5.26.090 - ~~Issuance of commercial cannabis operation permit~~[Commercial Cannabis Operation Permit term](#).

Sec. 5.26.100 - ~~Renewal of commercial cannabis operation permit~~[Change in location; transfer; updated application information](#).

Sec. 5.26.110 - General operating standards and restrictions.

Sec. 5.26.120 - ~~Retail (medical) Retailer~~ operating standards and restrictions.
[Sec. 5.26.120.5 - Delivery operating standards and restrictions](#).

Sec. 5.26.130 - ~~Community Benefits Agreement~~[benefits agreement](#).

Sec. 5.26.140 - ~~Administration~~.

Sec. 5.26.150 - Fees.

Sec. 5.26.160 - Suspension and revocation.

Sec. 5.26.170 - Appeals.

Sec. 5.26.180 - Violations and penalties; public nuisance.

Sec. 5.26.190 - Service of notices.

Sec. 5.26.200 - Prohibitions.

Sec. 5.26.210 - Nonconforming use.

Sec. 5.26.220 - Exceptions.

Sec. 5.26.230 - Operative ~~Date~~[date](#).

Sec. 5.26.240 - Severability.

[Sec. 5.26.250 - City Council Authority to Amend](#).

[Sec. 5.26.260 - City Councilmember Conflicts of Interest](#).

Sec. 5.26.010 - Purpose and intent.

- A. The purpose of this chapter is to establish a comprehensive set of regulations with an attendant regulatory permit applicable to the operation of certain types of commercial cannabis operations, while simultaneously establishing an express prohibition on certain other types of commercial cannabis operations.
- B. The regulations for, and prohibitions on, specific types of commercial cannabis operations are enacted to preserve the public health, safety, and welfare of the residents and visitors of the City of South El Monte, consistent with ~~California's~~ [the State's](#) Compassionate Use Act of 1996, ~~California's~~ Medical Marijuana Program Act of 2003, ~~the~~ Adult Use of Marijuana Act of 2016 (~~AUMA~~) (~~Proposition 64~~), ~~the~~

01257.0002/793102.15

Ordinance No. _____
Page 5 of 3370

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

DRAFT

~~Medicinal and Adult Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA)~~
~~and all applicable state MAUCRSA, and all applicable State laws governing~~
commercial cannabis ~~activities~~operations.

- C. The issuance of a Commercial Cannabis Operation Permit shall constitute a revocable privilege and shall not create or establish any vested rights for the development or use of a property.
- D. This chapter and ~~its any administrative~~ regulations adopted pursuant to this chapter shall be known as the "Commercial Cannabis Operations Regulatory Program:~~2~~" or the "Program".

Sec. 5.26.020 - Commercial cannabis operation prohibited without City ~~permit~~Commercial Cannabis Operation Permit.

It shall be unlawful to own, establish, operate, use, or permit the establishment or activity of a commercial cannabis operation, or to participate in commercial cannabis operations as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this chapter and pursuant to both a current and valid City ~~of South El Monte~~ Commercial Cannabis Operation Permit, as well as the equivalent ~~state~~State license for such commercial cannabis operation as provided for by Section 26050 of the State Business & Professions Code, and as amended from time to time. The prohibition contained in this section shall include renting, leasing, or otherwise permitting a commercial cannabis operation to occupy or use a location, vehicle, or other mode of transportation.

Sec. 5.26.030 - Definitions.

As used in this chapter, the following words and phrases shall have the following meanings:
Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any reference to State statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- A. "Adult use" (i.e., "recreational" or "non-medical") refers to activity involving cannabis or cannabis products, which is restricted to adults 21 years of age and older and who do not possess a physician's recommendation, in contrast to an activity involving medical cannabis or medical cannabis products.
- B. "Alcohol or drug treatment facility" shall have the same definition as "alcoholism or drug abuse recovery or treatment facility" as defined in ~~Health & Safety Code~~ Section 11834.02(a) of the State Health and Safety Code, which currently defines the term as "any premises, place, or building that provides residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services." Further, "alcohol or drug treatment facility" shall also include such a facility that provides treatment for minors to the extent permitted by law.
- C. "Applicant" means a person who files an application for a ~~permit~~Commercial Cannabis Operation Permit under this chapter. (and shall not include the owners or

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

01257.0002/793102.15

Ordinance No. _____
Page 6 of ~~33~~70

DRAFT

- the managers of the applicant).
- D. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ~~“Cannabis”~~ also means the separated resin, whether crude or purified, obtained from cannabis. ~~“Cannabis”~~ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- E. “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- F. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- G. “City” means the City of South El Monte, State of California.
- ~~G.H.~~ “City Attorney” means the City of South El Monte City Attorney, and includes his/her designee(s).
- I. “City Council” means the City Council of the City of City of South El Monte.
- ~~H.I.~~ “City Manager” means the City of South El Monte City Manager, and includes his/her designee(s).
- K. “Code” means the City of South El Monte Municipal Code, and may be amended.
- ~~H.L.~~ “Commercial cannabis operation” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale (including retail and wholesale, and including medical-only and adult-use sales) of cannabis and cannabis products; except, as applicable, the activities provided in Section 5.26.220(A) or as preempted by ~~state~~ State law.
- ~~J.M.~~ “Commercial Cannabis Operation Permit” shall mean a City ~~of South El Monte~~ permit issued pursuant to the procedures provided for in this chapter ~~and which shall allow~~ allows the permit holder to operate a specific type of commercial cannabis operation in the City ~~of South El Monte~~ subject to the requirements of this chapter, ~~state~~ State law, and the specific permit.
- N. “County” means the County of Los Angeles, State of California.
- ~~K.O.~~ “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

01257.0002/793102.15

Ordinance No. _____
Page 7 of 3370

DRAFT

~~L.~~ “Day care center” means, as the term is understood by Section 26001(e) of the Business and Profession Code, and as may be amended, any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.

~~P.~~ “Customer” means a natural person twenty-one (21) years of age or over or a natural person eighteen (18) years of age that is a qualified patient or primary caregiver.

~~Q.~~ “Day care center” means, a facility other than a family day care home, infant centers, toddler, preschool, and school age children licensed by the State Department of Social Services pursuant to Section 1596.951 of the State Health and Safety Code. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code, this definition of “day care center” under this chapter shall override the definition of “day care center” in MAUCRSA at Section 26001 of the State Business and Professions Code.

~~M.R.~~ “Delivery” means the commercial transfer of cannabis or cannabis products to a customer, and includes the use of any technology platform owned and controlled by the same person making such use.

~~N.S.~~ “Director” means the City of South El Monte Community Development Director, and includes his/her designee(s).

~~O.T.~~ “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed for and/or engaged in commercial cannabis activities operations under State law.

~~P.U.~~ “Distributor” means a person engaged in distribution.

~~Q.V.~~ “Edible” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the State Health and Safety Code, or a drug, as defined by Section 109925 of the State Health and Safety Code.

~~R.W.~~ “Employee” means any person (whether paid or unpaid) who provides regular labor or regular services for a commercial cannabis operation, including, but not limited to, at the location of a commercial cannabis operation. The term “employee” includes managers and owners as used in this chapter.

~~S.X.~~ “Extraction” means the process of obtaining cannabis concentrates from cannabis plants, including but not limited to through the use of solvents like butane, alcohol or carbon dioxide.

~~T.Y.~~ “Finance Director” means the City of South El Monte Finance Director, and includes his/her designee(s).

~~U.Z.~~ “Fire Chief” means the City of Los Angeles County Fire Department Chief, and includes his/her designee(s).

~~AA.~~ “Gross receipts” means, except as otherwise specifically provided herein, whether designated as a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits, and property of any kind or nature) received or payable for sales of goods, wares, or merchandise without any

01257.0002/793102.15

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Ordinance No. _____

Page 8 of 3370

DRAFT

deduction therefrom on account of the cost of the property sold, the cost of materials used, labor, or service costs, interest paid or payable, losses, or any other expense whatsoever. However, the following shall be excluded from gross receipts:

1. Cash discounts where allowed and taken on sales;
2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser
3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;
4. Receipts derived from the occasional sale of used, obsolete, or surplus trade fixtures, machinery, or other equipment used by the taxpayer in the regular course of the taxpayer's business
5. Cash value of sales, trades, or transactions between departments or units of the same business
6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a given year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected, they shall be included in the amount of gross receipts for the period when they are recovered
7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar; and
8. Any proceeds resulting from a transfer or change of ownership or control in the business.

~~V.BB.~~ "Identification card" has the same definition as provided for in Section 11362.7(g) of the State Health and Safety Code ~~section 11362.7(g)~~, and as may be amended, defined as "a document issued by the [State Department of Health Services] that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any."

~~W.CC.~~ "Labeling" means any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.

DD. "Labor peace agreement" means an agreement between a cannabis retailer and any bona fide labor organization that, at a minimum, protects the City's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with a cannabis retailer. This agreement means that the cannabis retailer has agreed not to disrupt

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

01257.0002/793102.15

Ordinance No. _____
Page 9 of 3370

DRAFT

efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the cannabis retailer's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the cannabis retailer's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under State law, and terms and conditions of employment.

EE. "Liquid Assets" means assets that can be readily converted into cash. "Liquid assets" include, but are not limited to, the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, and United States savings bonds. "Liquid assets" does not mean household items, furniture and equipment, vehicles, cannabis or cannabis products, business inventory, or real property and improvements thereto.

~~X~~FF. "Location" means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

~~Y~~GG. "Lighting" means the act of illuminating as well as the effect achieved by the arrangement of lights.

~~Z~~HH. "Live scan" means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (~~DOJ~~) ~~which~~ "DOJ") that involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.

~~AA~~II. "Manager" means an employee responsible for management and/or supervision of a commercial cannabis operation including but not limited to, any (i) manager or managing member or other officer of a limited liability company or (ii) president, chief executive officer, secretary, treasurer, chief financial officer, or other officer of a for profit corporation.

~~BB~~JJ. "Manufacture" or "manufacturing" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product; includes the activities of a manufacturer.

~~CC~~KK. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis 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 cannabis or cannabis products or labels or relabels its container; includes the activity of manufacturing.

~~DD~~LL. "Marijuana" has the same definition as provided for "cannabis" in this chapter.

MM. "MAUCRSA" means the State Medicinal and Adult-Use Cannabis Regulation and Safety Act, codified at Sections 11018 et seq. of the State Health and Safety Code, Sections 26001 et seq. of the State Business and Professions Code, Section 34010 of the State Revenue and Tax Code, and Sections 81000 et seq. of the State Food and

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

01257.0002/793102.15

Ordinance No. _____
Page 10 of 3370

DRAFT

Agriculture Department Code, as may hereinafter be amended.

~~EE.NN.~~ “Medical” refers to activity involving medical cannabis or medical cannabis products, in contrast to an activity involving adult-use cannabis or adult-use cannabis products.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

~~FF.OO.~~ “Medical cannabis” or “medical cannabis product” means cannabis or a cannabis product used in compliance with state law for medical purposes, pursuant to the Compassionate Use Act (Section 11362.5 of the State Health and Safety Code § 11362.5), the Medical Marijuana Program Act (Sections 113262.7, et seq. of the State Health and Safety Code §§ 11362.7, et seq.), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code §§ 26000, et seq.), and the MAUCRSA.

~~GG.~~ “Merit List” shall refer to the criteria listed in Section 5.26.090(C) of this chapter.

~~HH.PP.~~ “Minor” means a person under twenty-one (21) years of age.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

~~H.QQ.~~ “Owner” means ~~the owner of a commercial cannabis operation.~~any of the following:

1. A person owning in the aggregate equity interests representing ten (10) percent or more of the voting power of all outstanding equity in the applicant or a commercial permittee.
2. The president, chief executive officer, secretary, treasurer, or chief financial officer of a nonprofit applicant or permittee; or
3. A member of the board of directors of a nonprofit applicant or permittee.

Notwithstanding the above, every applicant and permittee must have at least one individual person designated as an “owner” for the purpose of compliance with this chapter, including the review and evaluation of any Commercial Cannabis Operation Permit application.

~~JJ.RR.~~ - “Microbusiness” shall have the same definition as provided for in Section 26070 of the State Business and Professions Code, and as may be amended.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

~~KK.SS.~~ “Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

~~LL.TT.~~ “Operations Officer(s)” shall refer to the Director, the Fire Chief, the Police Chief, the Finance Director and the City Manager, individually or collectively.

~~MM.UU.~~ “Package” means any container or receptacle used for holding cannabis or cannabis products.

~~NN.VV.~~ “Packaging” or “packages” means an activity involved with placing cannabis or cannabis products in a package.

~~OO.WW.~~ “Park” means public land which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, athletic field, basketball court, tennis court, pedestrian or bicycle paths, beaches, open space, or similar public land within the ~~city~~ City or which is under the control,

01257.0002/793102.15

Ordinance No. _____

Page 11 of 3370

DRAFT

operation or management of the ~~city recreation and parks department~~ City Recreation and Parks Department. “Park” shall not include any youth center.

~~PP.XX.~~ “Permittee” means a person issued a Commercial Cannabis Operation Permit by the City ~~of South El Monte~~.

~~QQ.YY.~~ “Person” means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

~~RR.ZZ.~~ “Person with an identification card” has the same definition as provided for in Section 11362.7(c) of the State Health and Safety Code ~~section 11362.7(e)~~, and as may be amended, defined as “an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.”

~~SS.AAA.~~ “Physician’s recommendation” means a determination from a physician that a patient’s medical cannabis use is deemed appropriate and is recommended by the physician on the basis of the physician has determined that the patient’s health would benefit from the use of cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief, in strict accordance with ~~the Compassionate Use Act of 1996 (Proposition 215), and as understood by~~ Section 11362.5 of the State Health and Safety Code.

~~TT.~~ “Religious institution” means ~~any church, synagogue, mosque, temple, or building which is used primarily for religious worship, religious education and related religious activities.~~

~~UU.BBB.~~ “Police Chief” means the Los Angeles County Sheriff, and includes his/her designee(s).

~~VV.CCC.~~ “Police Department” means the Los Angeles County Sheriff’s Department.

~~WW.~~ “Premises” means a single parcel of property. Where contiguous parcels are under common ownership or control, such contiguous parcels shall be counted as a single “premises.”

DDD. “Premises” means the designated structure or structures and land specified in a Commercial Cannabis Operation Permit application that is owned, leased, or otherwise held under the control of the applicant or permittee where commercial cannabis operation will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.”

~~XX.EEE.~~ “Primary caregiver” has the same definition as provided for in Section 11362.7(d) of the State Health and Safety Code, and as may be amended, ~~including being defined as~~ “the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person”. A “primary caregiver” shall also meet the requirements of Section 11362.7(e) of the State Health and Safety Code ~~section 11362.7(e)~~, and as may be amended, which provide that a “primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.”

01257.0002/793102.15

Ordinance No. _____

Page 12 of ~~33~~70

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

DRAFT

~~YY.FFF.~~ “Qualified ~~Patient~~patient” has the same definition as provided for in [Section 11362.7\(f\) of the State Health and Safety Code](#) ~~section 11362.7(f)~~, and as may be amended, defined as “a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.”

~~GGG.~~ “Religious institution” means any church, synagogue, mosque, temple, or building which is used primarily for religious worship, religious education, and related religious activities.

~~HHH.~~ “Residentially zoned property” means any parcel of land located within the City zoned: R-1 (Single-Family Residential Zone), R-2 (Multiple Residential Zone), or R-3 (Multiple Residential Zone)

~~ZZ.III.~~ “Retailer” means a person engaged in the retail sale or delivery of cannabis or cannabis products to a customer. “Retailer” includes “Retailer (Medical-Only)” and “Retailer (Medical/Adult Use).” “Retailer (Medical-Only)” refers to a retailer which is restricted by the terms of its Commercial Cannabis Operation Permit to engaging in the retail sale or delivery of medical cannabis or cannabis products as stated in Section 5.26.120(A). “Retailer (Medical/Adult-Use)” refers to a retailer which is not so restricted by the terms of its Commercial Cannabis Operation Permit, and which accordingly may engage in the retail sale or delivery of medical or adult-use cannabis or cannabis products to a customer.

~~JJJ.~~ “Retail sale(s)” means any commercial cannabis operation involving the retail sale of cannabis or cannabis products from a retailer.

~~KKK.~~ “Sale(s)” means any sale, exchange, or barter or other transaction for any consideration.

~~LLL.~~ “School” means as evidenced by the State Department of Education school directory, a public school instructing children in grades kindergarten through 12, as authorized by the State Department of Education or a private school instructing children in grades kindergarten through 12 that has filed a verification of private school affidavit with the State Department of Education pursuant to Section 33190 of the State Education Code, excluding any private school in which education is primarily conducted in a private home. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code, this definition of “school” under this chapter shall override the definition of “school” used in MAUCRSA or Section 11362.768 of the State Health and Safety Code.

~~AAA.~~ “School” means, as the term is understood by Section 26054(b) of the Business and Profession Code, and as may be amended, as a place of instruction in kindergarten or any grades 1 through 12.

~~BBB.MMM.~~ “Site” means the premises and actual physical location of a Commercial Cannabis Operation, as well as its accessory structures and parking areas:

~~NNN.~~ “State” means the State of California.

