

## ORDINANCE NO. 1501

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BALDWIN PARK, CALIFORNIA, RENUMBERING CHAPTER 128 OF THE BALDWIN PARK MUNICIPAL CODE, AMENDING CHAPTER 127 OF THE BALDWIN PARK MUNICIPAL CODE RELATING TO COMMERCIAL CANNABIS PRODUCTION, AND CODIFYING MEASURE BP (“BALDWIN PARK MARIJUANA RETAIL SALES REGULATION AND TAXATION MEASURE”)**

**WHEREAS**, at the November 8, 2022 General Municipal Election, a majority of Baldwin Park voters approved Measure BP, “The Baldwin Park Marijuana Retail Sales and Taxation Measure (“Measure BP”) and

**WHEREAS**, Measure BP contains (1) a statement of Purpose of Intent and (2) findings, which are incorporated in this Ordinance by this reference as if fully set forth herein; and

**WHEREAS**, as an initiative measure, the text of Measure BP cannot be altered except by a vote of the people, yet for the convenience of regulating businesses under Measure BP and providing such businesses and the public notice of those regulations and the convenience of finding them in the Baldwin Park Municipal Code (“BPMC”), the City Council desires to codify them in their unaltered form in the BPMC with related enactments and to renumber another section of the BPMC so that all cannabis regulations are found in the same section of the Code; and

**WHEREAS**, although Measure BP regulates non-retail or cannabis production businesses in some respects, it does not regulate them in every respect; therefore, the City Council desires to adopt some clarifications to the BPMC so that it is clear how the existing Council-enacted bodies of law regulating cannabis production relate to Measure BP.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BALDWIN PARK DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The recitals above are true and correct and incorporated herein by reference.

**SECTION 2.** Chapter 128 of the Municipal Code (Rental Rate Increases) shall be renumbered as Chapter 117 and its sections renumbered accordingly.

**SECTION 3.** Chapter 127 of the Baldwin Park Municipal Code is hereby amended to read as follows:

## "CHAPTER 127: MEDICAL AND ADULT USE COMMERCIAL CANNABIS PRODUCTION

### Section

- 127.01 Purpose
- 127.02 Definitions
- 127.03 Relationship to other laws
- 127.04 Outdoor cultivation
- 127.05 Permitted use
- 127.06 Development agreement required
- 127.07 Permitted zones; distance and other conditions for approval
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- 127.11 Security
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- 127.16 Appeals
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## **§ 127.01 PURPOSE.**

(A) *Regulation. The purpose of this chapter is to regulate all commercial cannabis production activity in the City of Baldwin Park, as defined in § 26000 et seq. of the Cal. Business and Professions Code, to the extent authorized by state law and in a manner designed to minimize negative impact on the city, and to promote the health, safety, morals, and general welfare of residents and businesses within the city. This chapter regulates commercial cannabis production activity. Chapter 128 regulates retail commercial cannabis activity.*

(B) *Specific Authority. This chapter is further adopted and established pursuant to the specific authority granted to the city in § 7 of Art. XI of the Cal. Constitution and § 26000 of the Cal. Business and Professions Code. These regulations shall govern all commercial cannabis activity that occurs within the jurisdiction of the city.*

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.02 DEFINITIONS.**

Unless otherwise defined herein, the terms in this chapter shall have the same meaning as set forth in the MAUCRSA ("Medicinal and Adult-Use Cannabis Regulation and Safety Act") and any rules promulgated under it. In addition, the following terms shall be defined as follows:

**ADULT-USE CANNABIS.** The use of cannabis for recreational purposes as distinguished from cannabis for medicinal purposes.

**ADULT-USE CANNABIS LICENSEE.** Has the same meaning as that term **A-LICENSEE** as defined by § 26001(b) of the Cal. Business and Professions Code.

**APPLICANT.** Has the same meaning as that term is defined by § 26001(d) of the Cal. Business and Professions Code.

**CANNABIS.** Has the same meaning as that term is defined by § 26001(f) of the Cal. Business and Professions Code.

**CANNABIS BUSINESS** has the same meaning as defined in Chapter 128 of the Municipal Code.

**CITY.** The City of Baldwin Park, California.

**CHIEF EXECUTIVE OFFICER.** The Chief Executive Officer of the city or a duly authorized designee.

**CODE.** The Baldwin Park Municipal Code or the BPMC.

**COMMERCIAL CANNABIS ACTIVITY.** Has the same meaning as that term is defined by § 26001(l) of the Cal. Business and Professions Code, including the exclusion in § 19319 of the Cal. Business and Professions Code.

**COMMERCIAL CANNABIS PRODUCTION ACTIVITY** means all forms of commercial cannabis activity except delivery, dispensing, and retail sale(s). “Delivery,” dispensing,” and “retail sales” are defined in Chapter 128 of the Code.

**CULTIVATION SITE.** Has the same meaning as that term is defined by § 26001(n) of the Cal. Business and Professions Code.

**DAY-CARE.** 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.

**DEVELOPMENT AGREEMENT** means commercial cannabis agreement.

**DELIVERY** has the same meaning as defined in Chapter 128 of the Municipal Code.

**DISPENSING** has the same meaning as defined in Chapter 128 of the Municipal Code.

**DISTRIBUTION.** Has the same meaning as that term is defined by § 26001(t) of the Cal. Business and Professions Code.

**DWELLING UNIT.** Any building or portion thereof designed for living and sleeping purposes that contains independent cooking and sanitation facilities.

**ENCLOSED LOCKED STRUCTURE.** A structure that: (1) does not allow for the visibility of the interior from the outside; (2) is secured with a non-residential lock; (3) is completely surrounded on all sides by a wall (i.e., fully enclosed); and (4) is roofed.

**ENCLOSED LOCKED STRUCTURES** may include greenhouses, provided that only the roof of the greenhouse is made of transparent glass. All enclosed locked structures shall comply with the city and state building codes, city and state fire codes, and all other applicable laws.

**GOOD CAUSE.** For purposes of denying an initial license under this chapter, for revoking a permit, or for denying a permit renewal or reinstatement, means at least one of the following:

(1) The applicant has not obtained approval by the City Council of a development agreement setting forth the general terms for the operation of a business under this chapter or a licensee breaches the terms of an applicable development agreement;

(2) The applicant or licensee has violated any of the terms, conditions, or provisions of this chapter, state law, any regulations promulgated under state law, any applicable local ordinances or rules, or any special terms or conditions placed upon its state license, local license, or permit;

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

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

(5) The applicant or licensee's criminal history does not indicate that the applicant or licensee is of good moral character; or the applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that, if the local licensing authority has issued a local license to the applicant or licensee, the city shall not consider any criminal history of the applicant or licensee that was disclosed to or discovered by the local licensing authority prior to the issuance of the local license and is confirmed by the applicant. For any criminal history that was not disclosed to or discovered by the local licensing authority prior to the issuance of the local license or that arose after the issuance of the local license, the city shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or licensee and shall evaluate the suitability of the applicant or licensee to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the city shall consider the factors as set forth in § 26057(b)(4) of the Cal. Business and Professions Code;

(6) The applicant or licensee is employing or allowing to volunteer any person whose criminal history indicates that person is not of good moral character;

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

(8) An applicant or licensee is a licensed physician providing written recommendations to patients for cannabis.

**GOOD MORAL CHARACTER.** Having a personal history that demonstrates the propensity to serve the public in the licensed area in a manner that reflects openness, honesty, fairness, and respect for the rights of others and for the law. In determining good moral character, the following standards apply:

(1) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used, in and of itself, as proof of an individual's lack of good moral character. Such judgment may be used as evidence in the determination, and when so used, the individual shall be notified and shall be permitted to rebut the evidence by showing that, at the current time, he or she has the ability to and is likely to serve the public in a fair, honest and open manner, that he or she is rehabilitated, or that the substance of the former offense is not substantially related to the occupation or profession for which he or she seeks to be licensed.

(2) Notwithstanding Chapter 2 of Division 1.5 of the Cal. Business and Professions Code, a prior conviction where the sentence, including any term of probation, incarceration, or supervised release is completed for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance, is not

considered substantially related, and shall not be the sole ground for denial of a local license, except that any of the following convictions shall be deemed substantially related and may be the sole grounds for denying a local license or permit:

- (a) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance;
- (b) A felony conviction for selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor;
- (c) A felony conviction for drug trafficking with enhancements pursuant to § 11370.4 or § 11379.8 of the Cal. Health and Safety Code; or
- (d) Conviction for any controlled substance felony subsequent to issuance of a permit shall be grounds for revocation of a permit or denial of the renewal of a permit.

**IMMATURE MARIJUANA PLANT.** A marijuana plant, whether male or female, that has not yet flowered and that does not yet have buds that are readily observed by unaided visual examination. This is distinguished from a “mature” plant, which has flowered and has buds.

**LICENSE.** A permit to operate a commercial cannabis business unless clearly indicated by context that “LICENSE” means City business license.

**LICENSED PREMISES.** The designated area on a single or immediately adjoining parcel(s), as identified by valid street address and Assessor Parcel Number, specified in an application for a permit under this chapter, which is owned or in the possession of the applicant or licensee and within which the applicant or licensee is applying for authorization to cultivate, manufacture, distribute, test, or is applying for multiple permitted uses, in accordance with the provisions of this chapter, the MAUCRSA, any development agreement approved by City Council, and any rules adopted pursuant thereto.

**LICENSEE.** A person who has been issued a commercial cannabis business permit under this chapter for a licensed premises.

**LIMITED ACCESS AREA.** A building, room, or other area that is part of the licensed premises whose access is limited to certain authorized persons.

**MANUFACTURE.** To compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

**MANUFACTURER.** A licensee 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.

**MEDICINAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT or MAUCRSA.** Means Division 10 of the Cal. Business and Professions Code.

**MEDICINAL CANNABIS.** Has the same meaning as that term is defined by § 26001(ak) of the Cal. Business and Professions Code.

**MEDICAL CANNABIS BUSINESS** means any person engaged in commercial production activity.

**OUTDOORS.** Any location within the city that is not within an enclosed structure.

**OWNER.** Any of the following, pursuant to § 26001(ao) of the Cal. Business and Professions Code:

- (1) A person with an aggregate ownership interest of 20% or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
- (2) The Chief Executive Officer of a nonprofit or other entity.
- (3) A member of the Board of Directors of a nonprofit.
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license.

**PERMIT** means a cannabis permit that authorizes an entity to conduct commercial cannabis activity under this chapter.

**PERSON.** Has the same meaning as that term is defined by § 26001(ag) of the Cal. Business and Professions Code.

**PHYSICIAN.** An individual who possesses a license in good standing to practice medicine or osteopathy from the State of California.

**RETAIL SALES** has the same meaning as defined in Chapter 128 of the Municipal Code.

**SOCIAL EQUITY APPLICANT** has the same meaning as that term is defined in Chapter 128 of the Municipal Code.

**STATE LAW.** Means and includes Cal. Health and Safety Code, § 11362.5 (Compassionate Use Act of 1996); Cal. Health and Safety Code §§ 11362.7 to 11362.83 (Medical Marijuana Program Act); the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; MAUCRSA, and all other applicable laws of the State of California.

**STATE LICENSE.** Has the same meaning as that term is defined by § 26001(a) of the Cal. Business and Professions Code.

**STATE LICENSING AUTHORITY.** Shall mean the Bureau of Cannabis Control within the State Department of Consumer Affairs, the State Department of Public Health, State Department of Food and Agriculture, or any other state agency responsible for the issuance, renewal, or reinstatement of a state license issued pursuant to Division 10 of

the Cal. Business and Professions Code or any state agency authorized to take disciplinary action against such local license.

**WRITTEN DOCUMENTATION.** Shall have the meaning set forth in § 11362.7(i) of the Cal. Health and Safety Code.

**YOUTH CENTER.** Any public or private facility that is primarily used to host social activities for minors, including, but not limited to, social service teenage club facilities, video arcades, or similar amusement park facilities.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

### **§ 127.03 RELATIONSHIP TO OTHER LAWS.**

Except as otherwise specifically provided herein, this chapter incorporates the requirements and procedures set forth in Division 10 (commencing with § 26000) of the Cal. Business and Professions Code. In the event of a conflict between the provisions of this chapter and state statutes or regulations, state law shall control.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

### **§ 127.04 OUTDOOR CULTIVATION.**

It is hereby declared to be unlawful, a public nuisance, and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city to use or allow such premises to be used for the outdoor cultivation of cannabis plants.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

### **§ 127.05 PERMITTED USE.**

(A) *Permit Required.* Commercial Cannabis Production Activity shall only be permitted to operate in the CITY pursuant to the issuance of a Permit approved by the City Council or staff designee and a business license issued by the CITY in accordance with the criteria and procedures set forth in Chapter 127 of this Code and in compliance with the BPMC. No land-use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land-use authorization for a commercial cannabis production activity shall be granted or permitted unless it complies with the provisions of this chapter and the applicable building standards and the BPMC.

(B) *Strict Compliance.* All Persons who are engaged in or who are attempting to engage in Commercial Cannabis Production Activity in any form shall do so only in

strict compliance with the terms, conditions, and restrictions of the MAUCRSA, the provisions of this Chapter 127, and all other applicable State and CITY laws.

(C) *Chief Executive Officer Authorized.* The Chief Executive Officer is authorized to establish policies and procedures consistent with the intent and spirit of this Chapter concerning the applications, the application process, the information required of Applicants, the application procedures and the administration and procedures to be used and followed in the application and process.

(D) *Delivery.* Delivery within the City by commercial cannabis production businesses is prohibited.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.06 DEVELOPMENT AGREEMENT REQUIRED.**

Prior to operating in the city and as a condition of issuance of a permit, the applicant for a commercial cannabis production business shall enter into a development 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 upon, approval of architectural plans (including site plan, floor plan, and elevation, to conform with manufacturing uses under the BPMC), and such other terms and conditions that will protect and promote the public health, safety, and welfare of all persons in the city.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.07 PERMITTED ZONES; DISTANCE AND OTHER CONDITIONS FOR APPROVAL.**

Maximum number of commercial cannabis permits. The maximum number of commercial cannabis permits shall be established by separate resolution of the City Council. A maximum of 22,000 square feet of permitted commercial cannabis activity may be allowed, maintained, or operated in the city at any time; except that, distribution only, shall be allowed a maximum of 40,000 square feet."

(A) *Manufacturing site.*

(1) No manufacturing shall be located within 600 feet of a school, daycare, or youth center, or within 50 feet of a dwelling unit within a residential zone, pursuant to division (E) of this section; except when exclusively manufacturing food and/or edible cannabis products and no other products, and no extraction of cannabis or cannabis products is taking place on the premises, the distance will be as specified in division (A)(2) below.

(2) Manufacturing of edible cannabis products and no other products, and where no on-site extraction occurs, shall not be located within 600 feet of a school, day-care, or youth center, and shall not be located within 25 feet of a dwelling unit within a residential zone, pursuant to division (E) of this section.

(3) Subject to the distance and other requirements of this chapter and the code, a licensed manufacturing premises may only be located on a property within the Industrial (I) or the Industrial-Commercial (I-C) zones, and following the application for and granting of a development agreement by the city and a commercial cannabis production business permit in accordance with this chapter. The proposed use shall comply with the minimum requirements set forth in this chapter for distance separations between manufacturing sites and other specific land uses.

