DATE: March 28, 2018

TO: Honorable Mayor and City Councilmembers

FROM: City Manager’s Office

SUBJECT: Council Ad-Hoc Committee Recommendations and Staff Analysis Regarding Medical Marijuana Businesses

SYNOPSIS

Staff recommends that the City Council review the 1) Medical Marijuana Ad Hoc Committee recommendations, 2) City Advisory Group comments, and 3) Staff recommendations; and introduce an ordinance amending the Oceanside Comprehensive Zoning Ordinance (aka 1992 OZO) and Chapter 7 Article XIII of the Oceanside City Code. The purpose of the amendment is to update regulations concerning commercial cannabis uses and allow the establishment and operation of specified commercial medicinal cannabis facilities only in designated zoning districts located east of the coastal zone boundaries, subject to conditions and limitations. The amended text will introduce new land use classifications (Article 4), will update commercial (Article 11), industrial (Article 13) and agricultural (Article 14) zoning district regulations and will modify regulated use provisions (Article 36). City Code Chapter 7 Article XIII, as proposed to be amended, will set forth the criteria and procedures for permits and licenses necessary to establish and operate commercial medicinal cannabis facilities within the City of Oceanside.

BACKGROUND

In 1996 California voters approved Proposition 215, the Compassionate Use Act of 1996 which allowed the use of marijuana (aka cannabis) for medical purposes. In 2015 the California legislature enacted the Medical Marijuana Regulatory & Safety Act (MMRSA) which established a licensing and regulatory framework for commercial cultivation, manufacturing, transportation, distribution, and sale of medical cannabis for those 18 and older. MMRSA went into effect January 1, 2016. In November 2016 California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA established a licensing and regulatory framework for commercial cultivation, manufacturing, distribution, and sale of cannabis for those aged 21 and older. Proposition 64 was approved by 56.9% of Oceanside voters.

After passage of Proposition 64, the State of California developed a licensing framework for marijuana businesses. The framework includes 36 different licenses, of which 18 are for various types of medical marijuana businesses. The State standards are minimum standards, local jurisdictions can adopt more stringent standards or prohibit all
types of cannabis businesses within jurisdictional boundaries, except for limited personal cultivation which local governments may reasonably regulate but not prohibit. Oceanside currently bans all types of marijuana businesses with the exception of medical marijuana deliveries which may be permitted from a dispensary located outside the City of Oceanside with a business license and written approval from the city attorney and police chief subject to specified conditions.

On April 19, 2017, the City Council designated an ad-hoc committee to explore possible regulations allowing for medical marijuana businesses in Oceanside. The ad-hoc committee included Deputy Mayor Chuck Lowery serving as committee Chair, and Councilmember Jerry Kern serving as Vice Chair. The ad-hoc committee held eight public meetings, took tours of medicinal cannabis production facilities, and met with industry experts. On December 20, 2017, the ad-hoc committee presented their report to the City Council and asked the City Council to receive the report and recommendations and forward the recommendations to appropriate staff and advisory boards/commissions for review and comments to be brought back to Council for adoption at a later date. After discussion, the City Council referred the recommendations to staff and advisory boards/commissions for review and comments on a vote of 3-1 (Sanchez voting no) with a provision that the recommendations focus solely on “Medical” Marijuana. The ad-hoc committee’s report is attached as Attachment “C”.

**ANALYSIS**

The ad-hoc committee recommended that the City allow for the following types of medical marijuana activities: cultivation, distribution, manufacturing, retail operations (i.e. dispensaries), testing labs, and nurseries. All of these uses, with the exception of testing labs and nurseries, would be considered regulated uses subject to additional requirements as outlined below. Following is description of each business type, the regulations proposed by the ad-hoc committee, and staff’s analysis. This information is also portrayed in a matrix format as Attachment “D”.

It should be noted that the Police Chief and Fire Chief provided additional comments, attached as Attachments “E” and “F”, outlining their concerns with all types of marijuana businesses. The Police Chief is concerned with increased crime including extortion, theft and robberies of businesses, homes and employees due to the product and cash-only nature of all marijuana businesses, increased loitering, panhandling, homelessness and thefts associated with marijuana dispensaries, and increased incidents of driving under the influence (DUI) and traffic accidents related to marijuana DUIs. The Fire Chief is concerned with increased marijuana related medical calls and ambulance transports, vehicular accidents caused by impairment, exposure to smoke and residue if a fire occurs at a cannabis facility, and lifeguard enforcement of medical marijuana smoking on the public beach.