~~GGG.OOO.~~ “Testing laboratory” or “testing” refers to a laboratory, facility, or entity that offers or performs tests on cannabis or cannabis products; includes the activity of laboratory testing.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

01257.0002/793102.15

DRAFT

~~DDD.PPP.~~ “Youth center” means, ~~as the term is understood by Section 26001(A) of the Business and Professions Code, and as may be amended,~~ any public or private facility that is primarily used to host recreational or social activities for minors, ~~including, but not limited to, such as private youth membership organizations or clubs, social service teenage club facilities, video arcades or (B) a park, or similar amusement park facilities.~~ playground, or recreational area specifically designed to be used by children that may have play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any facility located on a public or private school grounds, or on City, County, or parks. “Youth center” shall not include any private martial arts, yoga, ballet, music, or similar studio of this nature nor shall it include any private athletic training facility, pizza parlor, restaurant, video arcade, dentist office, or doctor’s office primarily serving children. Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code, this definition of “youth center” under this chapter shall override the definition of “youth center” in MAUCRSA at Section 26001 of the State Business and Professions Code.

Sec. 5.26.040 - Prohibited commercial cannabis operations.

A. Commercial cannabis operations (including non-profit operations) within the City ~~which that~~ involve the activities of non-storefront retailer (~~adult-use / non-medical~~ whether medical-only or medical/adult-use), cultivation, manufacturer, testing, distribution, or microbusiness are prohibited, including but not limited to commercial cannabis ~~activities-operations~~ licensed by the ~~state~~ State in the license classifications listed below as provided in Section 26050 of the State Business and Professions Code ~~§ 26050~~:

1. Type 1 = Cultivation; Specialty ~~outdoor~~ Outdoor; Small.
2. Type 1A = Cultivation; Specialty ~~indoor~~ Indoor; Small.
3. Type 1B = Cultivation; Specialty ~~mixed-light~~ Mixed Light; Small.
4. Type 1C = Cultivation; Specialty ~~cottage~~ Cottage; Small.
5. Type 2 = Cultivation; Outdoor; Small.
6. Type 2A = Cultivation; Indoor; Small.
7. Type 2B = Cultivation; Mixed-light; Small.
8. Type 3 = Cultivation; Outdoor; Medium.
9. Type 3A = Cultivation; Indoor; Medium.
10. Type 3B = Cultivation; ~~Mixed-light~~ Mixed-Light; Medium.
11. Type 4 = Cultivation; Nursery.
12. Type 5= Cultivation; Outdoor; Large.
13. Type 5A = Cultivation; Indoor; Large
14. Type 5B = Cultivation; ~~Mixed-light~~ Mixed-Light; Large.
15. Type 6 = Manufacturer 1.

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 3, Space After: 0 pt, Line spacing: Exactly 12 pt, No bullets or numbering

01257.0002/793102.15

Ordinance No. _____
Page 14 of 3370

DRAFT

16. Type 7 = Manufacturer 2.
17. Type 8 = Testing.
18. Type ~~10-9~~ = Non-Storefront Retailer (~~adult-use / non-medical~~ Delivery Only)
19. ~~15.~~ Type 11 = Distributor
20. ~~16.~~ Type 12 = Microbusiness.

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 3, Line spacing: Exactly 12 pt

- B. The prohibition provided by above subsection (A) includes any similar activities authorized under new or revised ~~state~~ State licenses, or any other ~~state~~ State authorization, to allow any type, category or classification of cannabis commercial ~~activities which operations that~~ involve the activities of non-storefront retailer (~~adult-use / non-medical~~ Type 9, i.e., delivery only) (~~whether medical-only or medical/adult-use~~), cultivation, manufacturer, testing, distribution, microbusiness, or similar operations (including non-profit, collective or cooperative operations).

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Sec. 5.26.050 - Permitted commercial cannabis operations.

- A. Commercial cannabis operations (including non-profit operations) within the City which involve the activity of ~~retail (medical)~~ retailer (Type 10; medical-only and medical/adult-use) are allowed subject to issuance and maintenance of a valid and current City Commercial Cannabis Operation Permit, continuing adherence to this entire chapter and all applicable ~~city~~ City and ~~state~~ State regulations and laws, and issuance and maintenance of a valid and current equivalent state license type listed below, as provided for in Section 26050 of the State Business and Professions Code § 26050:

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

1. Type 10 = Retailer (~~medical~~ Medical-Only; Medical/Adult-Use).

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

- B. The requirements provided by above subsection (A) apply to any similar activities authorized under new or revised ~~state~~ State licenses, or any other ~~state~~ State authorization, to allow any type, category or classification of cannabis commercial ~~activities which operations that~~ involve the activity of ~~retail (medical)~~ retailer (medical-only and medical/adult-use) or similar operations (including non-profit, collective or cooperative operations).

Sec. 5.26.060 - ~~Commercial cannabis operation permit~~ Maximum Number of Commercial Cannabis Operation Permits.

- A. The number of Commercial Cannabis Operation Permits for retailer (medical-only and medical/adult-use, collectively) commercial cannabis operations based within the City shall be no more than three (3), of which no more than two (2) shall be retailer (medical-only), and no more than one (1) shall be retailer (medical/adult-use).
- B. Notwithstanding Subsection (A) of this Section, if the City Council opts to reinstitute the application procedure during the second year following the operative date of this chapter pursuant to Section 5.26.070(H), then one additional retailer (medical/adult-use) Commercial Cannabis Operation Permit may issue such that the maximum number of Commercial Cannabis Operation Permits for retailer (medical-only and medical/adult-use, collectively) commercial cannabis operations based within the City shall be increased to no more than four (4), of which no more than two (2) shall

01257.0002/793102.15

be retailer (medical-only), and no more than two (2) shall be retailer (medical/adult-use).

C. The number of Commercial Cannabis Operation Permits for non-storefront retailer (delivery only) (whether medical-only or medical/adult-use) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City shall be zero (0). However, should a court of competent jurisdiction, as a judicial remedy, order the City Council to increase the maximum number of Commercial Cannabis Operation Permits for non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City, the number of Commercial Cannabis Operation Permits for non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City shall be no more than two (2).

D. The maximum number of Commercial Cannabis Operation Permits issued for retailer (including medical-only and medical/adult use retailer, individually and collectively) commercial cannabis operations based within the City or non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) based outside the City may not be amended by the City Council or regulations promulgated by the City Manager pursuant to this chapter. However, the City Council may and shall increase the maximum number of Commercial Cannabis Operation Permits issued for retailer commercial cannabis operations based within the City or non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) based outside the City (i) if ordered to do so by a court of competent jurisdiction as a judicial remedy or (ii) by a vote of the People of the City.

~~A. Prior to initiating operation as a commercial cannabis operation and as a continuing requisite to conducting operations, the owner of a commercial cannabis operation shall obtain a regulatory permit from the City under the terms and conditions set forth in this chapter.~~

~~B. Issuance of a Commercial Cannabis Operation Permit is governed by a three step procedure (as provided for in more detail in Sections 5.26.080 and 5.26.090):~~

~~1. The first step (as provided for in Section 5.26.080) is a review by the City Manager to determine whether an applicant meets the minimum qualifications for a Commercial Cannabis Operation Permit, such minimum qualifications being the requirements of this chapter, this Code, and applicable state law. If the City Manager makes a positive determination, then the application will be deemed compliant, and eligible for further review by the City Manager.~~

~~2. The second step (as provided for in Section 5.26.090) is a review by the City Manager of the thoroughness of each applicant's adherence to Merit List criteria specified in Section 5.26.090(C). Upon conclusion of this review, the City Manager shall present each application to the City Council. This presentation shall include a written analysis of each application's adherence to the Merit List criteria.~~

~~3. The third step (as provided for in Section 5.26.90) is review by City Council of City~~

01257.0002/793102.15

Ordinance No. _____

Page 16 of 3370

~~Manager's written analysis of each application, and then a decision on whether a permit will or will not be issued. The reasons for the decision shall be articulated in writing and refer to Merit List criteria specified in Section 5.26.090(C). The City Council may establish a further procedure permit issuance procedures by resolution, provided that such procedures do not conflict with this chapter.~~

~~C. Commercial Cannabis Operation Permits issued pursuant to this chapter shall automatically expire one year from the date of issuance, unless provided for otherwise.~~

~~D. Conditions necessary for the continuing validity of a Commercial Cannabis Operation Permit include:~~

- ~~1. Strict adherence to each and every requirement of this chapter, as well as any requirements, including administrative regulations, adopted by the City pursuant to the authority of this chapter.~~
- ~~2. Maintaining a current and valid state license under Section 26200 of the Business and Professions Code, and as amended. Revocation, suspension or expiration of the state license shall automatically invalidate the equivalent City Commercial Cannabis Operation Permit.~~
- ~~3. Allowing Operations Officers to conduct reasonable inspections of the location of the commercial cannabis operation at the discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the commercial cannabis operation, for the purposes of ensuring compliance with local and state law.~~
- ~~4. Maintaining with the City current and valid contact information of the owner(s) and manager(s) of the commercial cannabis operation.~~
- ~~5. Maintaining with the City current and valid contact information of a legal representative of the commercial cannabis operation.~~
- ~~6. Transferable only if transferee successfully completes all of the requirements that a new applicant for a Commercial Cannabis Operation Permit would otherwise need to meet.~~
- ~~7. Location transferable only if the permit holder completes all of the requirements of a new applicant for a Commercial Cannabis Operation Permit in relation to the new location.~~

~~Sec. 5.26.070 Applications for commercial cannabis operation permit:~~

~~A. The owner of a proposed commercial cannabis operation shall file an application with the City Manager upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council, as may be amended from time to time. Applications will be accepted beginning on the date set by the City Manager and the application acceptance period shall close 30 days from the date set by the City Manager. No applications shall be accepted after the close of the application acceptance period, provided that the City Council may further set a dates upon which additional applications may be accepted and such application acceptance period shall be 30 days.~~

~~B. An application for a Commercial Cannabis Operation Permit shall include, but not be limited to, the following information:~~

- ~~1. Business.~~
 - ~~a. Activities. A general description of the proposed operation, including how the proposed operation will operate in compliance with this Code and state law, plans for handling cash and transporting cannabis and cannabis products to and from the premises, and the proposed use of all areas on the~~

01257.0002/793102.15

Ordinance No. _____

Page 17 of 3370

premises, including but not limited to specific activities, storage, lighting and signage.

- b. ~~Security. A security plan detailing measures to the satisfaction of the City Manager that all applicable security-related requirements under State or local law, including but not limited to the requirements of Section 5.26.110(B), are and will be met.~~
- c. ~~Development Agreement. Applicants seeking to enter into a development agreement with the City pursuant to Government Code sections 65864, et seq., are encouraged to propose terms and conditions, including but not limited to applicant benefits, public outreach and education, community service, and payment of fees and other charges as mutually agreed.~~
- d. ~~Odor Control. An odor control plan detailing odor control measures in accordance with Section 5.26.110(C), to the satisfaction of the City Manager.~~
- e. ~~Ownership. A description of the statutory entity or business form that will serve as the legal structure for the applicant, the ownership structure of the applicant as filed with the California Secretary of State (e.g. limited liability company, joint partnership, S Corporation) (an applicant that is a foreign corporation shall include in its application the certificate of qualification issued by the Secretary of State of California), and a copy of the entity's formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.~~
- f. ~~Seller's Permit. The seller's permit number issued by the Board of Equalization or evidence that the applicant has applied for a seller's permit from the Board of Equalization, as applicable.~~
- g. ~~Other Licenses and Permits. Identification of any other licenses or permits for commercial cannabis operations, whether for the City of South El Monte or for any other licensing or permitting authority:
 - i. ~~held currently by the applicant;~~
 - ii. ~~pending approval for the applicant; or~~
 - iii. ~~denied to, revoked from or suspended for the applicant.~~~~
- h. ~~Physical. A general description of the proposed operation, including the street address, parcel number, the total square footage of the site, the characteristics of the surrounding area, history of prior uses of the proposed location, ownership of the proposed location, and the last 5 years' history of any law enforcement activity occurring at the proposed location (such as any code enforcement history or any enforcement activities by law enforcement).~~
- i. ~~Floor plan. A scaled floor plan for each level of each building that is part of the business site, including the entrances, exits, walls, and operating areas. The floor plan must be professionally prepared by a licensed civil engineer or architect.~~
- j. ~~Site plan. A scaled site plan of the business site, that will include at a minimum all buildings, structures, driveways, parking lots, landscape areas, and boundaries. The site plan must be professionally prepared by a~~

01257.0002/793102.15

~~licensed civil engineer or architect.~~

~~k. Hours of Operation. Proposed hours and days of operation.~~

~~2. Individuals.~~

~~a. Managers. The name, address, e-mail and phone number of any person who is managing or responsible for the commercial cannabis operation's activities.~~

~~b. Community Outreach Manager. The name, e-mail and phone number of an employee designated as Community Outreach Manager, who will be responsible for outreach and communication with the surrounding community, including the neighborhood and nearby businesses.~~

~~c. Employees. A list of the names of all current and prospective employees of the commercial cannabis operation, along with any other identifying information requested by the City Manager.~~

~~d. Consent to Criminal Investigation. Written consent from all employees to fingerprinting and a criminal background investigation by the City, upon a form provided by the City, accompanied with payment of appropriate fees to City to cover the costs of performing such criminal background check. At the discretion of the City and in compliance with State law, the City may use Live Scan to perform criminal background checks.~~

~~e. Identification. For each employee, a color photocopy of either a valid California Driver's License or equivalent identification approved by the City Manager.~~

~~f. Land Owner. The name, address, e-mail and phone number of the owner and lessor of the real property upon which the commercial cannabis operation is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a notarized acknowledgement from the owner of the property that a commercial cannabis operation will be operated on his/her property.~~

~~3. Miscellaneous.~~

~~a. Any additional application requirements specific to the type of Sec. 5.26.070 Commercial Cannabis Operation Permit being sought, including but not limited to as provided for by this chapter: application procedure.~~

Formatted: _Hdg Left Bold, No bullets or numbering

A. Following the effective date of this chapter, the City Manager, pursuant to Section 5.26.140, shall, as a ministerial duty, make available the necessary forms, adopt any necessary application rules for the submission, intake, review, and approval of applications for retailer (medical-only and medical/adult-use) commercial cannabis operations up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060.

B. The City Manager shall, as a ministerial duty, cease acceptance of Commercial Cannabis Operation Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations thirty (30) days after making available the necessary forms and adopting any necessary application rules for the submission, intake, review, and approval of Commercial Cannabis Operation Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations.

C. Within thirty (30) days of ceasing the acceptance of Commercial Cannabis Operation

01257.0002/793102.15

Ordinance No. _____

Page 19 of 3370

DRAFT

Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations, the City Manager shall, as a ministerial duty, review timely submitted Commercial Cannabis Operation Permit applications for retailer (medical-only and medical/adult-use) commercial cannabis operations for the following minimum requirements:

1. Payment of an application fee established by resolution of the City Council within forty-five (45) days following the effective date of this chapter to cover all costs incurred by the City in the application process;
2. Sufficient evidence of the legal right to use the proposed property for the proposed use, to include a lease, sublease, purchase agreement, assignment of purchase agreement, or lease or purchase option, in the name of the applicant, which may include nominal consideration and be contingent upon issuance of a Commercial Cannabis Operation Permit or other approvals. The City shall only consider one applicant per property address or County Assessor's Identification Number. In the event that more than one applicant applies for a Commercial Cannabis Operation Permit application at a given property address or a given County Assessor's Identification Number, the City Manager shall, as a ministerial duty, only accept the Commercial Cannabis Operation Permit application with the earliest effective date for the evidence of the legal right to use the proposed property for the proposed use in the name of the applicant;
3. Sufficient evidence to demonstrate that the proposed property complies with the location and zoning requirements in Section 5.26.120;
4. Proof that an owner or owners of the applicant with an aggregate ownership interest of fifty (50) percent or more has served as an owner or owners with an aggregate ownership interest of fifty (50) percent or more of six or more other retailer (medical-only or medical/adult-use) commercial cannabis operations by a city, county, or state since at least January 1, 2022;
5. Proof of funds showing that the applicant has access and control of over \$500,000.00 in Liquid Assets (which such Liquid Assets having been under possession for at least ninety (90) days prior to the date of the application submission under this Section), which may be shown via a binding legal agreement in the name of the applicant such as a promissory note so long as said legal agreement is accompanied by a proof of funds in the name of a party to the agreement that demonstrates access and control of over \$500,000.00 in Liquid Assets under possession for at least ninety (90) days prior to the date of the application submission under this Section. Applicants and permittees shall not be required to show that the applicant or permittee has access and control of over \$500,000.00 in Liquid Assets except on initial application pursuant to this Section 5.26.070, a change in location application pursuant to

01257.0002/793102.15

Ordinance No. _____

Page 20 of ~~33~~70

Section 5.26.100, or an ownership transfer application pursuant to Section 5.26.100;

6. For an applicant with two (2) or more employees, proof of a labor peace agreement between a bona fide labor organization and the applicant (the applicant shall provide the City with a copy of the labor peace agreement that contains the signatures of the union representative and the cannabis business). For applicants with less than two (2) employees who have not yet entered into a labor peace agreement, the applicant shall provide a notarized statement indicating that the applicant will enter into and abide by the terms of a labor peace agreement within thirty (30) days after employing two (2) employees;
7. A set of plans, including a site development plan, floor plan(s), building elevations (all four (4) sides), and a conceptual landscape plan with the percentage of landscaping in the parking lot, setback areas, and tree size and species;
8. Colored interior and elevation renderings;
9. A completed background check application and receipt for each owner and manager of the applicant pursuant to Section 5.26.110(H); and
10. The following application components: (a) Qualifications of the applicant's owners and managers; (b) business and operations plan; (c) security plan; (d) safety plan; (e) neighborhood compatibility plan; (f) labor and employment plan; and (g) community benefits plan.