(4) All manufacturing of cannabis shall occur in an enclosed structure.

(5) Licensed premises for manufacturing shall not exceed the 22,000 square feet maximum authorized pursuant to the controlling development agreement.

(6) From a public right-of-way, there should be no exterior evidence of the manufacturing of cannabis or manufactured cannabis except for any signage authorized by this code.

(7) All licensed premises shall comply with the city's lighting standards including, without limitation, fixture type, wattage, illumination levels, and shielding and secure the necessary approvals and permits as needed.

(8) All windows on the licensed premises of the manufacturing site shall be appropriately secured and all cannabis securely stored.

(9) All operations conducted on the licensed premises, and all equipment used therein must be in compliance with all applicable state and local laws, including all building, electrical, and fire codes.

(10) If hazardous materials, flammable gas, flammable liquefied gas, flammable and combustible liquids, or other flammable material, as those terms are defined in the Los Angeles County Code, Title 32, Fire Code ("CFC") § 202, are to be used in the processing of medical cannabis or adult use, then the provisions of CFC § 407 shall be applicable where hazardous materials subject to permits under CFC § 50 (Hazardous Materials) are located on the licensed premises.

(11) Storage, use, and handling of compressed gases in compressed gas containers, cylinders, tanks and systems shall comply with CFC Chapter 53. Partially full compressed gas containers, cylinders or tanks containing residual gases shall be considered as full for the purposes of the controls required. Compressed gases classified as hazardous materials shall also comply with CFC Chapter 50 for general requirements and CFC Chapter 53 addressing specific hazards, including CFG Chapter 58 (Flammable Gases), CFC Chapter 60 (Highly Toxic and Toxic Materials), CFC Chapter 63 (Oxidizers, Oxidizing Gases and Oxidizing Cryogenic Fluids) and CFC Chapter 64 (Pyrophoric Materials). A manufacturer shall prevent, control, and mitigate

of dangerous conditions related to storage, use, dispensing, mixing and handling of flammable and combustible liquids shall be in accordance with CFC Chapter 50 and 57.

(12) Licensed premises are permitted under this chapter under a Group F-1 (Factory Industrial Moderate-Hazard) Occupancy under the Fire Code. All new construction shall be fire sprinkled per the Fire Code. For manufacturing sites that will be sited in an existing structure, an automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

- (a) A Group F-1 fire area exceeds 12,000 square feet.
- (b) A Group F-1 fire area is located more than three stories above grade plane.
- (c) The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 22,000 square feet.

(13) Suitability of the proposed. All licensed facilities shall have air scrubbers or a filtration system capable of eliminating odors from escaping the building.

(14) The manufacture, distribution, and transportation of edible cannabis products shall be conducted in a manner that complies with all applicable food safety laws for the protection of humans consuming cannabis.

(15) All products, storage facilities, utensils, equipment, and materials used for the manufacture of edible cannabis products shall be approved, used, managed, and handled in accordance with the provisions of all state and county health and safety laws regarding the preparation, distribution, labeling, and sale of food.

(16) Any manufacturing site that proposes to prepare, store, dispense, and distribute edible cannabis products shall comply with the relevant provisions of all state and county health and safety laws regarding the preparation, distribution, labeling, and sale of food.

(17) No food production shall be allowed in a facility where edible cannabis products are manufactured to avoid the unintentional contamination of non-cannabis foods with cannabis.

(18) All owners, employees, volunteers, or other individuals that participate in the production of edible cannabis Products shall be state certified food handlers. The valid certificate number of each such owner, employee, volunteer, or other individual shall be on record at the permitted premises where said individual participates in the production of edible cannabis products.

(B) *Cultivation sites.* No cultivation site shall be located within 600 feet of a school, daycare, park, or youth center, or within 50 feet of a dwelling unit within a residential zone, pursuant to division (E) of this section.

(1) Subject to the distance and other requirements of this chapter and the code, a licensed premises may only be a property within the Industrial (I) or Industrial-Commercial (I-C) zones, and following the application for and granting of a development agreement by the city and a business permit in accordance with this chapter. The

proposed use will comply with the minimum requirements set forth in this chapter for distance separations between specific land uses.

(2) All cultivation sites shall occur in an enclosed locked structure. Licensed premises shall not exceed the 22,000 square feet maximum authorized pursuant to the controlling development agreement.

(3) From a public right-of-way, there should be no exterior evidence of the cultivation of medical and adult use cannabis except for any signage authorized by this chapter.

(4) All cultivation sites shall comply with the city's lighting standards including, without limitation, fixture type, wattage, illumination levels, and shielding and secure the necessary approvals and permits as needed.

(5) All windows on the licensed premises of a cultivation site shall be appropriately secured and all cannabis securely stored.

(6) Areas where cannabis is cultivated are wet locations, and the electrical system in such areas must comply with Title 8 of this code, Article 300.6(D) of the National Electric Code, city and California building codes, fire codes, electrical codes, and all other applicable laws.

(7) Cultivation sites are under a Group F-1 (Factory Industrial Moderate-Hazard) Occupancy under the Fire Code. All new construction is required to be fire sprinkled under the Fire Code. For cultivation sites that will be sited in an existing structure, an automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

(a) A Group F-1 fire area exceeds 12,000 square feet.

(b) A Group F-1 fire area is located more than three stories above grade plane.

(c) The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 22,000 square feet.

(8) In addition to a manufacturing or cultivation permit, a cannabis business applicant may apply for another use as permitted by MAUCRSA, a development agreement approved by City Council, this chapter, and any rules adopted pursuant thereto.

(9) Suitability of the proposed property. All licensed facilities shall have air scrubbers or a filtration system capable of eliminating odors from escaping the building.

**(C) *Distribution sites.***

(1) A distribution licensee shall carry or move cannabis within the city in accordance with MAUCRSA and state regulations.

(2) No distribution site shall be located within 600 feet of a school, daycare center, or youth center or within 24 feet of a dwelling unit within a residential zone, pursuant to division (E) of this section.

(3) Subject to the distance and other requirements of this chapter and the code, a licensed premises may only be a property within the Industrial (I) or the Industrial-Commercial (I-C) zones, and following the application for and granting of a development agreement by the city and a business permit in accordance with this chapter. The proposed use shall comply with the minimum requirements set forth in this chapter for distance separations between specific land uses.

(4) All distribution, including but not limited to packaging, repackaging, loading, and unloading of products shall occur in an enclosed structure.

(5) Licensed premises for distribution shall not exceed the 40,000 square feet maximum; it may be less than 40,000 square feet as negotiated pursuant to the controlling development agreement.

(6) From a public right-of-way, there should be no Exterior evidence of commercial cannabis activity except for any signage authorized by this code.

(7) All licensed premises shall comply with the city's lighting standards including, without limitation, fixture type, wattage, illumination levels, shielding, and secure the necessary approvals and permits as needed.

(8) All windows on the licensed premises of the distribution site shall be appropriately secured and all cannabis securely stored.

(9) All operations conducted on a licensed premises, and all equipment used therein, must be in compliance with all applicable state and local laws, including all building, electrical, and fire codes.

(10) Licensed premises are permitted under this chapter under a Group F-1 (Factory Industrial Moderate-Hazard) Occupancy under the Fire Code. All new construction shall be fire sprinkled per the CFC. For distribution sites that will be situated in an existing structure, an automatic sprinkler system shall be provided throughout all buildings containing a Group F-1 occupancy where one of the following conditions exists:

(a) A Group F-1 fire area exceeds 12,000 square feet.

(b) A Group F-1 fire area is located more than three stories above grade plane.

(c) The combined area of all Group F-1 fire areas on all floors, including any mezzanines, exceeds 22,000 square feet.

(11) Suitability of the proposed property. Staff reserves the right to require a licensed Distribution facility to install air scrubbers or a filtration system capable of eliminating odors from escaping the building if the facility is found to emit cannabis odors.

(D) *Nonconforming Use.* Any Commercial Production Cannabis Activity established or operating in the CITY in violation of this Chapter, or the ban established by Part 10, of Chapter 153 Section 153.120.320 of the Baldwin Park Zoning Code, shall not be considered a lawful or permitted nonconforming use, and no Commercial Cannabis Production Activity operating unlawfully is eligible for a Permit. Further, any such unlawfully established Commercial Production Cannabis Activity shall constitute a public nuisance subject to abatement by the CITY, pursuant to Chapter 95, Section 95.09.

(E) *Distances.* All distances specified in this section shall be measured in the following manner:

(1) For schools, Day-Care, parks, or youth centers, the distance shall be measured in a straight line from the subject property line to the closest property line of the lot on which the Commercial Production Cannabis Activity is to be located without regard to intervening structures.

(2) For determining distance to residential zones, the distance shall be measured in a straight line from the subject building to the closest dwelling unit on the lot on which the cannabis production business is to be located without regard to intervening structures.

(F) *Factors considered for permit approval.* Approval of a permit shall take into account the safety of the public, including, but not limited to, the following factors:

- (1) Suitability of the proposed property;
- (2) Suitability of security plan;
- (3) Suitability of business plan and financial record keeping;
- (4) Criminal history;
- (5) Regulatory compliance history;
- (6) Good legal standing;
- (7) Community engagement;
- (8) Environmental impact; and
- (9) Labor relations.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.08 NO TRANSFER OR CHANGE IN OWNERSHIP OR LOCATION.**

(A) An Owner who obtains a Permit under this chapter may not sell, transfer, pledge, assign, grant an option, or otherwise dispose of his or her ownership interest in the Commercial Cannabis Production Activity covered by any Permit issued under this Chapter without a written request deemed appropriate by Chief Executive Office of the CITY, or his/her designees, and City Council approved, fully executed and effective Development Agreement.

(B) The Licensed Premises shall only be the geographical area that is specifically and accurately described in executed documents verifying lawful possession. No Licensee is authorized to relocate to other areas or units within a building structure without first filing a change of location application, paying any applicable processing fees, and obtaining approval from the City Council, regardless of any possessory interest or right to possession to such additional space.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.09 ALTERING OR MODIFYING LOCATION.**

(A) *Lawful possession.* Persons permitted pursuant to the provisions of this chapter or those making application for such permits, must demonstrate proof of lawful possession of the licensed premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents.

(B) *Modifying location.* No licensee shall add additional units or areas, thereby altering the initially approved premises, without filing an application to modify the location on forms prepared by the Chief Executive Officer, paying any applicable processing fees, and obtaining approval from the City Council.

(C) *Subletting not authorized.* No licensee is authorized to sublet any portion of any licensed premises for any purpose, unless all necessary forms and application to modify the existing location to accomplish any subletting have been approved by the City Council.

(D) *Application required to alter or modify licensed premises.* After issuance of a permit, the licensee shall not make any physical change, alteration, or modification of the licensed premises that materially or substantially alters the premises, production estimates, or the usage of the premises from the plans originally approved with the development agreement, without the prior written approval of the City Council or its designee. The licensee whose premises are to be materially or substantially changed is responsible for filing an application for approval on current forms provided by the city.

(E) *What constitutes a material change.* Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to, the following:

(1) Any increase or decrease in the total physical size or capacity of the location;

(2) The sealing off, creation of, or relocation of a common entryway, doorway, passage, or other such means of public ingress and/or egress, when such common entryway, doorway, or passage alters or changes limited access areas, such as the cultivation within the licensed premises;

(3) The installation or replacement of electric fixtures or equipment, the lowering of a ceiling, or electrical modifications made for the purpose of increasing power usage to enhance cultivation activities.

(F) *Application.* The City Council or its designee may grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Licensee and payment of any applicable fee. The Licensee must submit all information requested by the city council or its designee including but not limited to documents that verify the following:

(1) The Licensee will continue to have exclusive possession of the premises, as changed, by ownership, lease, or rental agreement, and sole control of all production; and

(2) The proposed change conforms to any and all City restrictions related to the time, manner, and place of regulation of the commercial production cannabis activity.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

#### **§ 127.10 GROUNDS FOR DENIAL OR REVOCATION OF PERMIT; ADDITIONAL CONDITIONS IMPOSED.**

Rejection; findings. The Chief Executive Officer or designee may (1) reject an application or (2) revoke a permit pursuant to Section 127.15.5, upon making any of the following findings:

(A) The applicant made one or more false or misleading statements or omissions on the registration application or during the application process;

(B) The applicant's business entity, if applicable, is not properly organized in strict compliance pursuant to the applicable law, rules, and regulations;

(C) The applicant fails to meet the requirements of this chapter or any regulation adopted pursuant to this chapter;

(D) The applicant's facility or its location is in violation of any building, zoning, health, safety, or other provision of this code, or of any state or local law or the facility or its location is not permitted in the proposed area, or the issuing or continuation of a permit would be contrary to the public health, welfare, safety, or morals;

(E) The applicant, or any of its officers, directors, owners, managers, or employees is under 21 years of age;

(F) The applicant, or any of its officers, directors, or owners, or any person who is managing or is otherwise responsible for the activities of the licensed premise, or any employee who participates in the dispensing, cultivation, processing, manufacturing, delivery, or transporting of medical marijuana or who participates in the daily operations of the medical and adult use marijuana facility, has been convicted of a violent felony, a felony, or misdemeanor involving fraud, deceit, embezzlement, or moral turpitude;

(G) The applicant or any of its officers, directors, owners, or managers is a licensed physician making patient recommendations for cannabis;

(H) The applicant or any of its officers, directors, owners, or managers has been sanctioned by the city, the State of California, or any county for unregistered medical cannabis activities or has had a registration revoked under this chapter in the three prior years;

(I) The applicant did not pay to the city the required application and processing fees or is in violation of the terms of its development agreement;

(J) Good cause exists to deny or revoke the application, as defined in this chapter.

(K) Applicant's application does not reflect the purpose of this chapter, to promote the health, safety, morals, and general welfare of residents and businesses within the city.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.11 SECURITY.**

(A) *General security requirements.*

(1) Security cameras shall be installed and maintained in good working condition, and used in an on-going manner with at least 240 continuous hours of digitally recorded documentation in a format approved by the Chief of Police and/or his or her designee. The cameras shall be in use 24 hours per day, seven days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, manufacturing or cultivation areas, all doors and windows, and any other areas as determined by the Chief of Police and/or his or her designee.

(2) Entrances to any storage areas shall be locked at all times and under the control of licensee's staff.

(3) The business entrance(s) and all window areas shall be illuminated during evening hours. The applicant shall comply with the city's lighting standards regarding fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed.

(4) All windows on the licensee's building shall be unopenable or locked and all product securely stored.

(5) Each licensee shall implement a system to track the cultivation and manufacturing of cannabis in order to prevent the licensee from diverting or transporting cannabis to any location not authorized by state laws or any local law.

(6) All waste and disposal containers shall be stored in a secure area and be under the control of the licensee's staff.

(B) *Security alarm systems; minimum requirements.*

(1) Each licensed premises shall have a security alarm system, installed by a licensed alarm company that alerts the alarm monitoring company on all premises entry points and windows.

(2) Each licensed premises must be continuously monitored by an alarm monitoring company.

(3) The licensed premises shall maintain up-to-date records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of the licensed alarm company, and the name of any vendor monitoring the premises.