**Cultivation.** Cultivation is defined as a facility where medical cannabis is propagated, planted, grown, harvested, dried, cured, tagged for tracking or trimmed, or any combination thereof. The ad-hoc committee proposes that medical marijuana
cultivation be permitted in the Agricultural (A) zone as a regulated use requiring both a Conditional Use Permit (CUP) and an Agricultural Activity Permit. Cultivation must be within a fully enclosed, secure structure with no light source visible from the public right of way or any adjacent property.

Staff recommends that medical cannabis cultivation facilities not exceed, either individually or combined, the lesser of either 10% coverage or 22,000 square feet per existing legal lot. These recommendations would ensure that the agricultural character of South Morro Hills is preserved, a balance of agricultural uses is maintained, and would minimize conflicts with the ongoing agritourism effort. Staff also recommends that such businesses only be subject to the approval of a CUP with no Agricultural Activity Permit required as all operational standards typically associated with an Agricultural Activity Permit would be incorporated into the CUP’s conditions of approval.

**Manufacturing.** Manufacturing is the production, preparation, propagation and compounding of medical cannabis/products without the use of a volatile solvent. It includes extracting, infusion, preparation of edibles, and the packaging and labeling of products but excludes cultivation. The ad-hoc committee’s recommendation would permit nonvolatile manufacturing of medical cannabis in the Industrial Limited (IL) and Industrial General (IG) zones as a regulated use subject to a Conditional Use Permit (CUP).

Staff agrees that medical marijuana manufacturing activities are appropriate as a regulated use in the IL and IG zones subject to a CUP and Local License. Local License requirements are described later in this staff report.

**Distribution.** Distribution is defined as a location where medical cannabis/products obtained from a licensed medical cannabis cultivator or manufacturer is temporarily stored, prior to delivery to a medical marijuana dispensary. The ad-hoc committee proposes to permit medical marijuana distribution in the Industrial Limited (IL) and Industrial General (IG) zones as a regulated use subject to a Conditional Use Permit (CUP).

Staff agrees that medical marijuana distribution activities are appropriate as a regulated use in the IL and IG zones subject to a CUP and Local License.

**Medical Cannabis Dispensary.** A medical cannabis dispensary, also known as a retail operation, is a facility wherein medical marijuana/products are offered, individually or in any combination for retail sale, including deliveries. The ad-hoc committee recommendation is to permit medical marijuana dispensaries in the Community Commercial (CC), Special Commercial – Highway Oriented (CS-HO), Industrial Limited (IL) and Industrial General (IG) zones as a regulated use subject to a Conditional Use Permit (CUP). Additionally, medical marijuana dispensaries would be limited to 1 per 40,000 residents. Given Oceanside’s current population of 176,461, a maximum of four dispensaries would be allowed until the population reaches 200,000 residents.
Dispensaries are the only medical marijuana business that are open to the general public, all other types of proposed marijuana businesses are wholesale or business-to-business type operations with controlled access. As such, dispensaries have the greatest potential to create a nuisance and attract crimes of opportunity such as loitering, panhandling, carjacking, and theft. Additionally, dispensary owners and employees are vulnerable to the same types of crimes anticipated with all types of marijuana businesses, such as extortion and robbery. Due to the public nature of dispensary operations, staff has the greatest concern with this proposed use. While the regulated use separation requirements and limits on the number of dispensaries somewhat mitigate these concerns, staff remains concerned about the negative impacts associated with these uses. The CC, CS-HO, IL and IG zones allow and are home to a number of youth and family oriented businesses that are not designated as sensitive uses, such as commercial recreation and entertainment facilities (theaters, sports facilities such as batting cages, arcades, and the like), and retail businesses such as toy stores, grocery stores, hobby stores, and sporting goods.

Staff understands the desire to serve the medical marijuana needs of Oceanside residents by providing the opportunity for medical marijuana dispensaries to locate in Oceanside. However, in order to evaluate the impacts generated by actual medical marijuana dispensaries, the City Council could start with a maximum of two dispensaries and evaluate their performance after twelve months of operations to determine whether to increase to a maximum of one dispensary per 40,000 residents.