- ~~b. Evidence satisfactory to the City Manager of compliance with all local and state law requirements governing commercial cannabis operations.~~
- ~~c. Evidence satisfactory to the City Manager of compliance with all applicable insurance requirements as provided for by this chapter, local law and state law. Minimum insurance levels shall be determined by the City Manager after an assessment of the risks posed by the commercial cannabis operation, including provision for meeting the requirements of Section 5.26.080(D)(2).~~
- ~~d. Authorization for the City Manager to seek verification of the information contained within the application.~~
- ~~e. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.~~
- ~~f. Any such additional and further information as is deemed necessary by the City Manager to administer this chapter.~~
- ~~g. Any proposed Merit List items.~~

~~Sec. 5.26.080 – Compliance review of commercial cannabis operation permit application.~~

- ~~A. Upon receipt of a completed application and payment of all applicable fees, the City Manager shall investigate the information contained in the application to determine whether the applicant meets the minimum qualifications for a Commercial Cannabis Operation Permit. These minimum qualifications are the requirements of this chapter, this Code, and applicable~~

01257.0002/793102.15

Ordinance No. _____

Page 21 of 3370

DRAFT

state law. If the City Manager makes a positive determination then the application will be deemed compliant and eligible for further review as to whether the permit should issue pursuant to the provisions in Section 5.26.090.

- B. ~~If the City Manager determines that the application is incomplete, the City Manager shall notify the applicant in writing explaining the reasons thereof within sixty (60) days of receipt of the application. Applicant shall have 30 days to submit a completed application, in accordance with the City Manager's notification. If the application is resubmitted as incomplete, it shall be deemed abandoned.~~
- C. ~~Within ninety (90) days of receipt of the completed application, the City Manager shall complete the investigation, approve, conditionally approve, or deny the application as being in compliance with the requirements of this chapter, and so notify the applicant by United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.~~
- D. ~~An applicant shall not be deemed compliant for purposes of review under Section 5.26.090, until and unless an applicant meets all of the following requirements:~~
- ~~1. Provides written authorization to the Operations Officers to conduct reasonable unannounced inspections of the location of the commercial cannabis operation at the discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the commercial cannabis operation, for the purposes of ensuring compliance with this chapter and all laws of the City and the State of California.~~
 - ~~2. Executes an agreement: to indemnify, defend and hold harmless (at the Commercial Cannabis Operation Permit holder's sole expense, the ability to do so demonstrated through proof of sufficient insurance coverage to the satisfaction of the City) the City, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, from all liability or harm arising from or in connection with all claims, damages, attorney's fees, costs and allegations arising from or in any way related to the operation of the commercial cannabis operation; and, to reimburse the City for any costs and attorney's fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action.~~
- ~~1. Upon successfully completing the review process, the permit application shall be deemed compliant and eligible for review under Section 5.26.090, unless the City Manager finds:~~
- ~~1. The applicant has made one or more false or misleading statements or omissions, either on the written application or during the application process; or~~
- ~~1. A proposed location for the commercial cannabis operation is not allowed by state or local law, statute, ordinance, or regulation (including this Code); or~~
- ~~1. The applicant has not satisfied each and every requirement of this chapter and Code; or~~
- ~~1. The applicant is not in compliance with applicable state law, including, but not limited to, applicable requirements and minimum standards of the Adult Use of Marijuana Act of 2016 (AUMA) (Proposition 64), the Medicinal and Adult Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA) and any applicable State regulations; or~~
- ~~1. Based upon the background check provided under Section 5.26.070(B)(2)(d), it is determined that an employee has been convicted within the last ten years of a felony~~

01257.0002/793102.15

Ordinance No. _____
Page 22 of 3370

~~substantially related to the qualifications, functions or duties of an employee of a commercial cannabis operation (such as a felony conviction for distribution of controlled substances, money laundering, racketeering, etc.), provided that this shall not apply where such employee has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar federal statute or state law where the expungement was granted; or~~

- ~~1. Based on the information set forth in the application and the City Manager's review, the City Manager may impose, as a condition of being deemed compliant and thereby eligible for review under Section 5.26.090, reasonable terms and conditions on the use of the permit, in addition to those specified in this chapter, to ensure the safe operation of the commercial cannabis operation, and to ensure the health, safety and welfare of the residents and visitors of the City of South El Monte.~~
- ~~1. At the City Manager's sole discretion, the time limits in this Section may be extended upon written notification from the City Manager to the applicant.~~

Sec. 5.26.090 – Issuance of commercial cannabis operation permit.

- ~~Issuance of a Commercial Cannabis Operation Permit constitutes a revocable privilege and shall not create or establish any vested rights for the development or use of a property. The City may determine that it is in the best interests of the health, safety and welfare of the residents and visitors of the City of South El Monte that no Commercial Cannabis Operation Permits are to be granted by the City. Further, nothing herein shall restrict the City of South El Monte from denying/rejecting all applications and restarting the application submittal process with new application deadlines.~~
 - ~~Upon City Manager's determination that an applicant is compliant with the requirements of this chapter, this Code, and applicable state law (and thereby eligible for review by the City Manager), the City Manager shall promptly prepare for the application a written Merit List.~~
 - ~~A Merit List shall detail and rank in writing the thoroughness of an applicant's adherence to the following criteria, as they relate to the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of South El Monte:~~
 - A. ~~Operation plan for the business, including attention to community concerns about the impact of the business.~~
 - B. ~~Security plan for the business, including details for the non-diversion of cannabis or cannabis products to illegal uses.~~
 - C. ~~Health and safety plan for the business, including enhanced product and operations health and safety.~~
 - D. ~~Impact on the environment.~~
 - E. ~~Neighborhood compatibility.~~
 - F. ~~Employment opportunities for City of South El Monte residents.~~
 - G. ~~Economic benefits to the City of South El Monte.~~
 - H. ~~Community benefits to the City of South El Monte.~~
 - I. ~~Experience of the owners, managers, and employees.~~
 - J. ~~Capitalization of the business.~~
 - K. ~~Requirements of this chapter, this Code and applicable State law.~~
 - L. ~~Whether the applicant has proposed entering into a community benefit agreement with the City pursuant to Section 5.26.130.~~

01257.0002/793102.15

- M. ~~Any additional criteria the City Manager determines is of benefit to making a determination of the applicant's commitment to the health, safety and welfare of the residents and visitors of the City of South El Monte.~~
- ~~The City Manager shall review each application and, within a reasonable amount of time after finding the application to be compliant with this chapter and applicable state law, the City Manager shall then submit a written analysis of each application in relation to the Merit List to the City Council for its review as to whether the requested Commercial Cannabis Operation Permit shall be issued. The City Manager's analysis shall use the criteria contained within Section 5.26.090(C).~~
 - ~~Factors to be considered and analyzed shall include the written Merit List, as well as all pertinent evidence timely submitted (at the determination of the City Manager) by the applicant, the public, and interested parties. No pre-determined weight shall be given to one criterion or another.~~
 - ~~Each application shall be considered in its totality with weight given to one criterion over another as determined appropriate by the City Manager to further the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of South El Monte.~~
 - ~~Upon conclusion of this review, the City Manager shall provide a written analysis of each application to the City Council to consider as to whether or not a permit should be issued. The written analysis shall analyze each application in relation to and refer to Merit List criteria.~~
 - ~~The City Council shall make a final determination in writing, within a reasonable amount of time after receipt of the City Manager's written analysis, whether an applicant shall be issued a Commercial Cannabis Operation Permit.~~
 - ~~Factors to be considered shall include the written Merit List, as well as all pertinent evidence timely submitted (at the determination of the City Council) by the applicant, the public, and interested parties. No pre-determined weight shall be given to one criterion or another.~~
 - ~~Each application shall be considered in its totality with weight given to one criterion over another as determined appropriate by the City Council to further the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of South El Monte.~~
 - ~~Prior to issuance of a Commercial Cannabis Operation Permit, the City Council shall make the following findings:~~
 - ~~The proposed location of the Commercial Cannabis Operation is in accord with the objectives of this chapter.~~
 - ~~The proposed Commercial Cannabis Operation is consistent with all applicable law, including without limitation this Code.~~
 - ~~The proposed location of the Commercial Cannabis Operation and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.~~
 - ~~The architecture proposed is compatible with community standards and protects the character of adjacent properties.~~
 - ~~Notice of the written determination shall be provided promptly to the applicant upon final determination. The determination shall articulate reasons in writing for the final determination and refer to Merit List criteria. The determination~~

01257.0002/793102.15

- ~~shall be final.~~
- ~~• The City Council may adopt further permit issuance procedures by resolution.~~
- ~~• The City Council may impose reasonable terms and conditions on the use of the permit, in addition to those specified in this chapter, to ensure the safe operation of the commercial cannabis operation, and to ensure the health, safety and welfare of the residents and visitors of the City of South El Monte.~~

- ~~• As determined appropriate by the City, multiple qualified applications for Commercial Cannabis Operation Permits may be considered at the same time, for reasons including but not limited to comparison of applicants for limited permits using the criteria contained within Section 5.26.090(C). The permit process timelines provided by this chapter may be modified by the City to facilitate such review of multiple applications.~~

Sec 5.26.100 – Renewal of commercial cannabis operation permit.

- ~~2. Issuance of a Commercial Cannabis Operation Permit constitutes a revocable privilege and shall not create or establish any vested rights for the development or use of a property. The City may determine through the procedures provided in this chapter that for reasons of the health, safety and welfare of the residents and visitors of the City of South El Monte that a Commercial Cannabis Operation Permit will not be renewed.~~
- ~~3. Commercial Cannabis Operation Permits issued pursuant to this chapter shall automatically expire one year from the date of issuance, unless specifically provided for otherwise by this chapter.~~
- ~~4. The following procedures shall govern the process for the renewal of a Commercial Cannabis Operation Permit:~~

~~11. A holder of Disclosure of whether the applicant is applying for a Commercial Cannabis Operation Permit as a retailer (medical-only) or retailer (medical/adult-use).~~

~~The City Manager shall, as a ministerial duty, reject any Commercial Cannabis Operation Permit application that fails to meet the minimum requirements contained in this Subsection (C), and applicants shall not have the right to supplement or amend their Commercial Cannabis Operation Permit applications.~~

~~D. Within sixty (60) days of completing the application review under Subsection (C) above, the City Manager shall, as a ministerial duty, review and score any complete applications pursuant to the following objective review criteria according to the following quantitative evaluation scale, with retailer (medical-only) applicants ranked only against other retailer (medical-only) applicants and retailer (medical/adult-use) applicants ranked only against other retailer (medical/adult-use) applicants unless otherwise provided by administrative regulations promulgated pursuant to Section 5.26.140:~~

~~1. Qualifications of the applicant's owners and managers – 250 points~~

~~The People of the City find that a proven track-record of for retailer commercial cannabis operations that successfully generate tax revenue carries out the purpose and intent of the Program and are, therefore, critical for an applicant to demonstrate the~~

01257.0002/793102.15

Ordinance No. _____

Page 25 of 3370

qualifications of the applicant's owners and managers. Accordingly, 150 of the 250 points awardable under this Subsection (1) shall only be awarded, as a ministerial duty, if an owner or owners of the applicant with an aggregate ownership interest of fifty (50) percent or more is currently at the time of application submission under this Section an owner or owners with an aggregate ownership interest of fifty (50) percent or more of a single licensed and lawfully operating retailer commercial cannabis operations (excluding any non-retailer microbusiness, cultivation, manufacturing, distribution, or other non-retailer commercial cannabis operation components) that has generated at least \$5,000,000.00 in gross receipts in a consecutive six-month period in the year immediately preceding the date of the application submission under this Section, as demonstrated by tax payment receipts from, tax filings to, or tax returns filed with a city, county, or state.

The remaining 100 of the 250 points awardable under this Subsection (1) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 50 points – A description of the applicant's owner and manager qualifications detailing any special business or professional qualifications or licenses of the applicant's owner and manager that would add to the quality of services that the retailer commercial cannabis operation would provide, including in areas related to cannabis, such as legal, finance, business ownership / administration, waste management, real estate development, scientific, or healthcare or wellness fields.
- b. Up to 50 points – Documentation that the applicant's owners and managers have experience operating retailer commercial cannabis operations in any jurisdiction where retailer commercial cannabis operations are permitted.

2. Plans, renderings, and overall location – 50 points

The 50 points awardable under this Subsection (2) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – A premise diagram in accordance with Section 5006 of Division 42 of Title 16 of the State Code of Regulations.
- b. Up to 10 points – A site development plan that provides information on existing conditions and proposed improvements to the site and how it meets or will meet the development standards outlined in this Code. Information on existing conditions shall include:
 - i. Exterior photographs showing all sides of any existing structure(s);
 - ii. Photographs of existing parking areas, landscaping, trash enclosure, and signage;
 - iii. Information on existing use on the site, including the addresses, uses, and square footages;

01257.0002/793102.15

- iv. Photographs of the existing site if the site is vacant; and
- v. Photographs of adjacent properties for context.
- c. Up to 10 points – A floor plan showing information on the existing layout and proposed layout of the building interior.
- d. Up to 10 points – Building elevations that provide information on existing conditions and proposed improvements.
- e. Up to 5 points – A conceptual landscape plan with the percentage of landscaping in the parking lot, setback areas, and tree size and species.
- f. Up to 5 points – Colored interior renderings and exterior elevation renderings (for both existing and/or proposed improvements).

3. Business and operations plan – 100 points

The 100 points awardable under this Subsection (3) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – A written description of the total square footage of the facility with estimated square footage of proposed uses.
- b. Up to 10 points – A schedule for beginning operations, including a narrative outlining any proposed construction improvements and a timeline for completion.
- c. Up to 10 points – A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operating costs.
- d. Up to 5 points – A description of the sources(s) of capital and use(s) of capital.
- e. Up to 10 points – Pro forma financial statements for at least three (3) years of operation.
- f. Up to 5 points – A description of the type of products to be sold and the estimated quantity and value of product(s) to be sold.
- g. Up to 5 points – A description of marketing procedures and tactics.
- h. Up to 10 points – A description of day-to-day operations that should acknowledge both state and local laws and should be consistent with industry best practices.
- i. Up to 5 points – A description of hours of operation and opening procedures.
- j. Up to 10 points – A description of cash handling procedures.
- j. Up to 10 points – A description of inventory control procedures to include

01257.0002/793102.15

Ordinance No. _____

Page 27 of 3370

identification of point-of-sale systems, and track and trace software.

- k. Up to 10 points – A description of transportation, loading and unloading, distribution, or delivery procedures.

4. Security plan – 100 points

The 100 points awardable under this Subsection (4) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 20 points – The security plan shall be prepared by a professional security consultant.
- b. Up to 10 points – A premises security diagram.
- c. Up to 50 points – A description of access control, inventory control, cash handling, and other security procedures and security equipment demonstrating compliance with the security requirements under this chapter.
- d. Up to 10 points – A description of the intrusion alarm and monitoring system including the name and contact information for the monitoring company.
- e. Up to 10 points – A description of the services of on-site security guards to include the (i) number of security guards; (ii) the hours security guards will be on-site; (iii) locations where security will be positioned; and (iv) security guard responsibilities.

5. Safety plan – 100 points

The 100 points awardable under this Subsection (5) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 20 points – The safety plan shall be prepared by a professional fire prevention and suppression consultant.
- b. Up to 10 points – A premises safety diagram to include (1) a description / illustration of evacuation routes and (2) location of fire extinguishers and other fire suppression equipment.
- c. Up to 50 points – A description of safety procedures, training for emergency situations, and safety equipment demonstrating compliance with the safety requirements under this chapter.
- d. Up to 10 points – Identify all gases, pesticides, and chemicals to be used and their storage locations.
- e. Up to 10 points – A description of the firm alarm and monitoring system

01257.0002/793102.15

Ordinance No. _____

Page 28 of 3370

including the name and contact information for the monitoring company.

6. Neighborhood compatibility plan – 100 points

The 100 points awardable under this Subsection (6) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 40 points – A “Good Neighbor Policy” that (i) includes policies and measures in place to protect adjacent uses from any potential impacts (e.g., noise, light, odor, traffic, etc.) related to the proposed cannabis business and (ii) describes how the cannabis business and its operating characteristics will be proactively managed so the business is not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding area and will not result in the creation of a nuisance.
- b. Up to 20 points – A description of odor mitigation practices to include: (i) identifying potential sources of odor; (ii) a description of odor control devices and techniques employed to ensure that odors from cannabis are not detectable beyond the permitted premises; and (iii) all proposed staff odor training and system maintenance.
- c. Up to 20 points – A description of a waste management plan that includes waste disposal locations within the proposed premises and the applicant’s security measures and methods of rendering waste unusable and unrecognizable.
- d. Up to 20 points – A description of efforts at sustainability / environmental impact mitigation.

7. Community benefits plan – 100 points

The People of the City find that monetary donations to local non-profit organizations, financial support of City sponsored activities or organizations, in kind donations to the City or other charitable organizations, and economic incentives to the City carry out the purpose and intent of the Program and are, therefore, critical for an applicant to demonstrate an effective community benefits plan. Accordingly, 50 of the 100 points awardable under this Subsection (7) shall only be awarded if the applicant pledges to voluntarily provide a public benefit to a public use (or a combination thereof), which is defined as a direct financial contribution equal to two (2) percent of projected gross receipts of the applicant to a public school located within the City, a public park located within the City, and/or a public or nonprofit community organization serving the City or its residents. Beyond the above and as a ministerial duty, no further direct financial contributions shall be considered as part of an applicant’s community benefits plan.