(4) Upon request, each licensee shall make available to the Chief Executive Officer or any state or local law enforcement agency, for a purpose authorized by this chapter or state or local law enforcement purpose, all information related to security alarm systems, recordings, monitoring, and alarm activity.

(C) *Lock standards; minimum requirement.* On all doors, the licensee shall ensure the use of commercial-grade, nonresidential door locks.

(D) *Video surveillance requirements.*

(1) Prior to exercising the privileges of a permit under this chapter, an applicant must install a fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this section.

(2) All video surveillance records must be stored in a secure area that is only accessible to the management staff of the licensed premises.

(3) Video surveillance records and all recordings must be made available upon request to the Chief of Police or any other state or local law enforcement agency for a purpose authorized by this chapter or for any other state or local law enforcement purpose.

(4) Video surveillance records shall be held in confidence by all employees and representatives of the Chief Executive Officer, except that the Chief of Police or his or her designee may provide such records and recordings to a state or local law enforcement agency for a purpose authorized by this chapter or for a state or local law enforcement purpose.

(5) A sign shall be posted in a conspicuous place near each point of public access that shall be not less than 12 inches wide and 12 inches high, composed of letters not less than one inch in height, stating "All Activities Monitored by Video Camera" or "These Premises Are Being Digitally Recorded" or otherwise advising all persons entering the licensed premises that a video surveillance and camera recording system is in operation at the licensed premises and recording all activity as provided in this chapter.

(6) The licensed premises should use video surveillance equipment and a camera system that can be accessed remotely 24 hours a day by the Baldwin Park Police Department and the city, as specified in each development agreement.

(E) *Video surveillance equipment.*

(1) Video surveillance equipment shall, at a minimum, consist of digital or video recorders, cameras capable of meeting the recording requirements described in this

section, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

(2) All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the licensed premises of any prolonged surveillance interruption or the complete failure of the surveillance system.

(3) Licensed premises are responsible for ensuring that all surveillance equipment is properly functioning and maintained so that the playback quality is suitable for viewing and the surveillance equipment is capable of capturing the identity of all individuals and activities in the monitored areas.

(4) All video surveillance equipment shall have sufficient battery backup to support a minimum of four hours of recording in the event of a power outage.

*(F) Placement of cameras and required camera coverage.*

(1) Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities on the licensed premises.

(2) All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points.

(3) The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the licensed premises has a cannabis cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to those areas remain constantly illuminated for recording purposes.

(4) Areas in which cannabis is grown, tested, cured, manufactured, or stored shall have camera placement in the room facing the primary entry door at a height that provides a clear, unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

(5) Cameras shall also be placed at each location where weighing, packaging, transport, preparation, or tagging activities occur.

(6) At least one camera must be dedicated to record the access points to the secured surveillance recording area.

*(G) Location and maintenance of surveillance equipment.*

(1) Surveillance recording equipment must be housed in a designated locked and secured room or other enclosure with access limited to authorized employees, agents of the Chief Executive Officer, state or local law enforcement agencies for a purpose authorized by this chapter or for any other state or local law enforcement purpose, and service personnel or contractors.

(2) The licensee must keep a current list of all authorized employees and service personnel who have access to the surveillance system and/or room on the licensed

premises. Licensed premises must keep a surveillance equipment maintenance activity log on the licensed premises to record all service activity, with the identity of the individual(s) performing the service, the service date and time, and the reason for service to the surveillance system.

(3) Off-site monitoring and video recording storage of the licensed premises or by an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

(4) Each licensed premises located in a shared building must have a separate surveillance room/area that is dedicated to that specific licensed premises. All minimum requirements for equipment and security standards as set forth in the section apply to the review station.

*(H) Video recording and retention requirements.*

(1) All camera views of all recorded areas must be continuously recorded 24 hours a day.

(2) All surveillance recordings must be kept for a minimum of 90 days and be in a format that can be easily accessed for viewing on premises. Video recordings must be archived in a format that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.

(3) The surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded.

(4) The date and time must be embedded on all surveillance recordings without significantly obscuring the picture.

(5) Time is to be measured in Pacific Standard Time in accordance with the U.S. National Institute of Standards and Technology.

(6) After the 90-day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the licensed premises knows or should have known of a pending criminal, civil, or administrative investigation or any other proceeding for which the recording may contain relevant information.

(I) *Other records.* All records applicable to the surveillance system and cannabis tracking system shall be maintained on the licensed premises. At a minimum, licensed premises shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.

(J) *Suitability of security plan.* The applicant's security plan includes the presence of security personnel on premises or patrolling the premises 24 hours per day.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.12 FEES AND CHARGES.**

Prior to operating in the city, the operator of each licensed premises shall timely and fully pay all fees associated with the establishment of that business. The fees shall be as set forth in the schedule of fees and charges established by resolution of the City Council, including, but not limited to, the following:

- (A) Application fee for accepting a registration application, due and payable in full at the time an application is submitted;
- (B) Processing fee for the cost to the city of processing an application and reviewing, investigating, and scoring each application in accordance with any evaluation system to determine eligibility for issuance of a permit, due and payable in full at the time a registration application is submitted;
- (C) Permit issuance fee for the cost to the city of preparing a development agreement, City Council review and approval of the development agreement and the permit, and preparation and issuance of the permit as authorized by the City Council, due and payable in full at the time the city issues a permit;
- (D) Amended registration fee for the cost to the city of reviewing amendments or changes to the registration form previously filed on behalf of the licensed premises; due and payable in full at the time amendments or changes to any permit form is submitted to the city;
- (E) Permit renewal fee for the cost to the city of processing an application to renew a permit; due and payable in full at the time application is made to renew a permit;
- (F) Any fees for inspection or investigation that are not included within the other fees associated with registration, due and payable in full upon request of the city; and
- (G) Any fees set forth in the applicable development agreement.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.13 LIMITATIONS ON CITY'S LIABILITY.**

- (A) *No city liability.* To the fullest extent permitted by law, the City does not assume any liability whatsoever, with respect to approving any Permit pursuant to this chapter or the operation of any Commercial Cannabis Production Activity approved under to this Chapter.
- (B) *Indemnity and insurance.* As a condition of approval of a permit as provided in this chapter, the applicant or its legal representative shall do the following:

- (1) Execute an agreement indemnifying the city from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the cannabis facility or the prosecution of the cannabis facility or its owners, managers, directors, officers, employees, or its qualified patients or primary caregivers or customers for violation of federal or state laws;
- (2) Maintain insurance in the amounts and of the types that are acceptable to the City Council or designee;
- (3) Name the city as an additional insured on all city-required insurance policies;
- (4) Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of the licensee's regulatory permit; and
- (5) Agree to reimburse the city for any court costs and attorney fees that the city may be required to pay as a result of any legal challenge related to the city's approval of the licensee's regulatory permit. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.14 INSPECTIONS.**

(A) *Right to inspect.* The Chief Executive Officer, Chief of Police, or their designees, shall have the right to enter all licensed premises from time to time unannounced during the facility's hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this chapter, to inspect and copy records required to be maintained under this chapter, or to inspect, view, and copy recordings made by security cameras, all without requirement for a search warrant, subpoena, or court order, and subject to appropriate fees as specified in the development agreement.

(B) *Noncompliant operations.* Operation of a licensed premises in noncompliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the code and shall be enforced pursuant to the provisions of this code.

(C) *Revocation of permit.* The Chief Executive Officer or designee may summarily suspend or revoke a permit, or disqualify an applicant from the registration process, or elect not to renew a regulatory permit if any of the following, singularly or in combination, occurs:

- (1) The Chief Executive Officer or designee determines that the cannabis facility has failed to comply with any requirement of this chapter or the approved development agreement or any condition of approval or a circumstance or a situation has been created that would have permitted the Chief Executive Officer or designee to deny, the regulatory permit under this chapter or elect not to renew or revoke the permit under this chapter;

- (2) The licensee or applicant has conducted itself or is being conducted in a manner that creates or results in a public nuisance, as defined in Chapter 95 of the BPMC;
  - (3) The licensee premises ceased operations for more than 90 calendar days, including during change-of-ownership proceedings;
  - (4) Ownership is changed without the City Council approval and authorization under this chapter;
  - (5) The licensee relocates to a different location or premises without City Council approval and authorization; and
  - (6) The licensee fails to allow inspection or copying of the security recordings or the activity logs or records required to be kept under this chapter or denies entry to the premises to city officials authorized to inspect the premises.
- (D) *Abatement.* The city shall initiate abatement proceedings as authorized by the code, if necessary, to correct any violation of this chapter or code.
- (E) *Violation deemed misdemeanor - penalty.* Any person violating any of the provisions of this chapter or any applicable rule in this chapter or code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by the maximum penalties provided for in the Cal. Penal Code § 19.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.15 PUBLIC NUISANCE PROHIBITED.**

It is hereby declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge of any parcel within the city to create a public nuisance in the course of cultivating, manufacturing, testing, or distributing cannabis or any part thereof in any location, indoor or outdoor. A public nuisance may be deemed to exist if such activity produces:

- (A) Odors which are disturbing to people of reasonable sensitivity or present on adjacent or nearby property or areas open to the public.
- (B) Repeated responses. Repeated responses to the licensed premises by law enforcement personnel.
- (C) Disruption to free passage. A repeated disruption to the free passage of persons or vehicles in the neighborhood, excessive noise, exceeding noise levels set by Baldwin Park Zoning Code § 153.140.070, which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public.
- (D) Other disruption activity. Any other impacts on the neighborhood that are disruptive of normal activity in the area including, but not limited to, grow lighting visible

outside the building, excessive vehicular traffic or parking occurring at or near premises, and excessive noise emanating from the premises.

(E) Outdoor commercial cannabis activity. Outdoor growing and cultivation of cannabis.

(F) Commercial cannabis production activity without a valid City permit and business license.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.15.5 REVOCATION**

(A) *Permit revocation.* The Chief Executive Officer may revoke a permit upon a finding of any of the following:

- (1) The permit was obtained or extended by false, misleading or incomplete information;
- (2) The use or development for which such approval was granted has ceased to exist by voluntary abandonment;
- (3) One or more of the conditions upon which the permit was approved have been violated, or have not been complied with;
- (4) One of the grounds for permit denial or revocation listed in Section 127.10 exists;
- (5) The use or development has violated another ordinance or law; or
- (6) The use or development under the permit is being conducted in a manner detrimental to public health, safety, or welfare, or such use or development constitutes a public nuisance.

(B) *Revocation initiation.* The revocation of a permit may be initiated by the Chief Executive Officer or their designee. The notice of revocation shall specify in writing to the permittee the basis upon which the action to revoke the permit is to be evaluated.

(C) *Permit revocation public hearing.* A hearing by the Chief Executive Officer or their designee is required for any action to revoke a permit. Pursuant to the hearing and the facts determined pursuant thereto, the Chief Executive Officer may revoke the permit, refuse to revoke the permit or modify or delete conditions of approval or add new conditions of approval in order to address the issues raised in the revocation hearing.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.16 APPEALS**

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

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.17 STATEWIDE REGULATION**

This Chapter, and the provisions herein, shall be read consistent with any statewide regulation of Commercial Cannabis Production Activity now and in the future. This ordinance shall govern the conduct of a business allowed to operate a commercial cannabis production activity in the CITY.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.18 INTERPRETATION**

The provisions of this Chapter shall be read to be consistent with State laws, this chapter, and this Code. At no time shall a Commercial Production Cannabis Activity in compliance with state law and this Code be deemed to be an unlawful business.

(Ord. 1400, passed 8-16-17; Am. Ord. 1403, passed 12-13-17; Am. Ord. 1408, passed 4-4-18; Am. Ord. 1460, passed 11-3-21)

## **§ 127.20 ADDITIONAL OPERATING REQUIREMENTS FOR DISTRIBUTION**

(A) Distribution shall comply with State law at all times.

(B) Security plans developed pursuant to this Chapter 128 shall include provisions relating to vehicle security and the protection of employees and product during loading, unloading and in transit.

(C) A distributor 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 retailer.

(D) A distributor shall facilitate distributions with a technology platform owned by or licensed to the distributor 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 distribution on behalf of the distributor departed the licensed premises.

(2) The time that the individual conducting distribution on behalf of the distributor completed distribution to the manufacture, cultivator or retailer or returned to the licensed premises to store the cannabis and cannabis products.

(3) The time that the individual conducting distribution on behalf of the manufacture, cultivator or retailer returned to the licensed premises.

(4) The route the individual conducting distribution on behalf of the distributor traveled between departing and returning to the licensed premises to conduct the distribution or transportation for storage.

(5) For each individual distribution transaction, the identity of the individual conducting distribution on behalf of the manufacture, cultivator or retailer.

(6) For each individual distribution transaction, the vehicle used to conduct distribution on behalf of the manufacture, cultivator or retailer.

(7) For each individual distribution transaction, the identity of the individual conducting distribution on behalf of the distributor.

(E) Each cannabis distributor permit holder shall maintain accurate books and records, detailing all of the revenues and expenses of all cannabis distribution and storage. On no less than an annual basis, or at any time upon reasonable request of the city, each cannabis distributor permit holder shall file a sworn statement detailing the distribution and storage of cannabis during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a monthly basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. If, upon written request from the City, each cannabis distributor permit holder shall make available to the City all books, records, accounts, inventory and access to onsite operations of persons engaged in cannabis distribution specific to the business, including examination of both state and federal income tax returns, sales tax returns, or other evidence documenting the finances pertaining to cannabis distribution in the City for the purpose of verifying compliance with this Chapter and any other applicable provision of this Code.

(F) Employees distributing cannabis or cannabis products on behalf of the permittee may not receive anything tangible from the manufacture, producer or retailer.

All payments for the cannabis or cannabis products should be transmitted to the permittee electronically.

(G) A distributor shall not leave cannabis or cannabis goods in an unattended motor vehicle outside of the distributor's hours of operation. A distributor shall ensure that vehicles used for delivery of cannabis or cannabis products are cleared of all cannabis or cannabis products before ceasing daily operations.

**SECTION 4:** Chapter 128 is hereby added to the Baldwin Park Municipal Code to read as follows:

## **CHAPTER 128. Cannabis Retailers**

- 128.01 Cannabis retailers prohibited unless specifically authorized
- 128.02 Compliance with laws
- 128.03 Definitions
- 128.04 Retail cannabis business permit required
- 128.05 Location and design requirements for cannabis retailers
- 128.06 Chapter 127 priority cannabis retailer application procedure
- 128.07 City Council developed cannabis retailer application procedure
- 128.08 Limitations on the city's liability
- 128.09 Retail cannabis business permit term
- 128.10 Suspension and revocation of retail cannabis business permits
- 128.11 Appeals regarding retail cannabis business permits
- 128.12 Change in location; updated application information
- 128.13 Transfer of a retail cannabis business permit
- 128.14 Records and recordkeeping
- 128.15 Security measures
- 128.16 Restriction on alcohol and tobacco sales
- 128.17 Fees and charges

- 128.18 General operating requirements
- 128.19 Additional operating requirements
- 128.20 Additional operating requirements for delivery
- 128.21 Promulgation of regulations, standards, and other legal duties
- 128.22 Community relations
- 128.23 Fees deemed debt to city
- 128.24 Permittee, owner, and property owner responsible for violations
- 128.25 Inspection and enforcement
- 128.26 Concurrent regulation with the state
- 128.27 Violations declared a public nuisance
- 128.28 Each violation a separate offense
- 128.29 Criminal penalties
- 128.30 Remedies cumulative and not exclusive

## **§ 128.01 CANNABIS RETAILERS PROHIBITED UNLESS SPECIFICALLY AUTHORIZED**

(A) Except as specifically authorized by this Chapter 128, to the fullest extent permitted by State law, the City expressly prohibits any and all commercial cannabis retailers within the City. In particular and if allowable under State law, the City hereby expressly prohibits the delivery of cannabis and cannabis products within the City except by cannabis retailers based within the City and permitted under this Chapter 129. If the City is required by State law to permit the delivery of cannabis and cannabis products by commercial cannabis businesses or cannabis retailers not based within the City, such commercial cannabis businesses and cannabis retailers not based within the City shall be required to comply with the requirements under this Chapter 128, including the City retail cannabis business permit application and approval processes under Section 128.07.