The remaining 50 of the 100 points awardable under this Subsection (7) shall be

01257.0002/793102.15

Ordinance No. _____

Page 29 of 3370

awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 25 points – A description of a social responsibility plan to include identification of a community liaison, plans to serve as a social equity business incubator, plans to aide and participate in the work of local non-profits, community- based organizations, civic organizations, or social services organizations.
- b. Up to 25 points – A description of a plan to develop a public health outreach and educational program that outlines the risks of youth use of cannabis and that identifies resources available to youth related to drugs and drug addiction.

8. Labor and employment plan – 200 points

The People of the City find that a proven track-record of cannabis retailer operations with high labor standards and commitment to labor peace carries out the purpose and intent of the Program and are, therefore, critical for an applicant to demonstrate an effective labor and employment plan. Accordingly, 100 of the 200 points awardable under this Subsection (8) shall only be awarded if the applicant provides documentation that the individual or natural person owner or owners of the applicant (disregarding any intervening or intermediary entity owner or owners of the applicant) with an aggregate ownership interest of fifty (50) percent or more have entered into collective bargaining agreements with a labor organization that currently represents cannabis workers in the United States effective since at least July 1, 2021, inclusive of renewals (and remaining effective, inclusive of renewals, on the date of the application submission under this Section) and such collective bargaining agreements accrete or automatically apply to all cannabis retailers permitted or licensed in the State after July 1, 2021 (notwithstanding the fact that employees of such cannabis retailers permitted or licensed in the State after July 1, 2021 (if any), have yet to have had an opportunity to recognize the labor organization that currently represents cannabis workers in the United States), by the individual or natural person owner or owners of the applicant (disregarding any intervening or intermediary entity owner or owners of the applicant) with an aggregate ownership interest of ninety (90) percent or more referenced above.

The remaining 100 of the 200 points awardable under this Subsection (8) shall be awarded, as a ministerial duty, pursuant to the following objective criteria:

- a. Up to 10 points – An organizational chart of showing owners, managers, and employees.
- b. Up to 10 points – A description of the owner’s and manager’s roles in day-to-day operations and decisions.

01257.0002/793102.15

- c. Up to 10 points – A description of the number of employees, title / position, and their respective responsibilities
- d. Up to 15 points – A description of compensation to employees, opportunities for continuing education, and employee training.
- e. Up to 15 points – A description of whether the cannabis business is committed to offering employees a living wage.
- f. Up to 15 points – A description of benefits provided to employees such as health care, vacation, and medical leave, to the degree they are offered as part of employment.
- g. Up to 15 points – A description of a plan to recruit employees from socially and economically disadvantaged backgrounds.
- h. Up to 10 points – A description of a plan to have at least 50% of employee positions filled and hours worked by employees residing in the City.

E. Upon timely receipt of a Commercial Cannabis Operation Permit application, the City Manager shall conduct background checks in accordance with Section 5.26.110(H). Following review and scoring of applications completed pursuant to objective review criteria under Subsection (D), the City Manager shall, as a ministerial duty, recommend that the City Council issue Commercial Cannabis Operation Permits to applicants in order of their rank under Subsection (D) up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060. The City Council shall consider the City Manager's recommendations, and may conduct its own independent review and scoring of applications completed pursuant to objective review criteria under Subsection (D) and substitute such review and scoring for that of the City Manager in whole or in part if it sees fit to do so, and shall thereupon, as a ministerial duty, issue Commercial Cannabis Operation Permits to applicants in order of their rank under Subsection (D) up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060. For the initial iteration of the application process pursuant to this section, the number of Commercial Cannabis Operation Permits issued shall be no more than two (2) retailer (medical-only) and one retailer (medical/adult use) Commercial Cannabis Operation Permits. In the event of a tie in the order of ranking under Subsection (D) between one or more applicants up to the maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060, the City Council shall, as a ministerial duty, break the tie and issue Commercial Cannabis Operation Permits to the applicants with the highest scoring application component in the following order: (1) Qualifications of the applicant's owners and managers; (2) labor and employment plan; (3) security plan; (4) safety plan; (5) community benefits plan; (6) neighborhood compatibility plan; (7) business and operations plan; and (8) plans, renderings, and overall location. In the event of a tie on all application components between one or more applicants up to the

01257.0002/793102.15

Ordinance No. _____
Page 31 of ~~33~~70

DRAFT

maximum number of Commercial Cannabis Operation Permits authorized in Section 5.26.060, the City Manager shall not hold a public lottery, but rather arrange for the tied applicants to provide public presentations before the City Council, after which the City Council shall publicly rank the applicants pursuant to ranking sheets prepared by the City Manager that achieve a forced ranking based on all of the objective review criteria and quantitative evaluation scale in Subsection (D), and the City Council shall issue Commercial Cannabis Operation Permits to applicants in order of their rank up to the maximum number of Commercial Cannabis Operation Permits available following the City Manager/City Council's original ranking and issuance of Commercial Cannabis Operation Permits and the limits contained in Section 5.26.060. However, the City Council shall not issue a Commercial Cannabis Operation Permit to any applicant with an applicant, owner, or manager that:

1. Provided false or misleading information on the applicant's Commercial Cannabis Operation Permit application;
2. Has been convicted of (or pled no contest to) "an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made" as that term is defined in 26057(b)(4) of the State Business and Professions Code; or
3. Has been sanctioned by a licensing authority or a city, county, or state for unlicensed commercial cannabis operations or has had a license suspended or revoked under MAUCRSA in the three (3) years immediately preceding the date the application was submitted.

F. Any decision of the City Council under this Section 5.26.070 shall be a final administrative decision not subject to administrative appeal under any provisions of this chapter or any provisions of this Code but, rather, subject to judicial review and remedies.

G. In the event that (1) the number of active, operating retailer (medical-only or medical/adult-use) commercial cannabis operations and issued Commercial Cannabis Operation Permits falls below the maximum number of Commercial Cannabis Operation Permits for retailer (medical-only or medical/adult-use) commercial cannabis operations authorized in Section 5.26.060 or (2) the City Council is ordered to increase the maximum number of Commercial Cannabis Operation Permits issued for retailer (medical-only or medical/adult-use) commercial cannabis operations by a court of competent jurisdiction as a judicial remedy (e.g., if a court of competent jurisdiction orders the City Council to make Commercial Cannabis Operation Permits available for non-storefront retailer (delivery only) (including retailers or microbusinesses engaged in delivery) commercial cannabis operations based outside the City to engage in delivery within the City), the City Manager shall, as a ministerial duty, within thirty (30) days reinstitute the application procedure under this Section 5.26.070, subject to the maximum number of Commercial Cannabis Operation Permits authorized and available (not allocated to an active, lawfully operating retailer) for issuance pursuant to Section 5.26.060. For the purpose of this Section, a

01257.0002/793102.15

Ordinance No. _____

Page 32 of ~~33~~70

retailer (medical-only or medical/adult-use) commercial cannabis operation shall be considered operating if (1) upon initial issuance of Commercial Cannabis Operation Permit (or approval of a change in location pursuant to Section 5.26.100), the retailer commercial cannabis operation commences lawful operations within twenty-four (24) months or (2) following initial commencement of lawful operations, the retailer commercial cannabis operation does not cease or abandon operations for one-hundred eighty (180) consecutive or cumulative days in any one (1) year period.

- H. Additionally, at any time during the second year from the operative date of this chapter, the City Council may, by resolution or minute action, reinstitute the application procedure under this Section 5.26.070 for the purpose of considering issuance of one additional retailer (medical/adult-use) Commercial Cannabis Operation Permit, in which case the maximum number of Commercial Cannabis Operation Permits for retailer (adult-use/medical) commercial cannabis operations based in the City shall increase from one to two as stated in Section 5.26.060(B).

Sec. 5.26.080 - Limitations on the City's liability.

To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Operation Permit pursuant to this chapter or otherwise approving any retailer commercial cannabis operation. As a condition to the approval of any Commercial Cannabis Operation Permit, the applicant shall be required to meet all of the following conditions before they can receive a Commercial Cannabis Operation Permit:

- A. Execution of 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, 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 Operation Permit, the City's decision to approve the retailer commercial cannabis operation, the process used by the City in making its decision, or the alleged violation of any federal, State, or local laws by the retailer commercial cannabis operation or any of its owners, managers, officers, employees, or agents.
- B. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney.
- C. Defend and indemnify the City for all costs and expenses, including but not limited to attorneys' fees and court costs, that the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's Commercial Cannabis Operation Permit or related to the City's approval of retailer commercial cannabis operations. The City, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall neither relieve nor increase any of the obligations imposed on the applicant hereunder.

- ~~3-D.~~ Provides written authorization to the Operations Officers to conduct reasonable

Formatted: Level 2, No bullets or numbering

01257.0002/793102.15

DRAFT

unannounced inspections of the location of the commercial cannabis operation at the reasonable discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the commercial cannabis operation, for the purposes of ensuring compliance with this chapter and all laws of the City and the State of California.

- ~~Executes an agreement: to indemnify, defend and hold harmless (at the Commercial Cannabis Operation Permit holder's sole expense, the ability to do so demonstrated through proof of sufficient insurance coverage to the satisfaction of the City) the City, its elected officials, employees, agents, officers, and representatives, and each and all of them individually, from all liability or harm arising from or in connection with all claims, damages, attorney's fees, costs and allegations arising from or in any way related to the operation of the commercial cannabis operation; and, to reimburse the City for any costs and attorney's fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action.~~

~~E. Upon successfully completing the review process, the permit application shall be deemed compliant and eligible for review under Section 5.26.090, unless the City Manager finds:~~

- ~~1. The applicant has made one or more false or misleading statements or omissions, either on the written application or during the application process; or~~
- ~~2. A proposed location for the commercial cannabis operation is not allowed by state or local law, statute, ordinance, or regulation (including this Code); or~~
- ~~3. The applicant has not satisfied each and every requirement of this chapter and Code; or~~
- ~~4. The applicant is not in compliance with applicable state law, including, but not limited to, applicable requirements and minimum standards of the Adult Use of Marijuana Act of 2016 (AUMA) (Proposition 64), the Medicinal and Adult Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA) and any applicable State regulations; or~~
- ~~5. Based upon the background check provided under Section 5.26.070(B)(2)(d), it is determined that an employee has been convicted within the last ten years of a felony substantially related to the qualifications, functions or duties of an employee of a commercial cannabis operation (such as a felony conviction for distribution of controlled substances, money laundering, racketeering, etc.), provided that this shall not apply where such employee has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar federal statute or state law where the expungement was granted; or~~
- ~~6. Based on the information set forth in the application and the City Manager's review, the City Manager may impose, as a condition of being deemed compliant and thereby eligible for review under Section 5.26.090, reasonable terms and conditions on the use of the permit, in addition to those specified in this chapter, to ensure the safe operation of the commercial cannabis operation, and to ensure the health, safety and welfare of the residents and visitors of the City of South El Monte.~~

01257.0002/793102.15

Ordinance No. _____
Page 34 of 3370

~~F. At the City Manager's sole discretion, the time limits in this Section may be extended upon written notification from the City Manager to the applicant.~~

Sec. 5.26.090 - ~~Issuance of commercial cannabis operation permit.~~Commercial Cannabis Operation Permit term.

- ~~A. Issuance of a Commercial Cannabis Operation Permit constitutes a revocable privilege and shall not create or establish any vested rights for the development or use of a property. The City may determine that it is in the best interests of the health, safety and welfare of the residents and visitors of the City of South El Monte that no Commercial Cannabis Operation Permits are to be granted by the City. Further, nothing herein shall restrict the City of South El Monte from denying/rejecting all applications and restarting the application submittal process with new application deadlines.~~
- ~~B. Upon City Manager's determination that an applicant is compliant with the requirements of this chapter, this Code, and applicable state law (and thereby eligible for review by the City Manager), the City Manager shall promptly prepare for the application a written Merit List.~~
- ~~C. A Merit List shall detail and rank in writing the thoroughness of an applicant's adherence to the following criteria, as they relate to the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of South El Monte:~~
 - ~~1. Operation plan for the business, including attention to community concerns about the impact of the business.~~
 - ~~2. Security plan for the business, including details for the non-diversion of cannabis or cannabis products to illegal uses.~~
 - ~~3. Health and safety plan for the business, including enhanced product and operations health and safety.~~
 - ~~4. Impact on the environment.~~
 - ~~5. Neighborhood compatibility.~~
 - ~~6. Employment opportunities for City of South El Monte residents.~~
 - ~~7. Economic benefits to the City of South El Monte.~~
 - ~~8. Community benefits to the City of South El Monte.~~
 - ~~9. Experience of the owners, managers, and employees.~~
 - ~~10. Capitalization of the business.~~
 - ~~11. Requirements of this chapter, this Code and applicable State law.~~
 - ~~12. Whether the applicant has proposed entering into a community benefit agreement with the City pursuant to Section 5.26.130.~~
 - ~~13. Any additional criteria the City Manager determines is of benefit to making a determination of the applicant's commitment to the health, safety and welfare of the residents and visitors of the City of South El Monte.~~
- ~~D. A. The City Manager shall review each application and, within a reasonable amount of time after finding the application to be compliant with this chapter and applicable state law, the City Manager shall then submit a written analysis of each application in relation to the Merit List to the City Council for its review as to whether the requested Subject to this Section 5.26.090 and Section 5.26.160, the term of each Commercial Cannabis Operation Permit shall be ~~issued. The City Manager's analysis shall use the criteria contained within Section 5.26.090(C).~~indefinite.~~

- B. Upon the one (1) year anniversary of the date of issuance for each Commercial Cannabis Operation Permit and every year thereafter, the City Manager shall conduct

Formatted: Level 2, Outline numbered + Level: 2 +
Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left
+ Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

01257.0002/793102.15

a performance review of the permittee to assess compliance with the requirements of this chapter and State law. Within thirty (30) days of the conclusion of the annual performance review of the permittee, the City Manager shall issue a letter of compliance or noncompliance outlining all items to be corrected to ensure full compliance. In the event of any noncompliance, the permittee shall have sixty (60) days to remedy such noncompliance. However, in the event such noncompliance items cannot be reasonably remedied within sixty (60) days, such noncompliance items shall not constitute a serious material violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this chapter subject to suspension or revocation under Section 5.26.160 if the permittee commences correction of such noncompliance items within sixty (60) days and thereafter diligently prosecutes correction of such noncompliance items to completion.

- C. The permittee shall pay a fee in an amount to be set by the City Council via resolution to cover the costs of conducting the performance review, together with any costs incurred by the City to administer the Program created under this chapter.

Section 5.26.100 – Change in location; transfer, updated application information.

- A. A permittee may change the business location specified in a Commercial Cannabis Operation Permit upon submission and approval of a change in location application promulgated, as a ministerial duty, by the City Manager pursuant to regulations adopted under Section 5.26.140 within one-hundred eighty (180) days following the effective date of this chapter. The permittee shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the review and processing of change in location applications. The City Manager shall process such change in location applications as a ministerial duty within thirty (30) days of receipt.
- B. An owner of a Commercial Cannabis Operation Permit shall not transfer ownership or control of such Commercial Cannabis Operation Permit to another person unless and until the permittee and transferee obtain an amendment to the Commercial Cannabis Operation Permit from the City Manager stating that the transferee is now an owner of the permittee. A permittee may change the ownership specified in a Commercial Cannabis Operation Permit upon submission and approval of a change in ownership application promulgated, as a ministerial duty, by the City Manager pursuant to regulations adopted under Section 5.26.140 within one-hundred eighty (180) days following the effective date of this chapter. The permittee shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the review and processing of change in ownership applications. The City Manager shall process such change in ownership applications as a ministerial duty within five (5) business days once the City Manager reasonably determines that the transferee passed the background check required for owners and meets all other requirements of this chapter.

01257.0002/793102.15

DRAFT

C. Notwithstanding Subsection (B), during the first three years following the issuance of a Commercial Cannabis Operation Permit, the City Manager shall not process any application to change the ownership or control of a Commercial Cannabis Operation Permit that results in the permittee altering its ownership composition in a manner that would result in the permittee not being entitled to points it was awarded when the permittee was an applicant pursuant to Section 5.26.070. For example, if a permittee received 100 points when it was an applicant for providing documentation that the individual or natural person owner or owners of the applicant (disregarding any intervening or intermediary entity owner or owners of the applicant) with an aggregate ownership interest of ninety (90) percent or more have entered into a collective bargaining agreement with a labor organization that currently represents cannabis workers in the United States effective since at least July 1, 2021, inclusive of renewals (and remaining effective, inclusive of renewals, on the date of the application submission under this Section), the City Manager shall not process or authorize any change in ownership or control of the permittee if the change would result in the permittee being unable to continue to satisfy the aforementioned criteria subsequent to its approval.

D. Notwithstanding Subsection (B), no Commercial Cannabis Operation Permit may be transferred when the City Manager has notified the permittee that its Commercial Cannabis Operation Permit has been or may be suspended or revoked.

E. Any attempt to transfer a Commercial Cannabis Operation Permit either directly or indirectly in violation of this Section 5.26.100 is hereby declared void, and such an unpermitted transfer shall be deemed a ground for revocation of the permit.

F. An applicant or permittee shall notify the City Manager or designee(s) within fifteen (15) calendar days of any material change in the information provided in the applicant or permittee's Commercial Cannabis Operation Permit application or any change in status of compliance with the provisions of this chapter, including any change in ownership or management...

- ~~1. Factors to be considered and analyzed shall include the written Merit List, as well as all pertinent evidence timely submitted (at the determination of the City Manager) by the applicant, the public, and interested parties. No pre-determined weight shall be given to one criterion or another.~~
- ~~2. Each application shall be considered in its totality with weight given to one criterion over another as determined appropriate by the City Manager to further the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of South El Monte.~~
- ~~3. Upon conclusion of this review, the City Manager shall provide a written analysis of each application to the City Council to consider as to whether or not a permit should be issued. The written analysis shall analyze each application in relation to and refer to Merit List criteria.~~

~~E. The City Council shall make a final determination in writing, within a reasonable amount of time after receipt of the City Manager's written analysis, whether an applicant shall be issued~~

01257.0002/793102.15

Ordinance No. _____

Page 37 of 3370

~~a. Commercial Cannabis Operation Permit.~~

- ~~1. Factors to be considered shall include the written Merit List, as well as all pertinent evidence timely submitted (at the determination of the City Council) by the applicant, the public, and interested parties. No pre-determined weight shall be given to one criterion or another.~~
- ~~2. Each application shall be considered in its totality with weight given to one criterion over another as determined appropriate by the City Council to further the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of South El Monte.~~
- ~~3. Prior to issuance of a Commercial Cannabis Operation Permit, the City Council shall make the following findings:~~
 - ~~i. The proposed location of the Commercial Cannabis Operation is in accord with the objectives of this chapter.~~
 - ~~ii. The proposed Commercial Cannabis Operation is consistent with all applicable law, including without limitation this Code.~~
 - ~~iii. The proposed location of the Commercial Cannabis Operation and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.~~
 - ~~iv. The architecture proposed is compatible with community standards and protects the character of adjacent properties.~~
- ~~4. Notice of the written determination shall be provided promptly to the applicant upon final determination. The determination shall articulate reasons in writing for the final determination and refer to Merit List criteria. The determination shall be final.~~
- ~~5. The City Council may adopt further permit issuance procedures by resolution.~~

~~F. The City Council may impose reasonable terms and conditions on the use of the permit, in addition to those specified in this chapter, to ensure the safe operation of the commercial cannabis operation, and to ensure the health, safety and welfare of the residents and visitors of the City of South El Monte.~~

~~G. As determined appropriate by the City, multiple qualified applications for Commercial Cannabis Operation Permits may be considered at the same time, for reasons including but not limited to comparison of applicants for limited permits using the criteria contained within Section 5.26.090(C). The permit process timelines provided by this chapter may be modified by the City to facilitate such review of multiple applications.~~

Sec 5.26.100 – Renewal of commercial cannabis operation permit.

~~A. Issuance of a Commercial Cannabis Operation Permit constitutes a revocable privilege and shall not create or establish any vested rights for the development or use of a property. The City may determine through the procedures provided in this chapter that for reasons of the health, safety and welfare of the residents and visitors of the City of South El Monte that a Commercial Cannabis Operation Permit will not be renewed.~~

~~B. Commercial Cannabis Operation Permits issued pursuant to this chapter shall automatically expire one year from the date of issuance, unless specifically provided for otherwise by this chapter.~~

~~C. The following procedures shall govern the process for the renewal of a Commercial Cannabis Operation Permit:~~

01257.0002/793102.15

DRAFT

- ~~1. A holder of a Commercial Cannabis Operation Permit may apply for the renewal of an existing permit no less than 60 days prior to the permit's expiration date upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council as amended from time to time.~~
- ~~2. Renewal applications shall comply with all of the requirements in this chapter for applying for a new Commercial Cannabis Operation Permit. At the discretion of the City, renewal applications may consist of updating any changes to an original application or previous renewal application.~~
- ~~3. The City Manager will review permit renewal applications and make a determination as to whether the commercial cannabis operation has remained in compliance with all the requirements of this chapter and State law during the prior term of the permit. If the City Manager determines that the commercial cannabis operation has not remained in compliance with all requirements of this chapter and State law during the prior term of the permit, then the permit renewal application shall be denied.~~
- ~~4. If the City Manager determines the commercial cannabis operation has remained in compliance with all the requirements of this chapter and state law during the prior term of the permit, the permit renewal application shall then be subject to the requirements of Section 5.26.090 (including the attendant preparation of a Merit List applicable to the prior term's operations), and the City Manager shall draft a written Merit List. The City Manager shall provide a written analysis of each application in relation to the written Merit List and recommend to the City Council in writing whether the permit should be renewed. The City Council shall review the recommendation and then make a final decision on whether to grant an application for a permit renewal. Prior to the grant of any permit renewal, the City Council shall make the findings provided in Section 5.26.090(E)(3). The City Council's decision shall be final.~~
- ~~5. If the holder of a Commercial Cannabis Operation Permit files a renewal application less than 60 days prior to expiration, the holder must provide a written explanation detailing the circumstances surrounding the late filing. The City Manager may deny the untimely application after review of the explanation. If the City Manager accepts the application, then the City Manager may elect to administratively extend the permit beyond the expiration date while the City Manager completes the renewal permitting process. Untimely applications for renewal which are nevertheless accepted by the City Manager pursuant to this section are subject to a late penalty. The City Manager's decisions made hereunder shall be final.~~

~~D. A Commercial Cannabis Operation Permit is immediately invalid upon expiration if the permit holder has not filed a timely and/or accepted renewal application and remitted all of the required renewal fees. In the event the permit is not renewed prior to expiration, the affected commercial cannabis operation shall cease operation upon the expiration of the permit and is thereafter considered to be unlawful.~~

01257.0002/793102.15

Ordinance No. _____
Page 39 of 3370

DRAFT

Sec. 5.26.110 - General operating standards and restrictions.

A commercial cannabis operation shall operate in conformance with the following minimum standards, and such standards shall be deemed to be part of the conditions on the permit for a commercial cannabis operation to ensure that its operation is in compliance with ~~California State~~ law and this Code, and to mitigate any potential adverse impacts of the commercial cannabis operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the City Manager ~~(upon authorization by resolution from the City Council)~~ pursuant to Section 5.26.140.

- A. State Standards. All state requirements and regulations that govern the operation of a commercial cannabis operation, including but not limited to ones related specifically to certain types of commercial cannabis operations, shall apply as minimum requirements and regulations and requirements for commercial cannabis operations within the City of South El Monte, in addition to the requirements and regulations of this chapter and this Code.
- B. Security.
 1. General. All cannabis, cannabis products and cash present or kept at the premises shall be securely stored against both unauthorized access as well as theft.
 2. Security Cameras.
 - a. Security cameras shall be installed and maintained in good condition, with at least ~~30~~ ninety (90) days of digitally recorded documentation in a format approved by the City Manager and the Police Chief.
 - b. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present at the site of the commercial cannabis operation.
 - c. The cameras shall be in continuous use 24 hours per day, 7 days per week.
 - d. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium approved by the City Manager, such as DVD and/or a USB drive.
 - e. The areas to be covered by the security cameras include, but are not limited to, the storage areas, operation areas, all doors and windows, the parking lot, all exterior sides of the property adjacent to the public rights of way, and any other areas as determined by the City Manager and Police Chief.
 - f. Remote log-in information will be provided to the Operations Officers to allow them to view live and recorded security camera images remotely at any time.
 3. Alarm System. The location of the commercial cannabis operation shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State ~~of California~~

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 3b, Line spacing: Exactly 12 pt, Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Tab after: 2.5" + Indent at: 1.8"

Formatted: Level 3, No bullets or numbering

01257.0002/793102.15

Ordinance No. _____
Page 40 of ~~33~~70

DRAFT

Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with ~~California Sections 7590, et seq. of the State Business & Professions Code section 7590, et seq.~~ and whose agents are properly licensed and registered under applicable law.

4. Locked Entrances. All entrances into the building housing a commercial cannabis operation shall be locked from the exterior at all times with entry controlled by employees.
5. Windows. All windows on the building that houses the commercial cannabis operation shall be secured against entry from the outside.
6. No employee shall refuse, impede, obstruct or interfere with an inspection conducted pursuant to the authorizations provided by this chapter.

C. Odors.

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

D. Authorizations.

1. The Operations Officers shall have the right to enter all areas of the commercial cannabis operation from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter and all laws of the City and State ~~of California.~~
2. Recordings made by security cameras required pursuant to this chapter shall be made available to the Operations Officers upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

E. Records.

1. Commercial cannabis operations shall maintain on-site the following records either in paper or electronic form:
 - a. The full name, address, and telephone numbers of the owner and lessee of the property.
 - b. The name, date of birth, address, and telephone number of each employee of the commercial cannabis operation; the date each was hired; and the nature of each employee's participation in the commercial cannabis operation.
 - c. Copies of all required state licenses.
 - d. An inventory record documenting the dates and amounts of cannabis and

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 3b, Line spacing: Exactly 12 pt, Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Tab after: 2.5" + Indent at: 1.8"

Formatted: Level 3b, Line spacing: Exactly 12 pt, Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Tab after: 2.5" + Indent at: 1.8"

01257.0002/793102.15

Ordinance No. _____
Page 41 of 3370

DRAFT

cannabis products received at the site, the daily amounts of cannabis and cannabis products on the site, and the daily amounts of cannabis and cannabis products leaving the site for any reason, including but not limited to being sold, delivered, or distributed.

- e. A written accounting of all expenditures, costs, revenues and profits of the commercial cannabis operation, including but not limited to cash and in-kind transactions.
 - f. A copy of all insurance policies related to the operation of the commercial cannabis operation.
 - g. A copy of the commercial cannabis operation's most recent year's financial statement and tax return.
 - h. Proof of a valid and current permit issued by the City in accordance with this chapter, and the equivalent State of California license to operate the commercial cannabis operation. Every commercial cannabis operation shall display at all times during business hours the City permit issued pursuant to the provisions of this chapter, and the equivalent State license, in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.
2. All records required to be maintained by the commercial cannabis operation must be maintained for no less than ~~three~~ seven (7) years and are subject to immediate inspection (consistent with requirements pertaining to qualified patient confidentiality pursuant to applicable State and ~~Federal~~ federal law) upon a lawful written request by an Operation Officer.
 3. A commercial cannabis operation shall report any loss, damage, or destruction of these records to the Operation Officers within twenty-four (24) hours of the loss, damage, or destruction.

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

F. Site Management.

1. Commercial cannabis operations shall not result in a nuisance or adversely affect the health, welfare, or safety of nearby persons by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or waste. The permittee shall promptly and diligently both prevent as well as eliminate conditions on the site of the commercial cannabis operation that constitute a nuisance.
2. ~~The Commercial Cannabis Operation~~ A permittee shall maintain the exterior of the site, including any parking lots under the control of the permittee, free of litter, debris, and trash.
3. The Commercial Cannabis Operation permittee shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations.
4. Notwithstanding any provisions of this code to the contrary, the Commercial Cannabis Operation permittee shall remove all graffiti from the site and parking lots under the control of the Commercial Cannabis Operation

01257.0002/793102.15

Ordinance No. _____

Page 42 of ~~33~~70

DRAFT

Permittee within 72 hours of its application.

G. State Board of Equalization Seller's Permit Required.

1. Commercial cannabis operations must obtain a Seller's Permit from the State Board of Equalization as applicable.
2. Such permit shall be displayed in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

H. Employees.

1. All employees must submit to fingerprinting and criminal background checks by the City.
 - a. No employee convicted within the last ten years of a felony substantially related to the qualifications, functions or duties of an employee of a commercial cannabis operation (such as a felony conviction for distribution of controlled substances, money laundering, racketeering, etc.) shall be employed by a commercial cannabis operation, unless such employee has obtained a certificate of rehabilitation (expungement of felony record) under ~~California State~~ law or under a similar federal statute or state law where the expungement was granted.
 - b. At the request of the commercial cannabis operation, the City Manager and Police Chief shall determine the applicability of this ~~section~~ Section to a potential employee within a reasonable period of time after a written request has been made to the City Manager and Police Chief for such determination.
2. All employees must possess a valid government issued (or equivalent) form of identification containing an identifying photograph of the employee, the name of the employee, the date of birth of the employee, and the residential address of the employee. Color copies of such identification shall be maintained at the location of the commercial cannabis operation. A valid ~~California Driver's~~ State driver's license will satisfy this requirement.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 3b, Line spacing: Exactly 12 pt, Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Tab after: 2.5" + Indent at: 1.8"

Formatted: Level 3b, Line spacing: Exactly 12 pt, Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Tab after: 2.5" + Indent at: 1.8"

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

I. Cannabis Transfer Between Permitted Operations Only.

A commercial cannabis operation shall not transfer cannabis or cannabis products to or from another commercial cannabis operation, unless both operations are in possession of all required ~~state~~ State and local licenses and permits.

J. Commercial Cannabis Operation Signage.

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

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

01257.0002/793102.15

Ordinance No. _____
Page 43 of 3370

DRAFT

- K. Prohibited Personal Activities.
1. Cannabis Use. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 20 feet of, the site of the commercial cannabis operation.
 2. Alcohol Use. No person shall possess, consume, or store any alcoholic beverage on the site of the commercial cannabis operation.
- L. No Minors. No minor shall be an employee of, or participate in, a commercial cannabis operation in any capacity, including but not limited to, as a manager, employee, contractor, adviser, or volunteer.
- M. Exterior Lighting. The exterior of the premises upon which the commercial cannabis operation is operated shall be equipped with and, at all times between sunset and sunrise, shall remain illuminated with fixtures of sufficient intensity and number to illuminate every portion of the property with an illumination level of not less than one foot-candle as measured at the ground level, including, but not limited to, landscaped areas, parking lots, driveways, walkways, entry areas, and refuse storage areas.
- N. Building Design. A ~~Commercial Cannabis Operation~~ permittee must maintain the design of the buildings on the site in accordance with the plans that are approved by the City pursuant to this chapter and otherwise approved by the City. No permittee shall modify the buildings on the site contrary to the approved plans, without the approval of the City Manager.
- O. Nuisance. ~~The Commercial Cannabis Operation~~ A permittee shall take all reasonable steps to discourage and correct conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if related to the members of the subject commercial cannabis operation.
1. "Reasonable steps" shall include immediately calling the ~~police~~ Police Department upon observation of the activity, and requesting that those engaging in activities that constitute a nuisance or are otherwise illegal to cease those activities, unless personal safety would be threatened in making the request.
 2. "Nuisance" includes but is not limited to disturbances of peace, open public consumption of cannabis, alcohol or controlled substances, excessive pedestrian or vehicular traffic, including the formation of any pedestrian lines outside the building, illegal drug activity, harassment of ~~passersby~~ those passing by, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or ~~police~~ law enforcement detentions and arrests.
- P. Upon and after receiving possession of a Commercial Cannabis Operation Permit as provided for in this chapter, ~~the Commercial Cannabis Operation Permit holder shall~~ a permittee shall:
1. ~~Immediately update the City Manager in writing upon the change in status of any of the information previously submitted to the City concerning the commercial cannabis operation, including but not limited to when there is any change in the address, email, phone number, or other identifying information, previously provided to the City in~~

01257.0002/793102.15

Ordinance No. _____
Page 44 of ~~33~~70

DRAFT

~~compliance with this chapter, for any owner, manager, community outreach manager, property owner, or legal representative of the commercial cannabis operation.~~

~~2.1.~~ Maintain continuing compliance with criminal background check requirements of this chapter by ensuring that:

- a. ~~upon~~ Upon the hiring, association or retention of an employee by the commercial cannabis operation, the requirements of Section 5.26.070(B)(2)(d) are immediately met for such employee by provision of appropriate documentation to the City Manager; and
- b. the City Manager and Police Chief are immediately informed in writing of any felony conviction as described in ~~Section 5.26.110(H)(1)(a)~~ 5.26.110(H) for any current employee.

~~3.2.~~ Maintain continuing compliance with all applicable insurance requirements, including, but not limited to, those imposed by City and this chapter.

Q. Workforce Plan. A permittee shall implement a workforce plan that includes at least the following provisions:

1. Commitment for thirty percent (30%) of employees to be local hires; this local hiring requirement is satisfied when a permittee shows that it has either hired or made a good faith effort to hire bona fide residents of the City or persons that may establish residency after initial employment with the permittee;
2. Commitment to offer apprenticeships and/or compensation for continuing education in the field of commercial cannabis operations; and
3. Paying a living wage to employees. "Living wage" means compensation equivalent to \$20 per hour inclusive of benefits but excluding tips.

~~Q.R.~~ Exemption. The regulations contained in this chapter shall not apply to a commercial cannabis operation engaged in the following uses, as long as such use complies strictly with applicable law, including this Code, regulating such use and the location of such use, including, but not limited to, Section 11362.5 of the State Health and Safety Code and Sections ~~11362.5, 11362.71~~ *et seq.* of the State Health and Safety Code; ~~a~~ A clinic licensed pursuant to Chapter 1 of Division 2 of the State Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the State Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the State Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the State Health and Safety Code; and, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the State Health and Safety Code.

Sec. 5.26.120 ~~Retail (medical)~~ Retailer operating standards and restrictions.

A retailer commercial cannabis operation ~~engaged in retail (medical)~~ shall operate in conformance with both ~~the General Operating Standards and Restrictions provided for in~~ Section 5.26.110, as well as the following minimum standards, and such standards shall be deemed to be part of the conditions of the ~~permit for a retail (medical)~~ Commercial Cannabis Operation Permit for a retailer commercial

01257.0002/793102.15

Ordinance No. _____
Page 45 of 3370

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 3b, Outline numbered + Level: 3 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 1.5" + Tab after: 2.5" + Indent at: 1.8"

Formatted: Level 3b, No bullets or numbering

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

DRAFT

cannabis operation to ensure that its operation is in compliance with ~~California~~-State law and this Code, and to mitigate any potential adverse impacts of the commercial cannabis operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the City Manager ~~(upon authorization by resolution from the City Council)~~ pursuant to Section 5.26.140.