(B) Nothing in this Chapter 128 shall be construed or interpreted to permit the commercial possession, furnishing, manufacture, cultivation, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of industrial hemp.

(C) To the extent expressly authorized in this Chapter 128 and Title XV of the City Municipal Code, cannabis retailers are permitted in the City, subject to the satisfaction of all requirements set forth in this Chapter 128, Title XV of the City Municipal Code, MAUCRSA, and all other applicable State and local laws, rules, and regulations.

## **§ 128.02 COMPLIANCE WITH LAWS**

It is the responsibility of the owners, managers, officers, employees, and agents of any cannabis retailer to ensure that it is operating in a manner compliant with all applicable State and local laws and any regulations promulgated thereunder. Nothing in this Chapter 128 shall be construed as in conflict with State law.

## **§ 128.03 DEFINITIONS**

When used in this Chapter 128, the following words shall have the meanings ascribed to them as set forth herein. 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.

**“APPLICANT”** means the person applying for the retail cannabis business permit under this Chapter 128 (not the owners or the managers of the applicant).

**“CANNABIS”** has the same meaning as defined in Chapter 127 of the City Municipal Code.

**“CANNABIS BUSINESS”** means a person engaged in commercial cannabis activity.

**“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 Chapter 6. A cannabis concentrate is not considered food, as defined by Section 109935 of the State Health & Safety Code, or drug, as defined by Section 109925 of the State Health & Safety Code.

**“CANNABIS PRODUCT”** 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.

**“CALENVIROSCREEN”** means the California Communities Environmental Health Screening Tool or any successor screening methodology used by the Office of Environmental Health Hazard Assessment.

**“CAREGIVER”** or **“PRIMARY CAREGIVER”** has the same meaning as that term is defined in Section 11362.7 of the State Health & Safety Code.

**“CHIEF EXECUTIVE OFFICER”** means the **CHIEF EXECUTIVE OFFICER** of the City of Baldwin Park or his or her designee(s).

**“CHIEF OF POLICE”** means the Police Chief of the City of Baldwin Park Police Department or his or her designee(s).

**“CITY”** means the City of Baldwin Park, State of California.

**“CITY ATTORNEY”** means the City Attorney of the City of Baldwin Park or his or her designee(s).

**“CITY COUNCIL”** means the City Council of the City of Baldwin Park.

**“COMMERCIAL CANNABIS ACTIVITY”** has the same meaning as defined in Chapter 127 of the City Municipal Code.

**“COMMERCIAL CANNABIS PRODUCTION ACTIVITY”** has the same meaning as defined in Chapter 127 of the City Municipal Code.

**“COUNTY”** means the County of Los Angeles, State of California.

**“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.

**“DAY-CARE”** has the same meaning as defined in Chapter 127 of the City Municipal Code.

**“DELIVERY”** means the commercial transfer of cannabis or cannabis products to a customer. **DELIVERY** also includes the use by a retailer of any technology platform owned and controlled by the retailer.

**“DISPENSARY”** or **“RETAILER”** or **“CANNABIS RETAILER”** means a location where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale or cannabis business that dispenses cannabis, cannabis products, or devices for the use of cannabis or cannabis products, including a cannabis business that delivers cannabis and cannabis products.

**“DISPENSING”** or **“RETAIL SALE(S)”** means any commercial cannabis activity involving the retail sale of cannabis or cannabis products from a retailer.

**“EDIBLE CANNABIS PRODUCT”** means a 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 State Food & Agriculture Code. An edible cannabis product is not considered food, as defined by Section 109935 of the State Health & Safety Code, or drug, as defined by Section 109925 of the State Health & Safety Code. An

edible cannabis product shall not be deemed to be adulterated pursuant to Section 26131 of the State Business & Professions Code solely because it contains cannabis.

**“EMPLOYEE”** means each natural person employed by a cannabis retailer who is a part-time, full-time, temporary, or permanent employee.

**“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.

**“LICENSING AUTHORITY”** means a State agency responsible for the issuance, renewal, or reinstatement of State license, or a State agency authorized to take disciplinary action against a State licensee.

**“MANAGER”** means any individual who will be participating in the direction, control, or management of an applicant or a permittee, 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.

**“MARIJUANA”** means **“CANNABIS”** as that term is defined in this Chapter 128

**“MAUCRSA”** means Division 10 (commencing with Section 26000) of the State Business and Professions Code and any regulations promulgated thereunder.

**“MEASURE”** means The Baldwin Park Marijuana Retail Sales Regulation and Taxation Measure.

**“OWNER”** means any of the following:

- (1) A person owning in the aggregate equity interests representing twenty (20) percent or more of the voting power of all outstanding equity in the applicant or a 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 128, including the review and evaluation of any retail cannabis business permit application.

**“PANIC BUTTON”** means an emergency electronic contact device which allows an employee in the event of an ongoing crime, threat, or other emergency to alert a security guard responsible for providing immediate on-scene assistance.

**“PATIENT” or “QUALIFIED PATIENT”** means a natural person who is entitled to the protections of Section 11362.5 of the State Health & Safety Code and includes a person issued an identification card issued pursuant to Article 2.5 of Chapter 128 of Division 10 of the State Health & Safety Code.

**“PERMITTEE”** means the holder of a valid, City-issued retail cannabis business permit.

**“PERSON”** means an individual or natural person, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

**“PERSON WITH AN IDENTIFICATION CARD”** shall have the meaning given to that term in Section 11362.7 of the State Health & Safety Code.

**“PREMISES”** means the designated structure or structures and land specified in the retail cannabis business permit application that is owned, leased, or otherwise held under the control of the applicant or permittee where cannabis retail sales will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one permittee.

**“RETAIL CANNABIS BUSINESS PERMIT”** means a regulatory permit / license issued by the City pursuant to this Chapter 128 to a cannabis retailer and is required before any cannabis retail sales may be conducted in the City and is made expressly contingent upon the cannabis retailer’s ongoing compliance with all of the requirements of this Chapter 128 and any regulations adopted by the City governing cannabis retail sales.

**“SALE”** means any sale, exchange, or barter or other transaction for any consideration.

**“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 & Professions Code, this definition of “school” under this Chapter 128 shall override the definition of “school” used in **MAUCRSA** or Section 11362.768 of the Health & Safety Code.

**“SOCIAL EQUITY APPLICANT”** means an individual or natural person that meets criteria, or the aggregate ownership interest of fifty-one (51) percent in an entity by an individual or natural person that meets criteria, established by the City Council, pursuant to the procedures set forth in the State Government Code and the City Municipal Code and without prior approval of the electorate, by the adoption or amendment of one or more ordinances, provided that such ordinance or amendment is adopted by a two-thirds vote of the entire membership of the City Council and meets the following minimum standards:

- (1) An individual or natural person from a low-income household and has either (1) a past conviction for a cannabis crime or (2) an immediate family member with a past conviction for a cannabis crime is a “social equity applicant”;
- (2) An individual or natural person from a low-income household in a zip code identified as at least sixty percent (60%) according to CalEnviroScreen for a five (5) consecutive year period and has either (1) a past conviction for a cannabis crime or (2) an immediate family member with a past conviction for a cannabis crime is a “social equity applicant”; and
- (3) An individual or natural person from a low-income household and has either (1) five (5) years cumulative residency in a zip code identified as at least seventy percent (70%) according to the CalEnviroScreen or (2) ten (10) years cumulative residency in a zip code identified by CalEnviroScreen is a “social equity applicant”.

**“STATE”** means the State of California.

**“STATE LICENSE”** means a permit or license issued by the State, or one of its departments or divisions, under **MAUCRSA** and any subsequent State legislation regarding the same to engage in cannabis retail sales.

**“TOPICAL CANNABIS”** means a cannabis product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the State Health & Safety Code.

**“YOUTH CENTER”** has the same meaning as defined in Chapter 127 of the City Municipal Code.

## **§ 128.04 RETAIL CANNABIS BUSINESS PERMIT REQUIRED**

(A) No person shall operate a cannabis retailer or engage in cannabis retail sales within the City unless such business or activity is currently in compliance with all applicable State and local laws, rules, and regulations and the cannabis retailer has:

(1) A valid City business license to conduct such business or activity;

(2) A valid retail cannabis business permit issued by the City pursuant to this Chapter 128 to conduct such business or activity;

- (3) A valid State license authorizing such business or activity in the City; and
- (4) A valid certificate of occupancy issued by the City's Building & Safety Division to conduct the cannabis retail sales at the premises identified in the retail cannabis business permit.

## **§ 128.05 LOCATION AND DESIGN REQUIREMENTS FOR CANNABIS RETAILERS**

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

(B) A cannabis retailer shall not be located on property within (1) six hundred (600) feet of a school, day-care, or youth center or (2) fifty (50) feet of a dwelling unit within a residential zone.

(C) Subject to the requirements of this Chapter 128, a cannabis retailer may only be located on property zoned Industrial (I) or Industrial-Commercial (I-C).

(D) All distances specified in this Section 128.05 shall be measured in the following manners:

(1) For schools, day-care, or youth centers, the distance shall be measured in a straight line from the subject property line to the closest property line of the lot on which the cannabis retailer is to be located without regard to intervening structures.

(2) For determining distance to dwelling units within residential zones, the distance shall be measured in a straight line from the subject building to the closest dwelling unit on the lot on which the cannabis retailer is to be located without regard to intervening structures

(E) Notwithstanding any of the above requirements contained in Subsections A through C, a cannabis retailer may be located on any property that is or was covered by a development agreement entered into and approved pursuant to Chapter 127 of the City Municipal Code prior to January 1, 2018, subject to the remaining requirements of this Chapter 128.

(F) Each cannabis retailer shall:

(1) 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;

(2) Be provided with adequate electricity, sewage, disposal, water, fire protection, and storm drainage facilities for the intended purpose; and

(3) 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.

## **§ 128.06 CHAPTER 127 PRIORITY CANNABIS RETAILER APPLICATION PROCEDURE**

(A) The People of the City find that:

(1) The City Council permitted the operation of numerous cannabis businesses engaged in commercial cannabis production activity under Chapter 127 of this Code;

(2) The vast majority of the cannabis businesses permitted under Chapter 127 of this Code have failed to successfully commence commercial cannabis production activity and comply with the requirements of the development agreement they entered into with the City under Chapter 127 of this Code;

(3) However, certain cannabis businesses permitted under Chapter 127 of this Code have successfully commenced commercial cannabis production activity and substantially complied with the requirements of the development agreement they entered into with the City under Chapter 127 of this Code;

(4) Providing the owners of cannabis businesses permitted under Chapter 127 of this Code that have successfully commenced commercial cannabis production activity and substantially complied with the requirements of the development agreement they entered into with the City under Chapter 127 of this Code priority in the issuance of retail cannabis business permits under this Chapter 128 carries out the purpose and intent of the Measure;

(5) Because of its history as an illegal industry, unfair and substandard labor practices proliferate throughout the cannabis industry;

(6) A proven track-record of cannabis business operations with high labor standards and commitment to labor peace carries out the purpose and intent of the Measure; and

(7) Providing the owners of licensed cannabis businesses with a proven track-record of cannabis business operations with high labor standards and commitment to labor peace, as demonstrated by an active, long-term collective bargaining agreement with a labor organization that currently represents cannabis workers in the United States, priority in the issuance of retail cannabis business permits under this Chapter 128 carries out the purpose and intent of the Measure.

(B) Within thirty (30) days following the effective date of this Chapter 128, the Chief Executive Officer, pursuant to Section 128.21, shall, as a ministerial duty, make available the necessary forms, adopt any necessary application rules for the

submission, intake, review, and approval of retail cannabis business permit applications for cannabis retailers meeting the following criteria:

(1) An owner or owners of the applicant with an aggregate ownership interest of fifty percent (50%) or more are or were an owner or owners on or prior to July 1, 2021, with an aggregate ownership interest of fifty percent (50%) or more of a cannabis business (and remains an owner or owners with an aggregate ownership interest of fifty percent (50%) or more on the date of the application submission under this Section 128.06) in the City that entered into a development agreement approved pursuant to Chapter 127 of the City Municipal Code prior to January 1, 2018;

(2) The cannabis retailer will be located on the property that is referenced in the development agreement entered into and approved pursuant to Chapter 127 of the City Municipal Code prior to January 1, 2018, referenced above in Subsection 1;

(3) The cannabis retailer will be located on a property that is or was covered by (whole or in part) a State license to conduct one or more forms of commercial cannabis production activity issued by a licensing authority prior to January 1, 2019;

(4) The cannabis retailer will be located on a property that is or was covered by (whole or in part) a certificate of occupancy to conduct one or more forms of commercial cannabis production activity issued by the City's Building & Safety Division prior to January 1, 2021;

(5) An owner or owners of the applicant with an aggregate ownership interest of fifty percent (50%) or more are or were an owner or owners on or prior to July 1, 2021, with an aggregate ownership interest of fifty percent (50%) or more of a cannabis business (and remains an owner or owners with an aggregate ownership interest of fifty percent (50%) or more on the date of the application submission under this Section 128.06) in the City that paid at least one calendar quarter of mitigation fees due under a development agreement approved pursuant to Chapter 127 of the City Municipal Code following issuance of a certificate of occupancy to conduct one or more forms of commercial cannabis production activity to the cannabis business; and

(6) 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 one hundred percent (100%) 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 128.06) or an owner or owners of the applicant with an aggregate ownership interest of one hundred percent (100%) are an owner or owners on or prior to July 1, 2021, with an aggregate ownership interest of fifty percent (50%) or more of a cannabis business (and remains an owner or owners with an aggregate ownership interest of fifty percent (50%) or more on the date of the application submission under this Section 128.06) that 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 128.06).