- A. City Permit and State License. No person shall engage in ~~retail (medical)-retailer commercial cannabis operations~~ without both a current and valid ~~City~~-Commercial Cannabis Operation Permit ~~issued for retail (medical) as well as and~~ a current and valid equivalent ~~state~~-State license as provided for under Section 26200 of the State Business and Professions Code, and as may be amended. Retailer (medical-only) commercial cannabis operations shall only sell, dispense, or provide medical cannabis or medical cannabis products to a qualified patient with a written physician's recommendation, a person with an identification card, or a primary caregiver with written documentation attesting to lawful status as a primary caregiver.
- B. State Standards. All state requirements and regulations that govern ~~retail (medical)-retailer commercial cannabis~~ operations, including but not limited to the regulations promulgated by the ~~California Bureau~~-State Department of Cannabis Control ~~within the Department of Consumer Affairs~~, and as may be amended, shall apply as minimum requirements and regulations and requirements for ~~retail (medical)-retailer commercial cannabis operations within the City of South El Monte~~, in addition to the requirements and regulations of this chapter and this Code.
- C. Location ~~Restrictions~~and Design Requirements.

Pursuant to the authority delegated by the State to the City under Section 26054(b) of the State Business and Professions Code and overriding the location and design requirements contained in Section 26054(b) of the State Business & Professions Code, retailer commercial cannabis operations in the City shall be subject to the following location and design requirements:

1. Retailer commercial cannabis operations shall be a permitted use subject to this chapter on property (1) located more than one-thousand (1,000) feet any retailer commercial cannabis operation permitted under this chapter, alcohol or drug treatment facility, day care center, religious institution, school, or youth center, (2) located more than three- hundred-fifty (350) feet from the City's jurisdictional boundary or any park or residentially zoned property, and (3) zoned: C (Commercial Zone) or C-M (Commercial-Manufacturing Zone) including any overlay zone districts covering the C (Commercial Zone) or C-M (Commercial-Manufacturing Zone).
2. The distances specified in Subsection (C) shall be the horizontal distance measured in a straight line from the parcel line of the sensitive use to the closest parcel line of the lot on which the cannabis retailer is to be located without regard to intervening structures. The 1,000 foot distance specified in Subsection (C) may be reduced to as little as 800 feet by administrative

01257.0002/793102.15

Ordinance No. _____
Page 46 of 3370

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, No bullets or numbering

DRAFT

regulation pursuant to Section 5.26.140 if necessary to allow for issuance of the number of Commercial Cannabis Operation Permits provided by this chapter.

3. Each retailer commercial cannabis operation shall:

- a. Be constructed in a manner that prevents odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. Odors from the cannabis retailer shall not be detectable from outside the premises and adequate odor control technology shall be utilized;
- b. Be provided with adequate electricity, sewerage, disposal, water, fire protection, and storm drainage facilities for the intended purpose; and
- c. Provide and maintain a neighborhood compatibility plan so the City Manager or designee(s) may find that the cannabis retailer and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.

D. Customers.

1. Prior to dispensing medical cannabis or medical cannabis products to a qualified patient, a retailer commercial cannabis operation shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and obtain verification from the recommending physician that the person requesting medical cannabis or medical cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation, or identification card, as described in Sections 11362.71 et seq. of the State Health and Safety Code, as may be amended from time to time, on site for period of not less than seven (7) years.
2. Prior to dispensing cannabis or cannabis products to an adult-use customer, a retailer (medical/adult-use) commercial cannabis operation shall verify the age and all necessary documentation of each customer to ensure the customer is not under the age of twenty-one (21) years.
1. ~~No retail (medical) operation shall locate or operate in any zone of the City of South El Monte, other than in the Commercial Manufacturing Zone (CM) Manufacturing Zone (M).~~
2. ~~No retail (medical) operation shall locate within seven hundred (700) feet of a school, day care center, youth center, park, or an alcohol or drug treatment facility. The distance shall be measured as the horizontal distance measured in a straight line from the property line of one site to the property line of another site.~~
3. ~~No retail (medical) operation shall locate within seven hundred (700) feet of a residentially zoned property. The distance shall be measured as the horizontal distance~~

01257.0002/793102.15

Ordinance No. _____

Page 47 of 3370

DRAFT

measured in a straight line from the property line of one site to the property line of another site.

~~D. Customers. Retail (medical) operations shall only sell, dispense, or provide medical cannabis or medical cannabis products to a qualified patient with a written physician's recommendation, a person with an identification card, or a primary caregiver with written documentation attesting to lawful status as a primary caregiver.~~

E. Opaque Packaging. All cannabis or cannabis products sold to a customer shall be prohibited from leaving the site unless placed in opaque packaging which conceals the nature of the product from human vision.

F. Dispensing and Storage Areas. Entrance to the ~~dispensing area~~ retailer sales floor and any storage areas shall be locked at all times, and under the control of employees.

~~G. Edibles.~~

~~1. All edible cannabis products available for sale must be clearly labeled as medical cannabis.~~

~~2. No edible cannabis products shall be available for sale which are appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.~~

~~3. All edible cannabis products shall be provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.~~

~~4. All edibles cannabis products for sale shall be marked with a universal symbol, as determined by the State Department of Public Health through regulation, pursuant to Section 26130(e)(7) of the Business and Professions Code.~~

~~H.G. Interior Lighting. The premises within which the commercial cannabis operation is operated shall be equipped with and, at all times during which is open to the public, shall remain illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which members of the public or portions thereof are permitted access with an illumination of not less than two foot-candles as measured at the floor level.~~

~~I. Signs. A permittee shall display conspicuously in the lobby of the site the following signs, so that each sign may be readily seen by persons entering the site, and each sign must be at least 8 inches by 10 inches in size:~~

~~1. "Minors are prohibited from entering this site unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or legal guardian."~~

~~2. "Smoking, ingesting, or consuming cannabis on or within 20 feet of this site is prohibited."~~

H. Signs. A retailer commercial cannabis operation shall notify customers (verbally or by written agreement) and by posting a notice or notices conspicuously at least 15-point type within permitted premises that state as follows:

1. "The sale or diversion of cannabis or cannabis products without a license issued by persons entering the site, the City of South El Monte is a violation of State law and the South El Monte Municipal Code."

2. "Secondary sale, barter, or distribution of cannabis or cannabis products

01257.0002/793102.15

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Ordinance No. _____

Page 48 of 3370

DRAFT

purchased from a permittee is a crime and can lead to arrest.”

3. “Customers must not loiter in or near these premises and may not consume cannabis or cannabis products in the vicinity of this business or in any place not lawfully permitted. These premises and vicinity are monitored to ensure compliance.”
4. “WARNING: The use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate heavy machinery.”
5. “CALIFORNIA PROP. 65 WARNING: Smoking of cannabis and cannabis-derived products will expose you and those in your immediate vicinity to cannabis smoke. Cannabis smoke is known by the State of California to cause cancer and reproductive harm.”

~~J.I.~~ A “No Recommendations On-site. ~~Retail (medical) operations~~ A retailer commercial cannabis operation shall not have a physician or any person licensed to recommend medical cannabis for medical use, ~~at the location of the retailer~~ commercial cannabis operation, ~~to provide a recommendation or physician’s recommendation, for the use of medical cannabis.~~

Formatted: Level 2, No bullets or numbering

~~K.J.~~ A Sanitation. ~~The~~ A permittee shall establish and implement written procedures that maintain the highest industry standards of sanitation and cleanliness for the operation so as to ensure cannabis and cannabis products sold to the public are free of harmful contaminants.

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

~~L.K.~~ A Training. ~~The~~ A permittee shall establish and implement written procedures that provide for the highest industry standards of training for employees.

~~M.L.~~ A Prohibited Activities. No cannabis cultivation, testing or manufacturing shall occur ~~at within the location~~ premises of the ~~retail (medical)~~ retailer operation.

~~N.M.~~ A No Alcohol. ~~Retail (medical)~~ Retailer commercial cannabis operations shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.

~~O.N.~~ A No Lounge or Cafe. ~~Retail (medical)~~ Retailer commercial cannabis operations shall not operate as a lounge, cafe or restaurant serving food or drinks for consumption on-site. There shall be no seating area, tables, couches, or chairs for the gathering or congregating of members.

~~P.O.~~ A Age Restriction. Minors, ~~except qualified patients or primary caregivers over the age of eighteen (18) years old as verified customers,~~ are prohibited from entering the location of the ~~retail (medical) operation unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or legal guardian~~ retailer cannabis operation.

~~Q.P.~~ A Public Information. The permittee shall make available to customers a list of the rules and regulations governing medical cannabis use and consumption within the City and recommendations on sensible medical cannabis etiquette.

01257.0002/793102.15

Sec. 5.26.120.5 – Delivery operating standards and restrictions.

- A. Delivery shall comply with State law at all times.
- B. Security plans developed pursuant to this chapter shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
- C. A commercial cannabis operation engaged in delivery shall facilitate the delivery of cannabis or cannabis products with a technology platform owned by or licensed to the delivery-only commercial cannabis operation engaged in delivery that uses point-of-sale technology to track and database technology to record and store the following information for each transaction involving the exchange of cannabis or cannabis products between the commercial cannabis operation engaged in delivery and customer:
 - 1. The identity of the individual dispensing cannabis or cannabis products on behalf of the commercial cannabis operation engaged in delivery;
 - 2. The identity of the customer receiving cannabis or cannabis products from the commercial cannabis operation engaged in delivery;
 - 3. The type and quantity of cannabis or cannabis products dispensed and received;
 - 4. The gross receipts charged by the commercial cannabis operation engaged in delivery and received by the individual dispensing cannabis or cannabis products on behalf of the commercial cannabis operation engaged in delivery for the cannabis or cannabis products dispensed and received; and
 - 5. The location or address where the sale or retail sale took place or closed.
- D. A commercial cannabis operation engaged in delivery shall maintain a database and provide a list of the individuals and vehicles authorized to conduct delivery, and a copy of the valid State driver's license issued to the driver of any such vehicle on behalf of the commercial cannabis operation engaged in delivery to the City Manager.
- E. Individuals making deliveries of cannabis or cannabis products on behalf of the commercial cannabis operation engaged in delivery shall maintain a physical copy of the delivery request (and invoice) and shall make it available upon the request of agents or employees of the City requesting documentation.
- F. During delivery, a copy of the commercial cannabis operation engaged in delivery's Commercial Cannabis Operation Permit and State license shall be in the vehicle at all times, and the driver shall make it available upon the request of agents or employees of the City requesting documentation.
- G. A commercial cannabis operation engaged in delivery shall only permit or allow

01257.0002/793102.15

delivery of cannabis or cannabis products in a vehicle that is (1) insured at or above the legal requirement in the State; (2) capable of securing (locking) the cannabis or cannabis products during transportation; (3) capable of being temperature controlled if perishable cannabis or cannabis products is being transported; and (4) does not display advertising or symbols visible from the exterior of the vehicle that suggest the vehicle is used for cannabis delivery or affiliated with a commercial cannabis operation engaged in delivery.

H. A commercial cannabis operation engaged in delivery shall facilitate deliveries with a technology platform owned by or licensed to the commercial cannabis operation engaged in delivery that uses global positioning system technology to track, and database technology to record and store the following information:

1. The time that the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery departed its premises.
2. The time that the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery completed delivery to the customer.
3. The time that the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery returned to its premises.
4. The route the individual conducting delivery on behalf of the commercial cannabis operation engaged in delivery traveled between departing and returning to its premises to conduct delivery.
5. For each individual delivery transaction, the identity of the individual conducting deliveries on behalf of the commercial cannabis operation engaged in delivery.
6. For each individual delivery transaction, the vehicle used to conduct delivery on behalf of the commercial cannabis operation engaged in delivery.
7. For each individual delivery transaction, the identity of the customer receiving cannabis or cannabis products from the commercial cannabis operation engaged in delivery.
8. For each individual delivery transaction, the type and quantity of cannabis or cannabis products dispensed and received.
9. For each individual delivery transaction, the gross receipts charged by the commercial cannabis operation engaged in delivery and received by the individual conducting deliveries on behalf of the commercial cannabis operation engaged in delivery for the cannabis or cannabis products dispensed and received.

I. The individual making deliveries on behalf of the commercial cannabis operation engaged in delivery shall personally verify for each individual delivery transaction the

01257.0002/793102.15

identity of the customer receiving cannabis or cannabis products from the commercial cannabis operation engaged in delivery and (1) for medical cannabis or medical cannabis products to a qualified patient, the age and all necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years and obtain verification from the recommending physician that the person requesting medicinal cannabis or medicinal cannabis products is a qualified patient, and shall maintain a copy of the physician recommendation or identification card as described in Sections 11362.71 et seq. of the State Health and Safety Code, as may be amended from time to time, on site for period of not less than seven (7) years or (2) for cannabis or cannabis products to an adult-use customer, age and all necessary documentation of each customer to ensure the customer is not under the age of twenty-one (21) years.

Sec. 5.26.130 – Community Benefit Agreement.

The applicant may propose entering into a community benefit agreement with the City setting forth the terms and conditions under which the facility will operate that is in addition to the requirements of this ~~Chapter~~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 of the ~~city~~City and its residents and visitors. ~~The terms and conditions of such community benefit agreement may include but are not limited to the items on the Merit List provided under Section 5.26.090(C)~~

Sec. 5.26.140 – Administration.

~~Further rules, regulations, procedures and standards for the administration and implementation of this chapter may be adopted from time to time either by resolution or ordinance from the City Council, by the City Manager, or as further provided by this chapter.~~

- A. Consistently with stated requirements of this chapter (and in particular not to repeal or constructively repeal this chapter), in addition to any regulations adopted under State law, the City Manager is authorized to establish any additional rules, regulations, and standards governing the issuance or denial of Commercial Cannabis Operation Permits, the ongoing operation of commercial cannabis operations and the City's oversight thereof, or concerning any other subject determined to be necessary to carry out the purposes of this chapter.
- B. Such regulations shall be approved by resolution of the City Council published on the City's website.
- C. Regulations promulgated, by the City Manager, shall become effective upon date of publication. Commercial cannabis operations shall be required to comply with all State and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

Sec. 5.26.150 - Fees.

An application fee set by resolution of the City Council shall be required for formal processing of every application made under this chapter. The City Council is further authorized to pass resolutions

~~01257.0002/793102.15~~

Ordinance No. _____
Page 52 of ~~33~~70

DRAFT

to recover any and all fees and costs incurred by the administration and implementation of this chapter through an appropriate fee recovery mechanism to be imposed upon commercial cannabis operations.

Sec. 5.26.160 - Suspension and revocation.

- A. The City Manager is authorized to suspend and/or revoke a Commercial Cannabis Operation Permit issued pursuant to this chapter upon the determination through written findings of a failure to materially comply with any provision of this chapter, any ~~permit~~ Commercial Cannabis Operation Permit condition, or any agreement or covenant ~~as required~~ or made pursuant to this chapter.
- B. ~~The Notwithstanding Subsection (A), the~~ City Manager may suspend or revoke a Commercial Cannabis Operation Permit if any of the following occur, ~~and the suspension or revocation shall be final:~~
- ~~1. The City Manager determines that the commercial cannabis operation has failed to comply with any aspect of this chapter, any permit condition, any agreement or covenant as required pursuant to this chapter, or any other applicable law; or~~
 - ~~2.1.~~ 1. The equivalent State license has been suspended or revoked by the State ~~of California~~; or
 - ~~3.2.~~ 2. Operations cease for more than ~~180 calendar days (including during any change of ownership, if applicable)~~ one hundred eight (180) consecutive or cumulative days in any one (1) year period; or
 - ~~4.3.~~ 3. Ownership is changed ~~without securing a new Commercial Cannabis Operation Permit or transferred without complying with Section 5.26.100~~; or
 - ~~5.4.~~ 4. The commercial cannabis operation fails to maintain required security camera recordings; or
 - ~~6.5.~~ 5. The commercial cannabis operation fails to allow inspection of the security recordings, the activity logs, the records, or of the site by Operations Officers pursuant to this chapter.
- C. Conditions (if any) of suspension or revocation are at the reasonable discretion of the City Manager and may include, but are not limited to, a prohibition on all owners, managers and employees of the suspended or revoked commercial cannabis operation from operating within the City for a period of time set forth in writing and/or a requirement (when operations may resume, if at all, pursuant to the City Manager's reasonable determination) for the holder of the suspended or revoked ~~permit~~ Commercial Cannabis Operation Permit to resubmit an application for a Commercial Cannabis Operation Permit pursuant to the requirements of this chapter.

Sec. 5.26.170 – Appeals.

Any decision regarding the City Manager's ~~determination pursuant to Section 5.26.100(C)(3), or suspension or revocation of a commercial marijuana operation permit~~ Commercial Cannabis Operation Permit pursuant to Section 5.26.160 may be appealed to the City Council ~~(unless subject to the provisions of Section 5.58.180) by an applicant, a permit holder~~ by a permittee or interested party as follows:

- A. ~~A.~~ If the appellant wishes to appeal a decision to the City Council, the appellant must

01257.0002/793102.15

Ordinance No. _____
Page 53 of 3370

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 3, Line spacing: Exactly 12 pt, No bullets or numbering

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

DRAFT

file a written appeal with the City Clerk within ten (10) calendar days of the decision. The written appeal shall specify the person making the appeal, the decision appealed from, ~~shall~~ state the reasons for the appeal, and ~~shall~~ include any evidence in support of the appeal which the applicant seeks to be considered by the City Council.

B. ~~B.~~ Notice of the time and place of an appeal hearing shall be providing to the appellant within ~~30-thirty (30)~~ days of receipt by the City Clerk of the written appeal.

C. ~~C.~~ The appeal hearing shall be held within ~~60-sixty (60)~~ days of the filing of the written appeal with the City Clerk, unless the 60 day time limit is waived by the appellant, or unless the City Council continues the appeal hearing date for good cause and upon written notification to the appellant.~~D.~~

D. The City Council shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determine whether the appealed decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final.

E. ~~E.~~ The provisions of ~~section~~ Section 1094.6 of the Code of Civil Procedure sets forth the procedure for judicial review of any final determination. Parties seeking such judicial review shall file such action within ~~90-ninety (90)~~ days of a determination being made final.

Sec. 5.26.180 – Violations and penalties; public nuisance.

A. Any material violation of the provisions of this chapter is punishable as a misdemeanor or an infraction, at the discretion of the ~~city prosecutor~~ City Attorney, pursuant to Chapters 1.14 and 1.16 of this Code, except for as preempted by ~~state~~ State law; ~~and, material~~ any violation of the provisions of this chapter is subject to administrative citation, at the reasonable discretion of the City, pursuant to Chapters 1.14 and 1.16 of this Code.

B. Public ~~nuisance abatement~~ Nuisance Abatement.

1. Any commercial cannabis operation that is conducted in material violation of any provision of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 8.36 of ~~Title 8 of~~ this Code.

2. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance, including the commercial cannabis operation ~~permittee~~ and the property owner where the nuisance is occurring.

C. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude ~~city~~ City from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.

D. Any material violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

01257.0002/793102.15

Ordinance No. _____
Page 54 of ~~33~~70

Formatted: Level 2, Line spacing: Exactly 12 pt

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

DRAFT

Sec. 5.26.190 - Service of notices.

Any notice required by this chapter is deemed issued and served upon the earliest date that either: the notice is deposited in the United States mail, postage pre-paid, addressed to the most recent mailing address provided to the City pursuant to the requirements of this chapter; or, the date upon which personal service of the notice is provided to a responsible party.

Sec. 5.26.200 - Prohibitions.

- A. Any commercial cannabis operation in violation of ~~The Adult Use of Marijuana Act, The Medicinal and Adult Use of Cannabis Regulation and Safety Act~~, this chapter, or any other applicable State law is expressly prohibited.
- B. It is unlawful for any commercial cannabis operation in the City, or any agent, employee or representative of such commercial cannabis operation, to permit any breach of peace or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct at the site of the commercial cannabis operation.

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 2, Line spacing: Exactly 12 pt, No bullets or numbering

Sec. 5.26.210 - Nonconforming use.

No use which purports to have engaged in a commercial cannabis ~~activity-operations~~ of any nature prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of this Code, or any other ~~local~~ City ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

Sec. 5.26.220 - Exceptions

- A. ~~A.~~ To the extent that the following activities are permitted by state law, nothing in this chapter shall prohibit a person twenty-one (21) years of age or older from:
 1. ~~1.~~ Possessing, processing, purchasing, transporting, obtaining or giving away to persons twenty-one (21) years of age or older, without compensation whatsoever, not more than twenty-eight and one-half (28.5) grams of cannabis not in the form of concentrated cannabis-;
 2. ~~2.~~ Possessing, processing, purchasing, transporting, obtaining or giving away to persons twenty-one (21) years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis-;
 3. ~~3.~~ Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons twenty-one (21) years of age or older without compensation whatsoever-; or
 4. ~~4.~~ Engaging in the indoor cultivation of six (6) or fewer live cannabis plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by ~~California Health and Safety Code~~ Sections 11362.1 and 11362.2, ~~as the same of the State Health and Safety Code, as~~ may be amended from time to time-;
- B. ~~B.~~ This chapter shall also not prohibit any commercial cannabis ~~operatinos-operations~~ that the ~~city~~ City is required by law to permit within its jurisdiction pursuant to ~~state~~ State law.

Formatted: Level 2, Line spacing: Exactly 12 pt, Outline numbered + Level: 2 + Numbering Style: A, B, C, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Tab after: 1" + Indent at: 1"

Formatted: Level 3, Line spacing: Exactly 12 pt

01257.0002/793102.15

Ordinance No. _____
Page 55 of 3370

DRAFT

Sec. 5.26.230 – Operative date.

This chapter shall be operative ~~10-~~ten (10) days after the date that the City Council declares that a majority of the City's voters voting at the November 8, 2022, election have voted in favor of ~~a cannabis-related measure-~~this chapter at such election.

Sec. 5.26.240 - Severability.

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

Sec. 5.26.250. City Council Authority to Amend.

The City Council has the right and authority to amend this chapter, with the exception of Section 5.26.060 (which may only be amended (i) if ordered to do so by a court of competent jurisdiction as a judicial remedy or (ii) by a vote of the People of the City), to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Elections Code Section 9217.

Sec. 5.26.260. City Councilmember Conflicts of Interest.

Notwithstanding any other provision of this Chapter, if a councilmember has an ownership or partnership interest in a commercial cannabis operation, receives any compensation beyond lawful campaign contributions from a commercial cannabis operation, or receives any benefits beyond permitted benefits or gifts allowed by FPPC regulations from a commercial cannabis operation, then that councilmember is disqualified from voting on an item involving that commercial cannabis operation where there is that conflict of interest."

SECTION 3. REPEAL OF CHAPTER 17.31. Chapter 17.31 of Title 17 of the ~~South El Monte City~~ Municipal Code is hereby repealed in its entirety.

SECTION 4. AMENDMENT TO SECTION 17.18.030(O). Section 17.18.030(O) of Chapter 17.18 of Title 17 of the South El Monte Municipal Code is hereby ~~amended as follows:~~repealed in its entirety.

~~"Medical cannabis retailers in accordance with Chapter 5.26 of Title 5 of this Code."~~

SECTION 5. ADDITION OF SECTION 9.08.045. Section 9.08.045 shall be added to Chapter 9.08 of Title 9 of the South El Monte Municipal Code as follows:

"This Chapter shall not apply to a ~~medical-retailer commercial~~ cannabis ~~retailer operation~~ permitted pursuant to Chapter 5.26 of Title 5 of this Code."

~~**SECTION 6. SEVERABILITY.** If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any~~

01257.0002/793102.15

Ordinance No. _____
Page 56 of ~~33~~70

DRAFT

SECTION 6. AMENDMENT TO SECTION 17.14.030. Section 17.14.030 of Chapter 17.14 of Title 17 of the City Municipal Code is hereby amended by adding Subsection (S) as follows:

~~“Retailer commercial cannabis operations court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional in accordance with Chapter 5.26 of Title 5 of this Code.”~~

SECTION 7. AMENDMENT TO SECTION 17.16.030. Section 17.16.030 of Chapter 17.16 of Title 17 of the City Municipal Code is hereby amended by adding Subsection (F) as follows:

~~“Retailer commercial cannabis operations in accordance with Chapter 5.26 of Title 5 of this Code.”~~

SECTION 8. SENSITIVE USES. The People of the City find that the definitions of the sensitive uses (alcohol or drug treatment facilities, day care centers, parks, religious institutions, schools, and youth centers) under the amendment to Chapter 5.26 of the City Municipal Code in this Ordinance are subject to some degree of interpretation. However, the People of the City also find that certainty regarding the identification of sensitive uses (alcohol or drug treatment facilities, day care centers, parks, religious institutions, schools, and youth centers) under the amendments to Chapter 5.26 of the City Municipal Code in this Ordinance is required to carry out the purpose and intent of the Ordinance so the that People, the City, and prospective applicants can clearly identify where and where not lawful retailer commercial cannabis operations under this Ordinance may be located. Accordingly and pursuant to the authority delegated by the State to the People of the City under Section 26054(b) of the State Business and Professions Code and overriding the location and design requirements contained in Section 26054(b) of the State Business and Professions Code, the sensitive uses established by resolution of the City Council (including alcohol or drug treatment facilities, day care centers, parks, religious institutions, schools, and youth centers) and only those sensitive uses shall be considered under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance for the purpose of the initial establishment of retailer commercial cannabis operations pursuant to the initial iteration of the retailer commercial cannabis operations application procedure under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance (to include any review and scoring of any applications pursuant to the objective review criteria and quantitative evaluation scale under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance). Only following the initial iteration of the retailer commercial cannabis operations application procedure and the initial issuance of Commercial Cannabis Operation Permits under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance, and except as otherwise provided by the City Council resolution, may the City Manager designee reinterpret the list of sensitive uses for the purpose of subsequent iterations of the retailer commercial cannabis operations application procedure under the amendment to Section 5.26.070 of the City Municipal Code in this Ordinance and change in location applications under the amendment to Section 5.26.130 of the City Municipal Code in this Ordinance.

SECTION 9. AMENDMENT TO SECTION 5.04.045. Section 5.04.045 of Title 5 of the South El Monte Municipal Code is hereby amended to add “Retailer (Type 10) Commercial Cannabis

~~01257.0002/793102.15~~

Ordinance No. _____

Page 57 of ~~33~~70

Operations (Medical / Adult-Use / Non-Medical) in accordance with Chapter 5.26 of Title 5 of this Code” as a new item number 9 to the list of businesses, occupations, or other activities requiring licenses in the City as set forth in Los Angeles County Code Section 7.04.010 as amended by South El Monte Municipal Code Section 5.04.045, and to renumber existing items 9 through 45 of the list accordingly.

SECTION 10. ADDITION OF CHAPTER 3.40 (CANNABIS BUSINESS TAX). Chapter 3.40 (Cannabis Business Tax) is hereby added to Title 3 (Revenue and Finance) of the South El Monte Municipal Code, to read in its entirety as follows:

“CHAPTER 3.40 CANNABIS BUSINESS TAX

Section 3.40.010. Definitions.

Section 3.40.020. Tax.

Section 3.40.030. Operation of Tax.

Section 3.40.040. Returns and Remittances.

Section 3.40.050. Failure to Pay Tax.

Section 3.40.060. Refunds and Claims.

Section 3.40.070. Enforcement.

Section 3.40.080. Debts; Deficiencies; Determinations; Hearings.

Section 3.40.090. Operative Date.

Section 3.40.100. City Council Authority to Amend.

Section 3.40.110. City Councilmember Conflicts of Interest.

Sec. 3.40.010. Definitions.

The following definitions apply to this chapter unless the context clearly denotes otherwise. Terms not defined herein shall be given the definitions set forth in Chapter 5.26 of this Code.

- A. “Cannabis” shall have the meaning set forth in Section 5.26.030 of this Code.
- B. “Cannabis products” shall have the meaning set forth in Section 5.26.030 of this Code.
- C. “City” means the City of South El Monte.
- D. “Code” shall mean the South El Monte Municipal Code.
- E. “Commercial cannabis operation” shall have the meaning set forth in Section 5.26.030 of this Code. “Commercial cannabis activity” and “cannabis business” shall be synonymous with “commercial cannabis operation.”
- F. “Cultivation” shall have the meaning set forth in Section 5.26.030 of this Code.
- G. “Delivery” shall have the meaning set forth in Section 5.26.030 of this Code.
- H. “Distribution” shall have the meaning set forth in Section 5.26.030 of this Code.
- I. “Distributor” shall have the meaning set forth in Section 5.26.030 of this Code.

~~01257.0002/793102.15~~

DRAFT

- J. "Edible" shall have the meaning set forth in Section 5.26.030 of this Code.
- K. "City Manager" means the City's City Manager, or his or her designee.
- L. "Location" shall have the meaning set forth in Section 5.26.030 of this Code.
- M. "Manufacture" or "manufacturing" shall have the meaning set forth in Section 5.26.030 of this Code.
- N. "Manufactured cannabis" 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.
- O. "Manufacturer" shall have the meaning set forth in Section 5.26.030 of this Code.
- P. "Marijuana" has the same definition as "cannabis."
- Q. "Operation" means a "commercial cannabis operation."
- R. "Permit," or "local permit" means a Commercial Cannabis Operation Permit, as that term is defined in Section 5.26.030 of this Code.
- S. "Person" shall have the meaning set forth in Section 5.26.030 of this Code.
- T. "Proceeds" means total amount of gross revenue actually received or receivable by a commercial cannabis operation from all sales of goods of any kind, including but not limited to cannabis and cannabis products; the total amount of compensation actually received or receivable for the performance of any act or service whatever nature it may be, including but not limited to commercial cannabis activity, from which a charge is made or credit allowed, whether such service is done singly and/or as part of or in connection with the sale of materials; goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends or other gains. Proceeds includes all receipts, cash, credits and property of any kind or nature, consideration of any nature, without any deduction therefrom on account of the cost of property sold, the cost of materials used, labor or services costs, interest paid or payable or losses or other expenses or deduction whatsoever. Excluded from Proceeds are any taxes required by law to be added to the purchase and collected from the consumer or purchaser, such part of the sales price of any property returned by the purchaser to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in Proceeds. Proceeds may also exclude such other amounts that may be permitted by the City Manager as not being included in Proceeds pursuant to administrative rulings or instructions provided by the City Manager. "Proceeds" is intended to include all gross revenue of the commercial operation whether for commercial cannabis activities or other activities (e.g., revenue from sales of other goods at the location).
- U. "Retailer" means a person engaged in the retail sale or delivery of cannabis or cannabis products to a customer. A retailer may be a storefront or non-storefront retailer.
- V. "Space utilized as cultivation area" shall mean any space or ground, floor or other surface area (whether horizontal or vertical) which is used during the cannabis germination, seedling, vegetative, pre-flowering, flowering and/or harvesting phases, including without limitation any space used for activities such as growing, planting,

01257.0002/793102.15

Ordinance No. _____
Page 59 of 3370

seeding, germinating, lighting, warming, cooling, aerating, fertilizing, watering, irrigating, topping, pinching, cropping, trimming, curing or drying cannabis or any such space available for or used for storing any products, supplies or equipment related to any such activities, no matter where such storage may take place or such storage space may be located. "Space used as cultivation area" shall include space used to cultivate cannabis plants on platforms and stack them in multiple layers on top of each other (i.e., vertical cultivation). "Space utilized as cultivation area" shall be calculated in square feet and measured using clearly identifiable and/or apparent boundaries, including all of the space within the boundaries. Such space may be noncontiguous but each unique area included in the total calculation shall be separated by an identifiable and/or apparent boundary, including but not limited to, interior walls, shelves, and greenhouse walls, nursery wall or canopy walls, hoop house walls, garden benches, hedgerows, fencing, garden beds, or garden plots. "Space used as cultivation area" includes space which is immediately available for the activities described herein even if not being used at the time of determination. The City Manager shall determine the "space utilized as cultivation area" during the initial Term of the operation, and at least annually thereafter.

- W. "Tax" means the commercial cannabis tax and commercial cannabis cultivation tax imposed by this chapter.
- X. "Term" means such term or period of time as may be designated by the City Manager for reporting or payment of tax, provided, however, that if no such term is designated, Term shall mean a calendar month (meaning that the annual tax shall be divided by 12 for the appropriate fiscal year). Notwithstanding the foregoing, the Term for payment of tax may be set on a monthly, quarterly, semi-annual or annual basis by the City Manager. Taxes may be prorated to the extent the City Manager provides for a term other than that specified above, to the extent a commercial cannabis operation commences on a date other than the first date of a Term, upon cessation of the business, or for other appropriate reasons.
- Y. "Testing laboratory" shall have the meaning set forth in Section 5.26.030 of this Code.

Sec. 3.40.020. Tax.

- A. Commercial Cannabis Tax (non-cultivation). Every person conducting a commercial cannabis operation other than cultivation in the City, regardless of whether such operation has a valid permit pursuant to this Code, shall pay, on a per-Term basis, a commercial cannabis tax (non-cultivation) of not more than six percent (6%) of the proceeds of the commercial cannabis operation.
- B. Commercial Cannabis Cultivation Tax. Every person conducting a commercial cannabis operation involving cultivation in the City, regardless of whether such operation has a valid permit pursuant to this Code, shall pay a maximum commercial cannabis cultivation tax of no more than ten dollars (\$10) per square foot per fiscal year (July 1 to June 30) for space utilized as cultivation area. Notwithstanding the foregoing, taxes imposed on space utilized as cultivation area shall be adjusted annually on July 1 of each year, commencing July 1, 2023, after the date of imposition based on changes in the Consumer Price Index ("CPI") for all urban consumers in the Los Angeles-Long Beach-Anaheim areas (or similar index) as published by the United States Government Bureau of Labor Statistics for the prior calendar year; provided,

01257.0002/793102.15

however, no adjustment shall decrease any maximum tax imposed by this chapter.

- C. Purpose of Tax. The revenue generated by the commercial cannabis tax and the commercial cannabis cultivation tax may be spent for unrestricted general revenue purposes.
- D. Intent of Tax. The taxes provided for in this chapter do not authorize any commercial cannabis operation or use that is not otherwise expressly allowed by this Code. The taxes provided for in this chapter are intended to both allow the City to levy the taxes on commercial cannabis operations and uses that are authorized or allowed in the City as of the date of enactment of this chapter and to provide the City with the ability to levy the taxes on potential future commercial cannabis operations and uses that may after enactment of this chapter be allowed in the City by local ordinance or initiative. The taxes imposed by this chapter are in addition to all other applicable taxes imposed by this Code, including, but not limited to, the sales and use tax imposed by Chapter 3.04 of Title 3 and the business license fees imposed by Chapter 5.04 of Title 5.
- E. Automatic Maximum Rates. The tax rates of the commercial cannabis tax (non-cultivation) and the commercial cannabis cultivation tax shall automatically be set at the maximum rates specified in this chapter each July 1 unless established otherwise at a lower rate by resolution or ordinance of the City Council.
- F. Authority to Levy Tax at Lower than Maximum Authorized Rate. The City Council may, at any time, by resolution or ordinance and without voter approval, levy the tax at any rate lower than the maximum rate authorized by this chapter; provided, however, the maximum tax rate permitted to be levied without further voter approval shall be and remain the maximum tax rate set forth in this chapter.
- G. Future Exemptions, Exceptions, Penalties and Interest Permitted. The City Council may establish exemptions, incentives, or other reductions, and penalties and interest charges or determinations of tax due for failure to pay the tax in a timely manner, as otherwise allowed by this Code or California law. No action by the City Council under this section shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction, and thereby restoring the maximum tax specified in this chapter.