(C) Within thirty (30) days of receipt of a retail cannabis business permit application for a cannabis retailer submitted under Subsection B, the Chief Executive Officer shall, as a ministerial duty, review the retailer application for the following minimum requirements:

(1) Payment of an application fee established by resolution of the City Council within thirty (30) days following the effective date of this Chapter 128 to cover all costs incurred by the City in the application process under this Section 128.06;

(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 retail cannabis business permit or other approvals. The City shall only consider one applicant per County Assessor's Identification Number. In the event that more than one applicant applies for a retail cannabis business permit application at a given property address or a given County Assessor's Identification Number, the Chief Executive Officer shall, as a ministerial duty, only accept the retail cannabis business permit application with the earliest dated 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 an owner or owners of the applicant with an aggregate ownership interest of fifty percent (50%) or more are or were an owner or owners on or prior to July 1, 2021, with an aggregate ownership interest of fifty percent (50%) or more of a cannabis business (and remains an owner or owners with an aggregate ownership interest of fifty percent (50%) or more on the date of the application submission under this Section 128.06) in the City that entered into a development agreement approved pursuant to Chapter 127 of the City Municipal Code prior to January 1, 2018;

(4) Sufficient evidence to demonstrate that the cannabis retailer will be located on the property that is referenced in the development agreement entered into and approved pursuant to Chapter 127 of the City Municipal Code prior to January 1, 2018, referenced above in Subsection 3;

(5) Sufficient evidence to demonstrate that the cannabis retailer will be located on a property that is or was covered by (whole or in part) a State license to conduct one or more forms of commercial cannabis production activity issued by a licensing authority prior to January 1, 2019;

(6) Sufficient evidence to demonstrate that the cannabis retailer will be located on a property that is or was covered by (whole or in part) a certificate of occupancy to conduct one or more forms of commercial cannabis production activity issued by the City's Building & Safety Division prior to January 1, 2021;

(7) Sufficient evidence to demonstrate that an owner or owners of the applicant with an aggregate ownership interest of fifty percent (50%) or more are or were an owner or owners on or prior to July 1, 2021, with an aggregate ownership interest of fifty percent (50%) or more of a cannabis business (and remains an owner or owners with an aggregate ownership interest of fifty percent (50%) or more on the date of the application submission under this Section 128.06) in the City that paid at least one calendar quarter of mitigation fees due under a development agreement approved pursuant to Chapter 127 of the City Municipal Code following issuance of a certificate of occupancy to conduct one or more forms of commercial cannabis production activity to the cannabis business;

(8) Sufficient evidence to demonstrate that (a) 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 one hundred percent (100%) 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 128.06) or (b) an owner or owners of the applicant with an aggregate ownership interest of one hundred percent (100%) are an owner or owners on or prior to July 1, 2021, with an aggregate ownership interest of fifty percent (50%) or more of a cannabis business (and remains an owner or owners with an aggregate ownership interest of fifty percent (50%) or more on the date of the application submission under this Section 128.06) that 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 128.06);

(9) A premises diagram meeting the requirements of Section 15006 of Division 19 of Title 4 of the State Code of Regulations; and

(10) A completed background check application and receipt for each owner and manager of the applicant pursuant to Section 128.18.L.

(D) The Chief Executive Officer shall, as a ministerial duty, reject any retail cannabis business permit application that fails to meet the minimum requirements contained in this Subsection C. However, prior to such rejection, the Chief Executive Officer shall, as a ministerial duty, provide a detailed and comprehensive deficiency notice to the applicant providing the applicant thirty (30) days to cure and/or resubmit application components in order to meet the minimum requirements contained in this Subsection C.

(E) The Chief Executive Officer shall, as a ministerial duty, cease acceptance of retail cannabis business permit applications for retailers pursuant to this Section 128.06 sixty (60) days after making available the necessary forms and adopting any necessary application rules for the submission, intake, review, and approval of retail cannabis business permit applications for retailers pursuant to this Section 128.06.

(F) Upon timely receipt of a retail cannabis business permit application, the Chief Executive Officer shall direct the Chief of Police to conduct background checks in accordance with Section 128.18.L. Upon the completion of an applicant's background checks by the Chief of Police in accordance with Section 128.18.L, the Chief Executive Officer shall, as a ministerial duty, issue retail cannabis business permits to applicants with complete applications under Subsection C. However, the Chief Executive Officer shall not issue a retail cannabis business permit to any applicant with an owner or manager that:

- (1) Provided false or misleading information on the applicant's retail cannabis business 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 & Professions Code; or
- (3) Has been sanctioned by a licensing authority or a city, county, or state for unlicensed commercial cannabis activities or has had a license suspended or revoked under MAUCRSA in the three (3) years immediately preceding the date the application was submitted

(G) Any decision of the Chief Executive Officer or City Council under this Section 128.06 shall be a final administrative decision not subject to administrative appeal under any provisions of this Chapter 128 or any provisions of the City Municipal Code but, rather, subject to judicial review and remedies.

## **§ 128.07 CITY COUNCIL DEVELOPED CANNABIS RETAILER APPLICATION PROCEDURE**

(A) After three-hundred-sixty-five (365) days following the effective date of this Chapter 128, 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 Section 128.07, by the adoption or amendment of one or more ordinances to provide for the issuance retail cannabis business permits in addition to those retail cannabis business permits issued under Section 128.06, provided that such ordinance or amendment is adopted by a two-thirds vote of the entire membership of the City Council and meets the following minimum standards:

- (1) The number of retail cannabis business permits for retailers based within the City issued pursuant to this Section 128.07 shall be no more than three (3);
- (2) The number of retail cannabis business permits for retailers (including commercial cannabis businesses engaged in retail sales) based outside the City to engage in delivery within the City issued pursuant to this Section 128.07 shall be zero (0);

(3) At least one (1) of the retail cannabis business permits for retailers based within the City issued pursuant to this Section 128.07 shall be issued to a social equity applicant;

(4) A cannabis retailer with a retail cannabis business permit issued pursuant to this Section 128.07 shall not be located on property within (a) six-hundred (600) feet of a school, day-care, or youth center, (b) fifty (50) feet of a dwelling unit within a residential zone, or (c) two thousand (2,000) feet of another cannabis retailer;

(5) All distances specified in this Section 128.07 shall be measured in the following manners:

(a) For schools, day-care, youth centers, or cannabis retailers, the distance shall be measured in a straight line from the subject property line to the closest property line of the lot on which the cannabis retailer is to be located without regard to intervening structures.

(b) For determining distance to dwelling units within residential zones, the distance shall be measured in a straight line from the subject building to the closest dwelling unit on the lot on which the cannabis retailer is to be located without regard to intervening structures.

(6) A cannabis retailer may only be located on property zoned Industrial (I) or Industrial-Commercial (I-C);

(7) Retail cannabis business permits for retailers based within the City issued pursuant to this Section 128.07 shall be awarded through a merit-based process in which the Chief Executive Officer and/or City Council shall review and score applications pursuant to objective review criteria; and

(8) Cannabis retailers based within the City issued retail cannabis business permits pursuant to this Section 128.07 shall comply with the requirements set forth in this Chapter 128, Title XV of the City Municipal Code, MAUCRSA, and all other applicable State and local laws, rules, and regulations.

(B) The maximum number of retail cannabis business permits issued for cannabis retailers based within the City or outside the City (including commercial cannabis businesses engaged in retail sales) issued pursuant to this Section 128.07 may not be amended by the City Council or regulations promulgated by the Chief Executive Officer pursuant to this Chapter 128. However, the City Council may and shall increase the maximum number of retail cannabis business permits issued for retailers based within the City or outside the City (including commercial cannabis businesses engaged in retail sales) if ordered to do so by a court of competent jurisdiction as a judicial remedy.

## **§ 128.08 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 retail cannabis business permit pursuant to this Chapter

128 or otherwise approving the operation of any cannabis retailer. As a condition to the approval of any retail cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive a retail cannabis business 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 retail cannabis business permit, the City's decision to approve the operation of the cannabis retailer or activity, the process used by the City in making its decision, or the alleged violation of any federal, State, or local laws by the cannabis retailer or any of its 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 retail cannabis business permit or related to the City's approval of a cannabis retail sales. 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.

## **§ 128.09 RETAIL CANNABIS BUSINESS PERMIT TERM**

- (A) Subject to this Section 128.09 and Section 128.10, the term of each retail cannabis business permit shall be indefinite.
- (B) Upon the one (1) year anniversary of the date of issuance for each retail cannabis business permits and every other year thereafter, the Chief Executive Officer shall conduct a performance review of the permittee to assess compliance with the requirements of this Chapter 128. Within thirty (30) days of the conclusion of the annual performance review of the permittee, the Chief Executive Officer 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 128 subject to suspension or revocation under Section 128.10, 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 128.

#### **§ 128.10 SUSPENSION AND REVOCATION OF RETAIL CANNABIS BUSINESS PERMITS**

(A) The Chief Executive Officer may suspend or revoke a retail cannabis business permit for any serious material violation of any law and/or any rule, regulation, and/or standard adopted pursuant to this Chapter 128.

(B) Suspension or revocation of a State license issued by the State or by any of its departments or divisions, corresponding to the retail cannabis business permit shall immediately result in the suspension of the associated retail cannabis business permit until the State, or its applicable department or division, reinstates the State license or otherwise lifts such suspension.

(C) A permittee shall inform the Chief Executive Officer or designee(s) of any suspension, revocation, or termination of a State license corresponding to its retail cannabis business permit within five (5) business days of the suspension, revocation, or termination of the State license.

#### **§ 128.11 APPEALS REGARDING RETAIL CANNABIS BUSINESS PERMITS**

(A) Within ten (10) calendar days after the date of a decision of the Chief Executive Officer to revoke or suspend an issued retail cannabis business permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper. An appeal shall stay all proceedings in furtherance of the appealed action.

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

(C) Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.

(D) The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.

(E) At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.

(F) At the conclusion of the hearing the City Council may affirm, reverse, or modify the decision appealed. The decision of the City Council shall be a final administrative decision, subject to judicial review and remedies.

## **§ 128.12 CHANGE IN LOCATION; UPDATED APPLICATION INFORMATION**

(A) A permittee may change the business location specified in a retail cannabis business permit upon submission and approval of a change in location application promulgated, as a ministerial duty, by the Chief Executive Officer pursuant to regulations adopted under Section 128.12 within one-hundred eighty (180) days following the effective date of this Chapter 128. 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 Chief Executive Officer shall process such change in location applications as a ministerial duty within thirty (30) days of receipt. A proposed business location for a cannabis retailer in a change in location application shall meet the following requirements:

(1) A cannabis retailer shall not be located on property within (a) six-hundred (600) feet of a school, day-care, or youth center, (b) fifty (50) feet of a dwelling unit within a residential zone, or (c) two thousand (2,000) feet of another cannabis retailer;

(2) All distances specified in this Section 128.12 shall be measured in the following manners:

(a) For schools, day-care, youth centers, or cannabis retailers, the distance shall be measured in a straight line from the subject property line to the closest property line of the lot on which the cannabis retailer is to be located without regard to intervening structures.

(b) For determining distance to dwelling units within residential zones, the distance shall be measured in a straight line from the subject building to the closest dwelling unit on the lot on which the cannabis retailer is to be located without regard to intervening structures.

(3) A cannabis retailer may only be located on property zoned Industrial (I) or Industrial-Commercial (I-C).

(B) An applicant or permittee shall notify the Chief Executive Officer or designee(s) within fifteen (15) calendar days of any material change in the information provided in the applicant or permittee's retail cannabis business permit application or any change in

status of compliance with the provisions of this Chapter 128, including any change in the cannabis retailer ownership or management.

### **§ 128.13 TRANSFER OF A RETAIL CANNABIS BUSINESS PERMIT.**

(A) An owner of a retail cannabis business permit shall not transfer ownership or control of such permit to another person unless and until the permittee and transferee obtain an amendment to the permit from the Chief Executive Officer stating that the transferee is now an owner of the permittee. A permittee may change the ownership specified in a retail cannabis business permit upon submission and approval of a change in ownership application promulgated, as a ministerial duty, by the Chief Executive Officer pursuant to regulations adopted under Section 128.21 within one-hundred eighty (180) days following the effective date of this Chapter 128. 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 Chief Executive Officer shall process such change in ownership applications as a ministerial duty within five (5) business days once the Chief Executive Officer reasonably determines that the transferee passed the background check required for owners and meets all other requirements of this Chapter 128.

(B) Notwithstanding Subsection A, no retail cannabis business permit may be transferred when the Chief Executive Officer has notified the permittee that its retail cannabis business permit has been or may be suspended or revoked.

(C) Any attempt to transfer a retail cannabis business permit either directly or indirectly in violation of this Section 128.13 is hereby declared void, and such an unpermitted transfer shall be deemed a ground for revocation of the permit.

### **§ 128.14 RECORDS AND RECORDKEEPING**

(A) Each cannabis retailer shall maintain accurate books and records in an electronic format, which detail all revenues and expenses of the business, including, but not limited to, all of its assets and liabilities. At the time of the performance review of a retail cannabis business permit issued pursuant to this Chapter 128, each cannabis retailer shall file a sworn statement detailing the number of sales by the cannabis retailer during the previous 12-month period (or shorter period based upon the timing of the request) detailing sales for each month within such period in question. The statement shall also include gross sales for each month and all applicable taxes paid or due to be paid.

(B) Each cannabis retailer shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis retailer and, separately, the same contact information of all officers, managers, employees, agents, and volunteers currently

employed or otherwise engaged by the cannabis retailer. The register required by this Subsection shall be provided to the Chief Executive Officer upon a reasonable request.

(C) Each cannabis retailer shall maintain a record of all purchases and sales of cannabis and cannabis products for a period of no less than seven (7) years.

(D) All cannabis retailers shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products.

(E) Subject to any applicable restrictions under the Health Insurance Portability & Accountability Act (“HIPAA”) regulations, each cannabis retailer shall grant the Chief Executive Officer access to the business’s books, records, accounts, together with any other data or documents relevant to its operation, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents shall be produced no later than ten (10) business days after receipt of the Chief Executive Officer’s request for such data, unless otherwise stipulated by the Chief Executive Officer. The Chief Executive Officer may require the materials to be submitted in an electronic format that is compatible with the City’s software and hardware.

## **§ 128.15 SECURITY MEASURES**

(A) A cannabis retailer shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis or cannabis products at the cannabis retailer. Except as may otherwise be determined by the Chief Executive Officer, these security measures shall include, but are not limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the cannabis retailer if they are not engaging in an activity directly related to the permitted operations of the cannabis retailer.

(2) Establishing limited access areas accessible only to authorized cannabis retailer personnel.

(3) All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products shall be kept in a manner designed to prevent diversion, theft, and loss.

(4) Installing twenty-four-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis retailer, which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis, and all interior spaces where diversion of cannabis could reasonably

occur. The cannabis retailer shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Chief Executive Officer, and that it is compatible with the City's software and hardware. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the Chief Executive Officer upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the cannabis retailer.

- (5) Sensors shall be installed to detect entry and exit from all secure areas.
  - (6) Panic buttons shall be installed in all cannabis retailers.
  - (7) Having a professionally installed, maintained, and monitored alarm system.
  - (8) Any bars installed on the windows or the doors of the cannabis retailer shall be installed only on the interior of the building.
  - (9) The premises shall be live monitored twenty-four (24) hours a day unless the cannabis retailer has an alternative security program authorized by the Chief Executive Officer. Security personnel must be licensed by the State Bureau of Security & Investigative Services personnel and shall be subject to the prior review and approval of the Chief Executive Officer, which shall not be unreasonably withheld.
  - (10) Additional security measures may be added through the review of a retail cannabis business permit application.
- (B) Each cannabis retailer shall identify a designated security representative or liaison to the City, who shall be reasonably available to meet with the Chief Executive Officer regarding any security related measures or and operational issues.
- (C) Each cannabis retailer (including as part of the retail cannabis business permit application process) shall have a storage and transportation plan and currency management plan, which describes in detail the procedures for safely and securely storing, disposing and transporting all cannabis, cannabis products, and any currency.
- (D) The cannabis retailer shall cooperate with the City whenever the Chief Executive Officer makes a request, upon reasonable notice to the cannabis retailer, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter 128.
- (E) A cannabis retailer shall notify the Chief Executive Officer within twenty-four (24) hours after discovering any of the following:
- (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Chief Executive Officer.
  - (2) Diversion, theft, loss, or any criminal activity involving the cannabis retailer or any agent or employee of the cannabis retailer.

(3) The loss or unauthorized alteration of records related to cannabis and cannabis products or registering customers or employees and/or agents of the cannabis retailer.

(4) Any other breach of security.

## **§ 128.16 RESTRICTION ON ALCOHOL AND TOBACCO SALES**

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or tobacco on or about the premises of the cannabis retailer.

## **§ 128.17 FEES AND CHARGES**

(A) No person may commence or continue any cannabis retail sales in the City without timely paying in full all fees and charges required for the operation of a cannabis retail sales. Fees and charges associated with the operation of such activity shall be established by resolution of the City Council which may be amended from time to time.

(B) All cannabis retailers authorized to operate under this Chapter 128 shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, State, and local law. Each cannabis retailer shall cooperate with City with respect to any reasonable request to audit the cannabis retailer' books and records for the purpose of verifying compliance with this Section 128.20, including, but not limited to, a verification of the amount of taxes required to be paid during any period.

## **§ 128.18 GENERAL OPERATING REQUIREMENTS**

(A) Cannabis retailers may operate only during the hours specified in the retail cannabis business permit issued by the City and must comply with State law at all times.

(B) Cannabis shall not be consumed on the premises of any cannabis retailer.

(C) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a retail cannabis business permit or on any of the vehicles owned or used as part of the cannabis retailer. No outdoor storage of cannabis or cannabis products is permitted at any time.

(D) Each cannabis retailer shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the cannabis retailer

including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale), and other information which may be deemed necessary by the City. The cannabis retailer shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Chief Executive Officer prior to being used by a permittee.

(E) All cannabis and cannabis products sold and/or distributed shall be cultivated, manufactured, and distributed by licensed facilities that maintain operations in full conformance with the State and local regulations. The packaging and labeling of cannabis and cannabis products shall comply at all times with State law.

(F) There shall not be a physician located in any cannabis retailer at any time for the purpose of evaluating patients for the issuance of a medicinal cannabis recommendations.

(G) Each cannabis retailer shall provide the Chief Executive Officer with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.

(H) Signage and Notices.

(1) In addition to the requirements otherwise set forth in this Section 128.18, business identification signage for a cannabis retailer shall conform to the requirements of the City Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.

(2) No signs placed on the premises of a cannabis retailer shall obstruct any entrance or exit to the building or any window.

(3) Each entrance to a cannabis retailer shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises, or in the areas adjacent to the premises, is prohibited.

(4) The entrance to the cannabis retailer shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the cannabis retailer, other than as lawful customers permitted under State law.

(I) Other than as lawful customers permitted under State law in the case of retailers, individuals under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis retailer and shall not be allowed to serve as a driver for a cannabis retailer. It shall be unlawful and a violation of this Chapter 128 for any person to employ any person at a cannabis retailer who is not at least twenty-one (21) years of age.

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

(K) The original copy of the retail cannabis business permit issued by the City pursuant to this Chapter 128 and the City issued business license shall be posted inside the cannabis retailer in a location readily visible to the public.

(L) Pursuant to Sections 11105(b)(11) and 13300(b)(11) of the State Penal Code, which authorizes City authorities to access State and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee, or volunteer of the cannabis retailer must submit fingerprints and other information deemed necessary by the Chief Executive Officer for a background check. Pursuant to Sections 11105(b)(11) and 13300(b)(11) of the State Penal Code, which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a retail cannabis business permit unless they have first cleared the background check, as determined by the Chief Executive Officer, as required by this Chapter 128. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a retail cannabis business permit is submitted.

No owner, manager, supervisor, employee, or volunteer of the cannabis retailer shall:

(1) Have 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 & Professions Code; or

(2) Have been sanctioned by a licensing authority or a city, county, or state for unlicensed commercial cannabis activities or has had a license suspended or revoked under MAUCRSA in the three (3) years immediately preceding the date the application was submitted.

(M) The cannabis retailer shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.

(N) Within sixty (60) days of licensure, for a permittee with two (2) or more employees, the permittee shall attest to the City that the permittee has entered into a labor peace agreement and will abide by the terms of the agreement. The permittee shall submit a copy of the page of the labor peace agreement that contains the signatures of the labor representative and the applicant. For permittees with less than two (2) employees who have not yet entered into a labor peace agreement, the permittee 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. If an attestation that the permittee is party to a labor peace agreement, and a copy of the page of the labor peace agreement that contains the signatures of the labor representative was submitted to the City by the permittee as part of the application process, that will meet this obligation.

(O) Cannabis retailers 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 cannabis retailer 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 cannabis retail sales; and

(3) Entering into a collective bargaining agreement and/or paying a living wage to employees. "Living wage" means fifty percent (50%) more than the applicable amount of the hourly minimum wage mandated by State law (convertible to an annual salary by multiplying that hourly minimum wage by 2,080, as applicable), whichever is greater.

(P) It shall be unlawful for a cannabis retailer to discriminate in any manner or take adverse action against any employee in retaliation for exercising rights protected under this Chapter 128 or City or State law. These rights include, but are not limited to (1) the right to file a complaint or inform any person about any party's alleged noncompliance with this Chapter 128 or City or State law and (2) the right to inform any person of his or her potential rights under this Chapter 128 or City or State law and to assist him or her in asserting such rights. Protections under this Chapter 128 or City or State law shall apply to any employee who mistakenly, but in good faith, alleges noncompliance with this Chapter 128 or City or State law. Taking adverse action against an employee within ninety (90) days of the employee's exercise of rights protected under this Chapter 128 or City or State law shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

## **§ 128.19 ADDITIONAL OPERATING REQUIREMENTS**

- (A) Retailers and the operation thereof shall comply with State law at all times.
- (B) Prior to dispensing medicinal cannabis or medicinal cannabis products to a qualified patient, a retailer 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 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 through 11362.77 of State Health & Safety Code, as may be amended from time to time, on site for period of not less than seven (7) years.
- (C) Prior to dispensing cannabis or cannabis products to an adult-use customer, a retailer 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.
- (D) All restroom facilities shall remain locked and under the control of managers onsite.
- (E) A retailer shall notify customers (verbally or by written agreement) and by posting of a notice or notices conspicuously in at least 15-point type within the permitted premises that state as follows:
  - (1) "The sale or diversion of cannabis or cannabis products without a license issued by the City of Baldwin Park is a violation of State law and the Baldwin Park 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."

## **§ 128.20 ADDITIONAL OPERATING REQUIREMENTS FOR DELIVERY**

- (A) Delivery shall comply with State law at all times.
- (B) Security plans developed pursuant to this Chapter 128 shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
- (C) A retailer shall facilitate the delivery of cannabis or cannabis products with a technology platform owned by or licensed to the delivery-only retailer 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 retailer and customer:
  - (1) The identity of the individual dispensing cannabis or cannabis products on behalf of the permittee;
  - (2) The identity of the customer receiving cannabis or cannabis products from the permittee;
  - (3) The type and quantity of cannabis or cannabis products dispensed and received;
  - (4) The gross receipts charged by the permittee and received by the individual dispensing cannabis or cannabis products on behalf of the permittee 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 permittee 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 retailer to the Chief Executive Officer.
- (E) Individuals making deliveries of cannabis or cannabis products on behalf of the retailer 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 permittee's retail cannabis business 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 retailer 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 retailer.

(H) A retailer shall facilitate deliveries with a technology platform owned by or licensed to the retailer 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 retailer departed the licensed premises.

(2) The time that the individual conducting delivery on behalf of the retailer completed delivery to the customer.

(3) The time that the individual conducting delivery on behalf of the retailer returned to the licensed premises.

(4) The route the individual conducting delivery on behalf of the retailer traveled between departing and returning to the licensed premises to conduct delivery.

(5) For each individual delivery transaction, the identity of the individual conducting deliveries on behalf of the retailer.

(6) For each individual delivery transaction, the vehicle used to conduct delivery on behalf of the retailer.

(7) For each individual delivery transaction, the identity of the customer receiving cannabis or cannabis products from the retailer.

(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 retailer and received by the individual conducting deliveries on behalf of the retailer for the cannabis or cannabis products dispensed and received.

(I) The individual making deliveries on behalf of the retailer shall personally verify for each individual delivery transaction the identity of the customer receiving cannabis or cannabis products from the retailer and (1) for medicinal cannabis or medicinal 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 through 11362.77 of State Health & 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.

(J) Each delivery vehicle shall be equipped with a dual dash camera system showing the inside of the vehicle as well as a forward facing camera and shall be turned on at all time the vehicle is in the City making cannabis deliveries. Video footage shall be retained for a period of at least two (2) weeks and made available to the City upon request.

(K) Each cannabis delivery permit holder shall maintain a current register of names and required information for all employees participating in the delivery of cannabis in the city and all vehicles used for the delivery of cannabis in the city. In no event shall any employee participate in the delivery of cannabis in the city or a vehicle be used for the delivery of cannabis in the city until the information is updated to the permit holder's register. Each cannabis delivery permit holder shall provide the City its current register upon request by the City within forty-eight (48) hours.

(L) Cannabis delivery is only permitted in the city between the hours of 8:00 am to 10:00pm.

(M) Each cannabis delivery permit holder shall maintain accurate books and records, detailing all of the revenues and expenses of all cannabis delivery in the city. On no less than an annual basis, or at any time upon reasonable request of the city, each cannabis delivery permit holder shall file a sworn statement detailing the number of sales by the cannabis delivery permit holder during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a monthly basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. If, upon written request from the City, each cannabis delivery permit holder shall make available to the City all books, records, accounts, inventory and access to onsite operations of persons engaged in cannabis delivery specific to the business, including examination of both state and federal income tax returns, sales tax returns, or other evidence documenting the finances pertaining to cannabis delivery in the City for the purpose of verifying compliance with this Chapter and any other applicable provision of this Code.

(N) Employees delivering cannabis or cannabis product or dispensing cannabis or cannabis products on behalf of the permittee may not receive anything tangible from the customer. All payments and tips for the cannabis or cannabis products should be transmitted to the permittee electronically.

(O) A retailer shall seal each order of cannabis or cannabis products in tamper-evident packaging before the individual conducting the delivery on behalf of the retailer departs the licensed premises. A retailer shall include any promotional branded merchandise of any licensee, or promotional materials inside the sealed, tamper-evident packaging. Employees delivering cannabis or cannabis product or dispensing cannabis or cannabis products on behalf of the permittee may not deliver or dispense promotional

branded merchandise of any licensee, or promotional materials not included in the delivery package.

(P) A retailer or a licensed retailer's delivery employee shall not leave cannabis or cannabis goods in an unattended motor vehicle outside of the retailer's hours of operation. A retailer shall ensure that vehicles used for delivery of cannabis or cannabis products are cleared of all cannabis or cannabis products before ceasing daily operations.

#### **§ 128.20.5 ADDITIONAL OPERATING REQUIREMENTS FOR DISTRIBUTION**

(A) Distribution shall comply with State law at all times.

(B) Security plans developed pursuant to this Chapter 128 shall include provisions relating to vehicle security and the protection of employees and product during loading, unloading and in transit.

(C) A distributor 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 retailer.

(D) A distributor shall facilitate distributions with a technology platform owned by or licensed to the distributor 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 distribution on behalf of the distributor departed the licensed premises.

(2) The time that the individual conducting distribution on behalf of the distributor completed distribution to the manufacture, cultivator or retailer or returned to the licensed premises to store the cannabis and cannabis products.

(3) The time that the individual conducting distribution on behalf of the manufacture, cultivator or retailer returned to the licensed premises.

(4) The route the individual conducting distribution on behalf of the distributor traveled between departing and returning to the licensed premises to conduct the distribution or transportation for storage.

(5) For each individual distribution transaction, the identity of the individual conducting distribution on behalf of the manufacture, cultivator or retailer.

(6) For each individual distribution transaction, the vehicle used to conduct distribution on behalf of the manufacture, cultivator or retailer.

(7) For each individual distribution transaction, the identity of the individual conducting distribution on behalf of the distributor.

(E) Each cannabis distributor permit holder shall maintain accurate books and records, detailing all of the revenues and expenses of all cannabis distribution and storage. On no less than an annual basis, or at any time upon reasonable request of the city, each cannabis distributor permit holder shall file a sworn statement detailing the distribution and storage of cannabis during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a monthly basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. If, upon written request from the City, each cannabis distributor permit holder shall make available to the City all books, records, accounts, inventory and access to onsite operations of persons engaged in cannabis distribution specific to the business, including examination of both state and federal income tax returns, sales tax returns, or other evidence documenting the finances pertaining to cannabis distribution in the City for the purpose of verifying compliance with this Chapter and any other applicable provision of this Code.

(F) Employees distributing cannabis or cannabis products on behalf of the permittee may not receive anything tangible from the manufacture, producer or retailer. All payments for the cannabis or cannabis products should be transmitted to the permittee electronically.

(G) A distributor shall not leave cannabis or cannabis goods in an unattended motor vehicle outside of the distributor's hours of operation. A distributor shall ensure that vehicles used for delivery of cannabis or cannabis products are cleared of all cannabis or cannabis products before ceasing daily operations.

## **§ 128.21 PROMULGATION OF REGULATIONS, STANDARDS, AND OTHER LEGAL DUTIES**

(A) Consistently with stated requirements of this Chapter 128 (and in particular not to repeal or constructively repeal this Chapter 128), in addition to any regulations adopted under State law, the Chief Executive Officer is authorized to establish any additional rules, regulations, and standards governing the issuance, denial, or renewal of retail cannabis business permits, the ongoing operation of cannabis retailers, and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter 128.

(B) Such regulations shall be published on the City's website.

(C) Regulations promulgated by the Chief Executive Officer shall become effective upon date of publication. Cannabis retailers 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 Chief Executive Officer.

## **§ 128.22 COMMUNITY RELATIONS**

(A) Each cannabis retailer shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis retailer can be provided. Each cannabis retailer shall also provide the above information to all businesses and residences, in the City, located within one hundred and fifty (150) feet of the cannabis retailer. Such community relations contact shall respond to any complaints within forty-eight (48) hours of receipt of such complaints.

(B) During the first year of operation pursuant to this Chapter 128, the owner(s), manager(s), and community relations representative from each cannabis retailer holding a retail cannabis business permit issued pursuant to this Chapter 128 shall attend a quarterly meeting with the Chief Executive Officer and other interested parties as deemed appropriate by the Chief Executive Officer, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter 128. After the first year of operation, the owner(s), manager(s), and community relations representative from each such cannabis retailer shall meet with the Chief Executive Officer when and as requested by the Chief Executive Officer.

(C) Cannabis retailers to which a retail cannabis business permit is issued pursuant to this Chapter 128 shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

## **§ 128.23 FEES DEEMED DEBT TO CITY**

The amount of any fee, cost, or charge imposed pursuant to this Chapter 128 shall be deemed a debt to the City that is recoverable via authorized processes as set forth in the City Municipal Code or available through any court of competent jurisdiction.