Sec. 3.40.030. Operation of Tax.

- A. Failure to pay the taxes set forth in this chapter shall be subject to penalties, interest charges, and determinations of tax due as set forth in this chapter and as the City Council may establish, and the City may use any or all other enforcement remedies provided for in this Code, or pursuant to state law.
- B. The payment of the tax required pursuant to this chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this chapter shall be construed to authorize commercial cannabis operations.
- C. Taxes provided for hereunder are not sales or use taxes and shall not be calculated or assessed as such. The taxes shall not be separately identified or otherwise specifically assessed or charged to any individual, consumer or customer; rather, the taxes are imposed upon the commercial cannabis operation.

01257.0002/793102.15

- D. The City Manager shall promulgate rules, regulations, and procedures to implement and administer this chapter to ensure the efficient and timely collection of the tax imposed by this chapter, including without limitation, formulation and implementation of penalties and interest to be assessed for failure to pay the tax as provided.

Sec. 3.40.040. Returns and Remittances.

The tax shall be due and payable as follows:

- A. Each person owing tax, within 45 days (or such other period as may be established by the City Manager) after the conclusion of each Term, shall prepare and submit a tax return to the City Manager. The tax return shall include all information necessary to determine the amount of tax owed for the subject Term, including the proceeds of the commercial cannabis operation (for all operations other than cultivation) and the total square footage of space utilized as cultivation area, for cultivation operations. At the time the tax return is filed, the full amount of the tax owed for the preceding term shall be remitted to the City. Where the Term is set on an annual basis, the City Manager may require prorated payments or estimated tax payments on more frequent intervals during the Term, as such intervals may be established by the City Manager.
- B. All tax returns shall be completed on forms provided by the City Manager.
- C. Tax returns and payments for all outstanding taxes owed the City are immediately due to the City Manager upon cessation of business of a commercial cannabis operation for any reason or upon sale of a commercial cannabis operation.
- D. Whenever any payment, statement, report, request or other communication received by the City Manager is received after the time prescribed by this section for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this section for the receipt thereof, or whenever the City Manager is furnished substantial proof that the payment, statement, report, request, or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the City Manager may regard such payment, statement, report, request, or other communication as having been timely received. If the due date falls on a date the City Hall is closed, or on a Saturday, Sunday, or federal holiday, the due date shall be the next regular business day on which the City Hall is open to the public following the due date.
- E. Unless otherwise specified in this chapter, taxes shall be deemed delinquent if not paid on or before the due date pursuant to this section.
- F. The City Manager is not required to send a delinquency or other notice or bill to any person subject to payment of tax pursuant to this chapter, and failure to send such notice or bill shall not affect the validity of any tax or penalty due under this chapter.

Sec. 3.40.050. Failure to Pay Tax.

Any person who fails or refuses to pay any tax required to be paid pursuant to this chapter on or before the due date shall pay penalties and interest as follows:

- A. A penalty of no more than twenty-five percent (25%) of the amount of tax remaining unpaid (in addition to the amount of unpaid tax), plus interest on the unpaid tax calculated from the due date of the tax at a rate not to exceed twelve percent (12%)

01257.0002/793102.15

Ordinance No. _____

Page 62 of 3370

per year (or one percent (1%) per month), and these penalties and interest rates will automatically be set at the maximum amounts unless established otherwise as a lower amount by resolution of the City Council.

- B. Whenever a check is submitted in payment of a tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus penalties and interest as provided for in this section, as well as any other amount allowed under state law.
- C. The tax due shall be that amount due and payable from the operative date of this chapter.
- D. The City Manager may waive the penalties of up to twenty-five percent (25%) each imposed upon any person if:
 - 1. The person provides evidence satisfactory to the City Manager that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent tax and accrued interest owed the City prior to applying to the City Manager for a waiver.
 - 2. The waiver provisions specified in this subsection shall not apply to interest accrued on delinquent tax, and a waiver shall be granted no more than once during any twenty-four month period for any given payor of commercial cannabis tax (non-cultivation), and no more than once during any five (5) year period for any given payor of commercial cannabis cultivation tax.

Sec. 3.40.060. Refunds and Claims.

- A. No refund or claim shall be made of any tax collected pursuant to this chapter, except as provided in this section.
- B. No refund of any tax collected pursuant to this chapter shall be made because of the discontinuation, dissolution, or other termination of an operation.
- C. Any person entitled to a refund of taxes paid pursuant to this chapter may elect in writing to have such refund applied as a credit against cannabis business taxes for the next term.
- D. Whenever the amount of any tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, such amount may be refunded to the claimant who paid the tax, provided that a written claim for refund is filed with the City Manager if the claim is equal to or less than \$5,000 and the City Council if the claim is more than \$5,000. Refund claims must be filed as set forth above within one year of the subject tax payment pursuant to Government Code Section 911.2. Each person requesting a refund or making a claim shall file the claim as provided herein. The submission of a written claim, which shall be acted upon by the City Manager if less than or equal to \$5,000 or the City Council if more than \$5,000, shall be a prerequisite to suit thereon. (See Section 935 of the California Government Code). The City Manager, or the City Council where the claim is in excess of \$5,000, shall act upon the refund claim within the time period set forth in Government Code Section 912.4. If the City Council fails

01257.0002/793102.15

or refuses to act on a refund claim within the time prescribed by Government Section 912.4, the claim shall be deemed to have been rejected by the City Council on the last day of the period within which the City Council was required to act upon the claim as provided in Government Code Section 912.4. The City Manager or City Clerk or other officer charged with such duty shall give notice of the action in a form that substantially complies with that set forth in Government Code Section 913. To the extent allowed by law, nothing herein shall permit the filing of a claim on behalf of a class or group of taxpayers unless each member of the class has submitted a written claim as provided by this Section 3.40.060.

- E. The City Manager shall have the right and authority to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant therefor refuses to allow such examination of claimant's books and business records after request by the City Manager to do so. The authorization herein shall extend to any agent hired by the City to audit the books, including an independent auditor.
- F. In the event that the tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this chapter from the amount to be refunded to cover expenses.
- G. The City Manager shall initiate a refund of any tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is revealed by a City audit of tax receipts. In the event that the tax was erroneously paid and the error is attributable to the City, the entire amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this chapter from the amount to be refunded to cover expenses.

Sec. 3.40.070. Enforcement.

- A. It shall be the duty of the City Manager to enforce each and all of the provisions of this chapter.
- B. For purposes of administration and enforcement of this chapter generally, the City Manager, with the assistance of the City Attorney, may from time to time promulgate administrative rules and regulations.
- C. The City Manager shall have the power to audit and examine all books and records of operations as well as persons engaged in the conducting of an operation, including both state and federal income tax returns, California sales tax returns, logs, receipts, bank records, or other evidence documenting the proceeds of the operation and/or space utilized as cultivation area, or persons engaged in the conduct of an operation, for the purpose of ascertaining the amount of tax, if any, required to be paid by the provisions of this chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to this chapter. If such operation or person, after written demand by the City Manager, refuses to make available for audit, examination or verification such books, records, or equipment as the City Manager requests, the City Manager may, after full consideration of all information within the City Manager's knowledge concerning the operation and activities of the person so refusing, make a determination of tax due in the manner provided in Section 3.40.080.

01257.0002/793102.15

Ordinance No. _____

Page 64 of ~~33~~70

- D. The City Manager shall have the power to enter upon the premises upon reasonable notice to the commercial cannabis operation at least once per Term for the purposes of determining space utilized as cultivation area, to review items requested in subsection C of this section or as otherwise needed for enforcement of this chapter.
- E. The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this chapter or of any state law requiring the payment of all taxes.
- F. Any person violating any provision of this chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact, either concerning the operation and administration of this chapter, or as provided for in this chapter, shall be deemed guilty of a misdemeanor. Notwithstanding the foregoing, the City Attorney/Prosecutor, in his or her discretion, may elect to charge and prosecute any violation as an infraction in lieu of a misdemeanor or to not charge and prosecute at all.

Sec. 3.40.080. Debts; Deficiencies; Determinations; Hearings.

- A. The amount of any tax, penalties, and interest imposed by this chapter shall be deemed a debt to the City, and any person conducting an operation without also making payment to the City of the taxes, penalties and interest imposed by this chapter shall be liable in an action in the name of the City in any court of competent jurisdiction for the full amount of the tax, and penalties and interest owed by such operation.
- B. If the City Manager is not satisfied that any statement filed as required by this chapter is correct, or that the amount of tax is correctly computed, the City Manager may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person ceases or discontinues an operation, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due.
- C. Under any of the following circumstances, the City Manager may make and give notice of a determination of the amount of tax owed by a person under this chapter:
 - 1. If the person has not filed any statement or return required by this chapter.
 - 2. If the person has not paid any tax due under the provisions of this chapter.
 - 3. If the person has not, after demand by the City Manager, filed a corrected statement or return, or furnished to the City Manager adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under this chapter.
 - 4. If the City Manager determines that the nonpayment of any tax due under this chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise

01257.0002/793102.15

stated in this chapter.

5. The notice of determination shall separately set forth the amount of any tax known or estimated by the City Manager, after consideration of all information within his or her knowledge concerning the business and activities of the person assessed, to be due under this chapter, and such notice shall include the amount of any penalties or interest accrued on each amount to the date of the notice of determination.

6. The notice of determination shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business appearing on the face of the business tax certificate issued under this Code or to such other address as such person shall register with the City Manager for the purpose of receiving notices provided under this chapter; or, should the person have no business tax certificate issued and should the person have no address registered with the City Manager for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

D. Within ten days after the date of service of a notice of determination of the amount of tax owed by a person under this chapter, or other determination of the City Manager pursuant to subsection (C)(5) of this section, the person may apply in writing to the City Manager for a hearing on the determination. If application for a hearing before the City is not timely made, the tax assessed by the City Manager shall become final. The procedures for such a hearing shall be conducted as required by law and as follows:

1. The City Council delegates its authority to conduct such a hearing on the determination to an independent hearing officer. The compensation of the hearing officer shall not depend on any particular outcome of the appeal. The hearing officer shall have full authority and duty to preside over the hearing on the determination in the manner set forth herein and as required by law.

2. Within 30 days of the receipt of any such application for hearing, the City Manager shall cause the matter to be set for hearing before the independent hearing officer, unless a later date is agreed to by the City Manager and the person requesting the hearing.

3. Notice of the hearing shall be given by the City Manager to the person requesting the hearing not later than five days prior to the date of the hearing. For good cause, the hearing officer may continue the administrative hearing from time to time. At the hearing, the applicant may appear and offer evidence to show why the determination of the City Manager should not be confirmed and fixed as the tax due or the other determination of the City Manager pursuant to subsection (C)(5). In conducting the hearing, the hearing officer shall not be limited by the technical rules of evidence. Failure of the person who applied for a hearing on the determination to appear shall not affect the validity of the proceedings or order issued thereon.

4. Upon conclusion of the hearing, or no later than 10 days after the conclusion

01257.0002/793102.15

Ordinance No. _____

Page 66 of ~~33~~70

of the hearing, the hearing officer shall determine and reassess the proper tax to be charged or make such other determination as provided in subsection (C)(5) and shall give written notice to the person in the manner prescribed in this chapter for giving notice of determination, and the hearing officer shall submit its decision and the record to the City Clerk. The decision of the hearing officer shall be final.

5. The provisions of this section apply to any decision, deficiency determination, assessment, or other decision or ruling of the City Manager, except decisions made pursuant to Section 3.40.060 (Refunds and Claims). Any person aggrieved by any decision subject to this section shall comply with the hearing procedure of this section. Pursuant to Government Code Section 935(b), compliance with this section shall be a prerequisite to a suit thereon. To the extent allowed by law, nothing herein shall permit the filing of a claim or action on behalf of a class or group of taxpayers.

Sec. 3.40.090. – Operative date.

This chapter shall be operative ten (10) days after the date that the City Council declares that a majority of the City's voters voting at the November 8, 2022, election have voted in favor of this chapter at such election.

Sec. 3.40.100. City Council Authority to Amend.

The City Council has the right and authority to amend this chapter, to further its purposes and intent (including but not limited to amendment for more efficient administration as determined by the City Council), in any manner that does not increase a tax rate, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution, pursuant to Elections Code Section 9217.

Sec. 3.40.110. City Councilmember Conflicts of Interest.

Notwithstanding any other provision of this Chapter, if a councilmember has an ownership or partnership interest in a cannabis business, receives any compensation beyond lawful campaign contributions from a cannabis business, or receives any benefits beyond permitted benefits or gifts allowed by FPPC regulations from a cannabis business, then that councilmember is disqualified from voting on an item involving that cannabis business where there is that conflict of interest."

SECTION 11. SEVERABILITY. If any provision, section, paragraph, sentence, phrase, or word of this Ordinance is, rendered or declared invalid, illegal, or unconstitutional by any final action in a court of competent jurisdiction or by reason of any preemptive legislation, such constitutionality, illegality or invalidity shall only affect such provision, section, paragraph, sentence, phrase, or word and shall not affect or impair any remaining provisions, sections, paragraphs, sentences, phrases, or words, or the application of this Ordinance to any other person or circumstance, and to that end, the provisions hereof are severable. It is hereby declared to the intent of the People of the City that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, section, paragraph, sentence, phrase, or word not been included herein.

SECTION 12. APPROPRIATIONS LIMIT. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of South El Monte is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues

01257.0002/793102.15

Ordinance No. _____

Page 67 of 3370

DRAFT

generated by this tax.

SECTION 13. CONFLICTING MEASURES. The People of the City find and declare that the provisions of this Ordinance relating to the regulation and taxation of commercial cannabis operations in the City may conflict with one or more provisions of other initiative measures. It is the intent of the People that if this Ordinance receives a greater number of affirmative votes than a conflicting measure at the same election, this Ordinance shall prevail in its entirety over a conflicting measure.

SECTION 14. AMENDMENT. Following the operative date of this Ordinance, the City Council may, pursuant to the procedures set forth in the State Government Code and the City Municipal Code and without prior approval of the electorate, amend this Ordinance including Chapter 5.26 (Cannabis Activities) of Title 5 (Business Taxes, Licenses, and Regulations) of the City Municipal Code, with the exception of Section 5.26.060 of the City Municipal Code, which may only be amended (i) if ordered to do so by a court of competent jurisdiction as a judicial remedy or (ii) by a vote of the People of the City.

~~**SECTION 7**~~**SECTION 15. CEQA.** The City Council finds that this ~~ordinance~~ Ordinance is not subject to the ~~California Environmental Quality Act (“CEQA”)~~ pursuant to both the exemption provided by Sections 15060(c)(3) and 15061(b)(3) of the CEQA Guidelines.

~~**SECTION 8. EFFECTIVE DATE.** This ordinance shall be in full force and effect thirty (30) days after its passage, provided that this ordinance shall not be operative until the requirements of Section 9 of this ordinance have been met.~~

~~**SECTION 9**~~**SECTION 16. OPERATIVE DATE.** This ~~ordinance~~ Ordinance shall be operative 10 days after the date that the City Council declares that a majority of the City’s voters voting at the November 8, 2022, election have voted in favor of a cannabis-related measure at such election.

~~**SECTION 10**~~**SECTION 17. CERTIFICATION.** The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

01257.0002/793102.15

Ordinance No. _____
Page 68 of 3370

DRAFT

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2022.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

Anthony R. Taylor, City Attorney

01257.0002/806426.7

Ordinance No.
Page 69 of 70

Summary Report	
Title	compareDocs Comparison Results
Date & Time	8/1/2022 4:18:42 PM
Comparison Time	4.43 seconds
compareDocs version	v5.0.100.42

Sources	
Original Document	Cannabis Ordinance.docx
Modified Document	[#806426] [v7] Consolidated Cannabis Ballot Measure (Combined Regulatory_Land Use and Tax Ordinance) (SEM City Measure) (8.1.22).docx

Comparison Statistics		Word Rendering Set Markup Options	
Insertions	379	Name	
Deletions	115	Insertions	
Changes	179	Deletions	
Moves	0	Moves / Moves	
Font Changes	0	Font Changes	
Paragraph Style Changes	0	Paragraph Style Changes	
Character Style Changes	0	Character Style Changes	
TOTAL CHANGES	673	Inserted cells	
		Deleted cells	
		Merged cells	
		Changed lines	Mark outside border.

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after saving	General	Always
Report Type	Word	TrackChanges
Character Level	Word	False
Include Comments	Word	False
Include Field Codes	Word	True
Flatten Field Codes	Word	True
Include Footnotes / Endnotes	Word	True
Include Headers / Footers	Word	True
Image compare mode	Word	Insert/Delete
Include List Numbers	Word	True
Include Quotation Marks	Word	False
Show Moves	Word	False
Include Tables	Word	True
Include Text Boxes	Word	True
Show Reviewing Pane	Word	True
Summary Report	Word	End
Detail Report	Word	Separate (View Only)
Document View	Word	Print