## **§ 128.24 PERMITTEE, OWNER, AND PROPERTY OWNER RESPONSIBLE FOR VIOLATIONS**

(A) Each permittee and each owner and each manager of the permittee (and each individual owner and each individual manager of an owner or manager of the permittee) shall be responsible for all violations of the laws of the State or of the regulations and/or

the ordinances of the City occurring within the City or in or about the premises of the cannabis retailer, if committed by the permittee or any employee or agent of the permittee and whether or not said violations occur within the permittee, owner, or manager's presence.

(B) No person may engage in any cannabis retail sales within the City unless the person is in compliance with the requirements of this Chapter 128.

(C) It shall be unlawful to rent, lease, or otherwise permit any cannabis retail sales at any location, structure, or vehicle in the City by a person (1) that does not have a valid retail cannabis business permit issued by the City; (2) that does not have a valid State license; (3) that does not have any other applicable approvals, including, but not limited to, a building permit and City business license; or (4) that is not currently in compliance with all applicable State and local laws and regulations pertaining to the cannabis retail sales. Property owners shall have strict liability for any cannabis retail sales at any location, structure, or vehicle in the City by a person (1) that does not have a valid retail cannabis business permit issued by the City or (2) that does not have a valid State license.

## **§ 128.25 INSPECTION AND ENFORCEMENT**

(A) The Chief Executive Officer or designee(s) charged with enforcing the provisions of the City Municipal Code, or any provision thereof, may enter the location of a cannabis retailer at any time, without notice, and inspect the location of any cannabis retailer as well as any recordings and records required to be maintained pursuant to this Chapter 128 or under applicable provisions of State law.

(B) It is unlawful for any person having responsibility over the operation of a cannabis retailer, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings, or other documents required to be maintained by a cannabis retailer under this Chapter 128 or under State or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis retailer under this Chapter 128 or under State or local law.

(C) The Chief Executive Officer or designee(s) charged with enforcing the provisions of this Chapter 128 may enter the location of a cannabis retailer at any time during business hours and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City shall be logged, recorded, and maintained in accordance with the City law enforcement standards for evidence.

## **§ 128.26 CONCURRENT REGULATION WITH THE STATE**

It is the stated intent of this Chapter 128 to regulate cannabis retail sales in the City concurrently with the State.

## **§ 128.27 VIOLATIONS DECLARED A PUBLIC NUISANCE**

Each and every serious material violation of the provisions of this Chapter 128 is hereby deemed unlawful and a public nuisance.

## **§ 128.28 EACH VIOLATION A SEPARATE OFFENSE**

Each and every violation of this Chapter 128 shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City Municipal Code. Additionally, as a nuisance per se, any serious material violation of this Chapter 128 shall be subject to injunctive relief, any retail cannabis business permit issued pursuant to this Chapter 128 being deemed null and void, disgorgement, and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney's fees, and any other relief or remedy available at law or in equity. The City may also pursue any and all remedies and actions available and applicable under State and local laws for any violations committed by the cannabis retailer or persons related to, or associated with, the cannabis retail sales. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the Chief Executive Officer or designee(s), may take immediate action to temporarily suspend a retail cannabis business permit issued by the City, pending a public hearing before the City Council.

## **§ 128.29 CRIMINAL PENALTIES**

Each and every serious material violation of the provisions of this Chapter 128 may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a serious material violation is committed or permitted to continue shall constitute a separate offense.

## **§ 128.30 REMEDIES CUMULATIVE AND NOT EXCLUSIVE**

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

**SECTION 5.** Title XI (Business Regulations) of the City Municipal Code is hereby amended by adding Chapter 129 (Cannabis Retailer Tax) to read as follows:

**CHAPTER 129 Cannabis Retailer Tax**

- 129.01 Authority and purpose
- 129.02 Intent
- 129.03 Definitions
- 129.04 Tax imposed
- 129.05 Exemptions from the tax
- 129.06 Reporting and remittance of tax
- 129.07 Nonpayment of cannabis retailer tax; penalties and interest established by ordinance
- 129.08 Administration of the tax
- 129.09 Appeal procedure
- 129.10 Constitutionality and legality
- 129.11 Apportionment
- 129.12 Audit and examination of records and equipment
- 129.13 Payment of tax does not authorize unlawful conduct
- 129.14 Other licenses, permits, taxes, fees, or charges
- 129.15 Deficiency determinations
- 129.16 Failure to report; nonpayment; fraud
- 129.17 Tax assessment; notice requirements
- 129.18 Tax assessment; hearing, application, and determination
- 129.19 Relief from taxes; disaster relief
- 129.20 Conviction for violation; tax not waived
- 129.21 Violation deemed misdemeanor
- 129.22 Remedies cumulative and not exclusive

## **§ 129.01 AUTHORITY AND PURPOSE**

(A) The purpose of this Chapter is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the State Government Code, upon cannabis retailers that engage in business in the City. This Cannabis Retailer Tax is levied based upon business gross receipts. It is not a sales and use tax, a tax upon income, or a tax upon real property.

(B) The Cannabis Retailer Tax is a general tax enacted solely for general governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this Chapter 129 shall be placed in the City's general fund and be available for any lawful City expenditure.

## **§ 129.02 INTENT**

The intent of this Chapter 129 is to impose a general tax applicable to cannabis retailers for the purpose of funding any and all governmental purposes, including but not limited to 911 emergency response, police and fire protection services; pothole repair; afterschool programs; senior services; homeless reduction; graffiti removal, and other City general fund services.

## **§ 129.03 DEFINITIONS**

When used in this Chapter 129, the following words shall have the meanings ascribed to them as set forth herein. 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

**“ADULT-USE CANNABIS” or “ADULT-USE CANNABIS PRODUCT”** means cannabis or cannabis products for individuals twenty-one (21) years of age and over without the need for a physician’s recommendation.

**“BUSINESS”** means all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to that employee’s employer.

**“CANNABIS”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“CANNABIS BUSINESS”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“CANNABIS PRODUCT”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“CANNABIS RETAILER TAX”** or **“TAX”** means the tax due pursuant to this Chapter 129 for engaging in dispensing within in the City.

**“CITY”** means the City of Baldwin Park, State of California.

**“CITY COUNCIL”** means the City Council of the City of Baldwin Park.

**“COMMERCIAL CANNABIS ACTIVITY”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“CODE”** means the City Municipal Code.

**“CUSTOMER”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“DELIVERY”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“DISPENSARY”** or **“RETAILER”** or **“CANNABIS RETAILER”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“DISPENSING”** or **“RETAIL SALE(S)”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“EMPLOYEE”** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**“ENGAGED(S) IN BUSINESS”** means the commencing, conducting, operating, managing, or carrying on of a cannabis retailer and the exercise of corporate or franchise powers, whether done as an owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business if any of the following apply:

(A) Such person or person’s employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;

(B) Such person or person’s employee owns or leases real property within the City for business purposes;

- (C) Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
- (D) Such person or person's employee regularly conducts solicitation of business within the City; or
- (E) Such person or person's employee performs work or renders services in the City.

The foregoing specified activities shall not be a limitation on the meaning of "**ENGAGED IN BUSINESS**".

"**EVIDENCE OF DOING BUSINESS**" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis retailer in the City.

"**FISCAL YEAR**" means July 1 through June 30 of the following calendar year.

"**GROSS RECEIPTS**" means, except as otherwise specifically provided, whether designated 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 or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), 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:

- (A) Cash discounts where allowed and taken on sales;
- (B) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (C) 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;
- (D) 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;
- (E) Cash value of sales, trades, or transactions between departments or units of the same business;

(F) Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent 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; and

(G) 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.

**"MANAGER"** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**"MARIJUANA"** means **"CANNABIS"** as that term is defined in this Chapter 127.6.

**"MAUCRSA"** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**"MEDICINAL CANNABIS"** or **"MEDICINAL CANNABIS PRODUCT"** means cannabis or a cannabis product for use by a qualified patient.

**"OWNER"** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**"PATIENT"** or **"QUALIFIED PATIENT"** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**"PERSON"** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**"PERSON WITH AN IDENTIFICATION CARD"** has the same meaning as defined in Chapter 128 of the City Municipal Code.

**"SALE"** means any sale, exchange, or barter or other transaction for any consideration.

**"STATE"** means the State of California.

**"TAX ADMINISTRATOR"** means the means the Chief Executive Officer of the City of Baldwin Park or his or her designee(s).

## **§ 129.04 TAX IMPOSED**

(A) There is established and imposed upon each person who is engaged in business as a cannabis retailer an annual Cannabis Retailer Tax at the rates set forth in this

Chapter 127.6. Such Tax is payable regardless of whether the business is operating lawfully in the City or unlawfully. The City's acceptance of a Cannabis Retailer Tax payment from a cannabis retailer operating illegally shall not constitute the City's approval or consent to such illegal operations.

(B) Medicinal Retailers. The Cannabis Retailer Tax upon every person who engages in business as a retailer of medicinal cannabis or medicinal cannabis products shall be at the following annual rate:

(1) The tax rate upon the effective date of this Chapter 127.6 shall be one-half percent (0.5%) of the gross receipts derived from the retail sale of medicinal cannabis or medicinal cannabis products. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of five percent (5%) without voter approval.

(C) Adult-use Retailers. The Cannabis Retailer Tax upon every person who engages in business as a retailer of adult-use cannabis or adult-use cannabis products shall be at the following annual rate:

(1) The tax rate upon the effective date of this Chapter 127.6 shall be four percent (4%) of the gross receipts derived from the retail sale of adult-use cannabis or adult-use cannabis products. Such tax rate may increase or decrease by ordinance adopted by the City Council but shall not exceed the maximum tax rate of five percent (5%) without voter approval.

## **§ 129.05 EXEMPTIONS FROM THE TAX**

This Chapter 127.6 shall not apply to personal use of cannabis that is specifically exempted from State licensing requirements and that meets the definition of personal use or equivalent terminology under State law.

## **§ 129.06 REPORTING AND REMITTANCE OF TAX**

The Cannabis Retailer Tax imposed by this Chapter 129 shall be imposed on a fiscal year basis and shall be due and payable in quarterly installments as follows:

(A) The owner(s) or manager(s) of each cannabis retailer shall, on or before the last day of the month following the close of each fiscal year quarter, prepare and submit a tax statement on the form prescribed by the Tax Administrator and remit to the Tax Administrator the Tax due. The Tax due shall be no less than the quarterly installment due, but the taxpayer may prepay any amount of Tax at any time.

(B) Tax statements and payments for all outstanding Taxes owed the City are immediately due to the Tax Administrator upon cessation of a cannabis retailer for any reason.

## **§ 129.07 NONPAYMENT OF CANNABIS RETAILER TAX; PENALTIES AND INTEREST ESTABLISHED BY ORDINANCE**

(A) Any person who fails or refuses to pay any Cannabis Retailer Tax required to be paid pursuant to this Chapter 129 on or before the due date shall pay penalties and interest as follows:

(1) A penalty equal to ten percent (10%) of the amount of the Tax, in addition to the amount of the Tax, plus interest on the unpaid tax calculated from the due date of the Tax at the rate of one percent (1%) per month.

(2) If the Tax remains unpaid for a period exceeding three (3) calendar months beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the Tax, plus interest at the rate of one percent (1%) per month on the unpaid tax and on the unpaid penalties.

(3) These penalty provisions shall not be construed to preclude or limit the enforcement of the penal provisions of this Chapter 129 or the Code.

(B) Whenever a check or electronic payment is submitted in payment of a Cannabis Retailer Tax and the payment is subsequently returned unpaid by the bank, the taxpayer will be liable for the Tax amount due plus any fees, penalties, and interest as provided for in this Chapter 127.6, and any other amount allowed under State law.

## **§ 129.08 ADMINISTRATION OF THE TAX**

(A) It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter 129.

(B) For purposes of administration and enforcement of this Chapter 129 generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules, and procedures consistent with the purpose, intent, and express terms of this Chapter 129 as he or she deems reasonably necessary to implement or clarify such provisions or aid in enforcement, including but not limited to:

(1) Provide forms to all taxpayers for the reporting of the Tax;

(2) Provide information to any taxpayer concerning the provisions of this Chapter 129;

- (3) Receive and record all taxes remitted to the City as provided in this Chapter 129;
- (4) Maintain records of taxpayer reports and taxes collected pursuant to this Chapter 129;
- (5) Assess penalties and interest to taxpayers pursuant to this Chapter 129; and
- (6) Determine amounts owed and enforce collection pursuant to this Chapter 129.

#### **§ 129.09 APPEAL PROCEDURE**

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties, and fees, if any, due under this Chapter 129 may appeal to the City Council by filing a notice of appeal with the City Clerk within forty-five (45) calendar days of the serving or mailing of the determination of Tax due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such cannabis retailer at the last known place of address. The finding of the City Council shall be a final administrative decision, subject to judicial review and remedies, and shall be served upon the appellant in the manner prescribed by this Chapter 129 for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

#### **§ 129.10 CONSTITUTIONALITY AND LEGALITY**

This Tax is intended to be applied in a manner consistent with the United States and State Constitutions and State law. None of the Tax provided for by this Chapter 129 shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or due process clauses of the Constitutions of the United States or the State, or a violation of any other provision of the State Constitution or State law. If a person believes that the Tax, as applied to him or her, is impermissible under applicable law, he or she may request that the Tax Administrator release him or her from the obligation to pay the impermissible portion of the Tax.

#### **§ 129.11 APPORTIONMENT**

If a cannabis retailer subject to the Tax is operating both within and outside the City, it is the intent of the City to apply the Cannabis Retailer Tax so that the measure of the Tax fairly reflects the proportion of the taxed activity actually carried on in the City. To the extent federal or State law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said apportionment on his or her tax return. The Tax

Administrator may promulgate administrative procedures for apportionment as he or she finds reasonably useful or necessary.

## **§ 129.12 AUDIT AND EXAMINATION OF RECORDS AND EQUIPMENT**

(A) For the purpose of ascertaining the amount of Cannabis Retailer Tax owed or verifying any representations made by any taxpayer to the City in support of his or her tax calculation, the Tax Administrator shall have the power to inspect any location where commercial cannabis activity occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, State and federal income tax returns, and other records relating to the gross receipts of the business) of owners and managers of a cannabis retailer. In conducting such investigation, the Tax Administrator shall have the power to inspect any equipment, such as computers or point of sale machines, that may contain such records.

(B) It shall be the duty of every person liable for the collection and payment to the City of any Tax imposed by this Chapter 129 to keep and preserve, for a period of at least seven (7) years, all records as may be necessary to determine the amount of such Tax as he or she may have been liable for the collection of and payment to the City, which records the Tax Administrator shall have the right to inspect at all reasonable times.

## **§ 129.13 PAYMENT OF TAX DOES NOT AUTHORIZE UNLAWFUL CONDUCT**

(A) The payment of a Cannabis Retailer Tax required by this Chapter 129, and its acceptance by the City, shall not entitle any person to operate as a cannabis retailer unless the person has complied with all of the requirements of the Code, MAUCRSA, and all other applicable State laws.

(B) No Tax paid under the provisions of this Chapter 129 shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or State law.

(C) Nothing in this Chapter 129 shall be construed as in conflict with State or federal law.

(D) It shall be the responsibility of the owners and managers of a cannabis retailer to ensure that the cannabis retailer is, at all times, operating in a manner compliant with the protection of public health, safety, and community standards, including all applicable State and local laws and regulations, including any subsequently enacted State or local law or regulatory, licensing, or certification standards or requirements, and any specific, additional operating procedures or requirements, which may be imposed as conditions of approval of any State or City license or permit.

## **§ 129.14 OTHER LICENSES, PERMITS, TAXES, FEES, OR CHARGES**

Nothing contained in this Chapter 129 shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any other provision of this Code or any other ordinance or resolution of the City Council, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee, or other charge imposed, assessed or required by, under or by virtue of any other provision of the Code or any other ordinance or resolution of the City Council. Any references made or contained in any other provision of the Code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other provisions of this Code.

## **§ 129.15 DEFICIENCY DETERMINATIONS**

If the Tax Administrator is not reasonably satisfied that any statement filed as required under the provisions of this Chapter 129 is correct, or that the amount of tax is correctly computed, he or she 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 within two (2) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within two (2) 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. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given in this Chapter 129.

## **§ 129.16 FAILURE TO REPORT; NONPAYMENT; FRAUD**

(A) Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of Tax owed by a person under this Chapter 129 at any time:

- (1) If the person has not filed a complete statement required under the provisions of this Chapter 129;
- (2) If the person has not paid the Tax due under the provisions of this Chapter 129;
- (3) If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of

the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter 129; or

(4) If the Tax Administrator determines that the nonpayment of any Cannabis Retailer Tax 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 129 and any other penalties allowed by law.

(B) The notice of assessment shall separately set forth the amount of any Tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter 129 and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

#### **§ 129.17 TAX ASSESSMENT; NOTICE REQUIREMENTS**

The notice of assessment shall be served upon the person either (1) by personal delivery; (2) by overnight delivery by a nationally-recognized courier service, or by a deposit of the notice via United States Postal Service Priority Mail Express (or a comparable service with another carrier or with the United States Postal Service, should Priority Mail Express no longer be provided) with proof of delivery, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this Chapter 129; or (3) should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purposes of this Section 129.17, a service by overnight delivery shall be deemed to have occurred one (1) calendar day following deposit with a courier and service by United States Postal Service Priority Mail Express shall be deemed to have occurred three (3) calendar days following deposit of the notice.

#### **§ 129.18 TAX ASSESSMENT; HEARING, APPLICATION, AND DETERMINATION**

Within forty-five (45) calendar days after the date of service, the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the Tax assessed by the Tax Administrator shall be a final administrative decision, subject to judicial review. Within thirty (30) calendar days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than thirty (30) calendar days after the receipt of the application, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than fifteen (15) calendar days prior to such hearing. At such

hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing the Tax Administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in this Chapter 129 for giving notice of assessment.

### **§ 129.19 RELIEF FROM TAXES; DISASTER RELIEF**

(A) If a cannabis retailer is unable to comply with any Tax requirement due to a disaster, the cannabis retailer may notify the Tax Administrator of this inability to comply and request relief from the tax requirement. A request for relief must clearly indicate why relief is requested, the time period for which the relief is requested, and the reason relief is needed for the specific amount of time.

(B) To obtain relief, the cannabis retailer agrees to grant the Tax Administrator access to the location where the cannabis retailer has been impacted due to a disaster.

(C) The Tax Administrator, in his or her reasonable discretion, may provide relief from the Cannabis Retailer Tax requirement for cannabis retailer whose operations have been impacted by a disaster if such tax liability does not exceed \$100,000.00. If such Tax liability is \$100,001.00 or more, than such relief shall only be approved by the City Council.

(D) Temporary relief from the Cannabis Retailer Tax may be granted for a reasonable amount of time as determined by the Tax Administrator or the City Council, as applicable in order to allow the cannabis retailer time to recover from the disaster.

(E) The Tax Administrator or City Council, as applicable may require that certain conditions be followed in order for a cannabis retailer to receive temporary relief from the Cannabis Retailer Tax requirement.

(F) For purposes of this Section 129.19, "disaster" means, including but not limited to, natural disasters (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves, and floods); war, hostilities, invasion, act of foreign enemies, mobilization, requisition, or embargo; rebellion, revolution, insurrection, military or usurped power, or civil war; riot, commotion, strikes, go slows, lock outs, or disorder; a pandemic; or acts or threats of terrorism.

### **§ 129.20 CONVICTION FOR VIOLATION; TAX NOT WAIVED**

The conviction and punishment of any person for failure to pay the required Cannabis Retailer 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 129 or of any State law requiring the payment of all taxes.

### **§ 129.21 VIOLATION DEEMED MISDEMEANOR**

Each and every material violation of the provisions of this Chapter 129 may be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a material violation is committed or permitted to continue shall constitute a separate offense.

### **§ 129.22 REMEDIES CUMULATIVE AND NOT EXCLUSIVE**

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

SECTION 6. Part 10 (Medical Marijuana/Cannabis Dispensaries) of Section 153.120 (Standards for Specific Land Uses and Activities) of Chapter 153 (Zoning Code) of Title XV (Land Usage) of the City Municipal Code is hereby repealed in its entirety and amended to read as follows:

"Part 10. Cannabis Retailers

### **§ 153.120.32 INTENT AND PURPOSE**

The purpose of regulating cannabis retailers is to comply with California state law in a manner designed to minimize negative impact on the City, and to promote the health, safety, morals, and general welfare of residents and businesses within the City.

### **§ 153.120.330 USE REGULATIONS**

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

(A) Subject to the requirements of Title XI, Chapter 128, Cannabis Retailers, of this Code (in particular the possession of a retail cannabis business permit) and the requirements of Title XI, Chapter 127.6, Cannabis Retailer Tax, of this Code, cannabis retailers shall be a land use permitted by right on property zoned Industrial (I) or Industrial-Commercial (I-C).

(B) A cannabis retailer permitted pursuant Section 128.06 of this Code to shall not be located on property within (1) six-hundred (600) feet of a school, day-care, or youth center or (2) fifty (50) feet of a dwelling unit within a residential zone.

(C) All distances specified in this Subpart 153.120.330 shall be measured in the following manners:

(1) For schools, day-care, youth centers, or cannabis retailers, the distance shall be measured in a straight line from the subject property line to the closest property line of the lot on which the cannabis retailer is to be located without regard to intervening structures.

(2) For determining distance to dwelling units within residential zones, the distance shall be measured in a straight line from the subject building to the closest dwelling unit on the lot on which the cannabis retailer is to be located without regard to intervening structures.

(D) A cannabis retailer permitted pursuant Section 128.06 of this Code or which transfers locations pursuant to Section 128.12 of this Code shall not be located on property within (1) six-hundred (600) feet of a school, day-care, or youth center, (2) fifty (50) feet of a dwelling unit within a residential zone, or (3) two thousand (2,000) feet of another cannabis retailer.

(E) Notwithstanding any of the above requirements contained in Sub-Subparts A through C, cannabis retailers shall be a land use permitted by right on property that is or was covered by a development agreement entered into and approved pursuant to Chapter 127 of the City Municipal Code prior to January 1, 2018, subject to the remaining requirements of Title XI, Chapter 128, Cannabis Retailers, of this Code (in particular the possession of a retail cannabis business permit) and the requirements of Title XI, Chapter 127.6, Cannabis Retailer Tax, of this Code."

**SECTION 7.** Subpart 153.120.560 (Intent and Purpose) of Part 18 (Medical and Adult Cannabis Cultivation, Manufacturing and Distribution) of Section 153.120 (Standards for Specific Land Uses and Activities) of Chapter 153 (Zoning Code) of Title XV (Land Usage) of the City Municipal Code is hereby amended to read as follows:

"The purpose of regulating commercial cannabis production activity (as defined in Chapter 127 of this Code) is to comply with California state law in a manner designed to minimize negative impact on the CITY, and to promote the health, safety, morals, and general welfare of residents and businesses within the CITY."

**SECTION 8.** Subpart 153.120.570 (Use Regulations) of Part 18 (Medical and Adult Cannabis Cultivation, Manufacturing and Distribution) of Section 153.120 (Standards for Specific Land Uses and Activities) of Chapter 153 (Zoning Code) of Title XV (Land Usage) of the City Municipal Code is hereby amended to read as follows:

**(A)** *Chapter 127: Medical and Adult Use Commercial Cannabis.* All commercial cannabis production activity shall comply with all applicable provisions of Title XI, Chapter 127, Medical and Adult Use Commercial Cannabis Production, of this code.

**(B)** *Outdoor cultivation.* Owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the CITY to use or allow such premise to be used for the outdoor cultivation of cannabis plants is prohibited in the CITY.

**(C)** *Development agreement required.* Prior to operating in the CITY and as a condition of issuance of a Permit, the applicant shall enter into a Development Agreement (as governed by California Government Code Section 65864, et seq.) with the City setting forth the terms and conditions under which the facility will operate that is in addition to the requirements of Title XI, Chapter 127, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed upon, approval of architectural plans (including site plan, floor plan, and elevation, to conform with manufacturing uses under the BPMC), and such other terms and conditions that will protect and promote the public health, safety, and welfare of all persons in the CITY.

**(D)** *Maximum number of commercial cannabis permits.* No more than 25 (twenty-five) permits issued pursuant to Title XI, Chapter 127, each with a maximum of 22,000 square feet of permitted Commercial Cannabis Production Activity may be allowed, maintained, or operated in the CITY at any time; except that, Distribution only, shall be allowed a maximum of 40,000 square feet.”

**SECTION 9.** The preamble of Sub-Subpart E (Security) of Subpart 153.120.570 (Use Regulations) of Part 18 (Medical and Adult Cannabis Cultivation, Manufacturing and Distribution) of Section 153.120 (Standards for Specific Land Uses and Activities) of Chapter 153 (Zoning Code) of Title XV (Land Usage) of the City Municipal Code is hereby amended to read as follows:

**(E)** *Security.* All security requirements set forth in Title XI, Chapter 127, Medical and Adult Use Commercial Cannabis Production, of this code are applicable.”

**SECTION 10.** The definition of “Characterizing flavor” in Section 125.010 (Definitions) of Chapter 125 (Tobacco Retail Licensing) of Title XI (Business Regulations) of the City Municipal Code is hereby amended to read as follows:

**“CHARACTERIZING FLAVOR”** means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the cannabis or tobacco product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, cotton candy, herb, bubble gum, spice, or any other flavor that is designed to mask the aroma and flavor of natural cannabis or tobacco or tobacco related products. Characterizing flavor includes flavor in any form, mixed with, or otherwise added to, any tobacco product or nicotine delivery device, including electronic smoking devices.”

SECTION 11. The definition of “Electronic smoking device” in Section 125.010 (Definitions) of Chapter 125 (Tobacco Retail Licensing) of Title XI (Business Regulations) of the City Municipal Code is hereby amended to read as follows:

**“ELECTRONIC SMOKING DEVICE”** means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, or vape pen. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.”

SECTION 12. The definition of **“FLAVORED CANNABIS OR TOBACCO PRODUCT”** in Section 125.010 (Definitions) of Chapter 125 (Tobacco Retail Licensing) of Title XI (Business Regulations) of the City Municipal Code is hereby amended to read as follows:

**“FLAVORED TOBACCO PRODUCT”** means any tobacco product, which imparts a characterizing flavor. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer or any employee or agent of a tobacco retailer has: (i) made a public statement or claim that the tobacco product imparts a characterizing flavor; (ii) used text and/or images on the tobacco retail product’s labeling or retail packaging to explicitly or implicitly indicate that the tobacco product imparts a characterizing flavor; or (iii) taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a characterizing flavor.”

**SECTION 13.** The definition of “Tobacco or Cannabis paraphernalia” in Section 125.010 (Definitions) of Chapter 125 (Tobacco Retail Licensing) of Title XI (Business Regulations) of the City Municipal Code is hereby amended to read as follows:

“**TOBACCO PARAPHERNALIA**’ means any item designed or marketed for the consumption, use, or preparation of tobacco products.”

**SECTION 14.** The definition of “**TOBACCO OR CANNABIS PRODUCT**” in Section 125.010 (Definitions) of Chapter 125 (Tobacco Retail Licensing) of Title XI (Business Regulations) of the City Municipal Code is hereby amended to read as follows:

“**TOBACCO PRODUCT**’ means:

- (1) any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff;
- (2) any electronic smoking device that delivers nicotine and other substances to the person inhaling from the device, including, but not limited to an electronic device, cigarette, electronic cigar, electronic pipe; or
- (3) any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately or any of these contains tobacco or nicotine.

“**TOBACCO PRODUCT**’ does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.”

**SECTION 15.** The definition of “**TOBACCO OR CANNABIS RETAILER**” in Section 125.010 (Definitions) of Chapter 125 (Tobacco Retail Licensing) of Title XI (Business Regulations) of the City Municipal Code is hereby amended to read as follows:

“**TOBACCO RETAILER**” means any person who sells from a retail establishment, offers for sale from a retail establishment, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia from a retail establishment. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.”

SECTION 16. Subsection H of Section 125.020 (Requirements and Prohibitions) of Chapter 125 (Tobacco Retail Licensing) of Title XI (Business Regulations) of the City Municipal Code is hereby amended to read as follows:

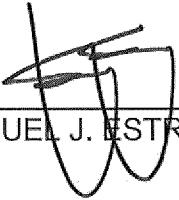
“(H) No tobacco retailer shall sell or offer for sale or possess with the intent to sell or offer for retail sale in the City of Baldwin Park, any flavored tobacco product or any component, part, or accessory intended to impart or imparting a characterizing flavor in any form, to any tobacco product or nicotine delivery device, including electronic smoking devices. There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer or any employee or agent of a tobacco retailer has:

- (1) made a public statement or claim that the tobacco product imparts a characterizing flavor;
- (2) used text and/or images on the tobacco product’s retail labeling or retail packaging to explicitly or implicitly indicate that the tobacco product imparts a characterizing flavor; or
- (3) taken action directed to consumers in the retail business that would be reasonably expected to cause consumers to believe the tobacco product imparts a characterizing flavor.”

SECTION 17. This ordinance shall take effect thirty (30) days after its adoption by the City Council.

SECTION 18. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

PASSED, APPROVED, AND ADOPTED 5<sup>th</sup> day of April 2023.

  
EMMANUEL J. ESTRADA  
MAYOR

ATTEST:  
STATE OF CALIFORNIA }  
COUNTY OF LOS ANGELES }  
CITY OF BALDWIN PARK } SS:

I, Christopher Saenz, City Clerk of the City of Baldwin Park, do hereby certify that the foregoing Ordinance was introduced and placed upon its first reading at a regular meeting of the City Council on March 1, 2023. Thereafter, said Ordinance No. 1501 was duly approved and adopted at a regular meeting of the City Council on April 5, 2023 by the following vote to wit:

AYES:	COUNCIL MEMBERS: AVILA, AYALA, DAMIAN, GARCIA, ESTRADA
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

  
CHRISTOPHER SAENZ  
CITY CLERK

APPROVED AS TO FORM:

  
MARCO A. MARTINEZ  
CITY ATTORNEY