**Testing Laboratories.** A testing laboratory is an independently accredited and State licensed facility that offers or performs tests of medical cannabis/products. In the ad-hoc committee proposal, medical marijuana testing laboratories are not considered a regulated use and would be permitted in the Community Commercial (CC), General Commercial (CG) and Special Commercial – Highway Oriented (CS-HO) zones subject to an Administrative Conditional Use Permit (ACUP).

Staff recommends that medical marijuana testing labs be restricted to the Industrial Limited and Industrial General zones subject to an Administrative Conditional Use Permit (ACUP). This recommendation is based on the fact that testing labs are a "back office" type operation with no customer visits. Generally, other types of laboratories are classified as limited industrial and locating these uses in industrial zones will make it less likely that they will be located near businesses patronized by children and families.

**Nursery.** A nursery is a facility that produces only clones, immature plants, seeds and other agricultural products specifically for the propagation and cultivation of medical cannabis. The ad-hoc committee recommendation is that medical marijuana nurseries are not considered a regulated use and nurseries of any size would be allowed in the Agricultural (A) zone with an Administrative Conditional Use Permit (ACUP). Additionally, medical marijuana nurseries no larger than 1,000 square feet would be allowed in the Community Commercial (CC), General Commercial (CG), Special Commercial – Highway Oriented (CS-HO), Industrial Limited (IL) and Industrial General (IG) zones subject to an Administrative Conditional Use Permit (ACUP).
Staff recommends that medical cannabis nurseries be classified as a regulated use limited to the Agricultural zone, and not exceed, either individually or combined, the lesser of either 10% coverage or 22,000 square feet per existing legal lot. This recommendation is based on the fact that nurseries do not involve retail sales to the consumer and their primary functions are more consistent and compatible with agricultural rather than commercial uses. Additionally, the production of seeds inherently involves the cultivation of mature plants and cultivation is limited to the A zone.

**Regulated Uses.** The ad-hoc committee recommends that most medical marijuana businesses, with the exception of nurseries and testing labs, be classified as regulated uses. As such, regulated uses have separation requirements of 1,000 feet from other regulated uses and residential zones, schools, parks, churches and child care facilities.

Staff recommends that the separation requirements also be extended to youth-oriented land uses such as public libraries, youth clubs and community facilities such as public swimming pools and gymnasiums. This requirement will be implemented as part of the Local License process (discussed below) whereby the applicant for a medical cannabis dispensary will need to demonstrate that they are located at least 600 feet from any business catering to families, such as commercial recreational uses, theaters, grocery stores or sporting goods stores. Additionally, staff recommends that regulated medical cannabis uses be excluded from the ability to obtain a waiver of the regulated use locational requirements. This would ensure that sensitive uses are protected from medical marijuana uses.

**Local License Requirements.** In addition to receiving a CUP or ACUP as outlined above and the appropriate State license, all medical marijuana business will be required to obtain a Local License issued by the City Manager or designee. This local license would require a written background check by the Oceanside Police Department, including a criminal background check of operators and employees, documentation of possession of the premises (deed, lease or equivalent), an operating plan, and indemnification, insurance naming city as an additional insured, agreement to defend the City, and assumption of all liability. The Operating Plan shall include the floor plan, employee list, 3rd party tracking software, security plan, video surveillance, alarm system, designated signage, lighting, commercial grade locks, and on site security 24/7.

Staff recommends the addition of a standard that the City Manager or designee can deny issuance of or revoke a local license if “Issuance of the license would impair the health, safety or welfare of the public, cause negative impacts to property values, cause odor created by medical cannabis plants to impact adjacent properties, impair the City's ability to prevent crime associated with medical cannabis, and/or impair the City's ability to ensure that medical cannabis grown, manufactured or sold remains secure and does not find its way to minors, or illicit markets.” This requirement is currently a requirement for employee permits and should also be extended to the local license.

**Employee Permits.** All employees would need an employee permit issued by the City Manager or designee in order to work in a medical marijuana business. This permit
would only be available to those aged 21 years and older and would require a criminal background check, fingerprints, and no conviction within the preceding ten years for possession of a controlled substance for sale, sale of a controlled substance, a violent crime, or a “strike” crime.

**Signage.** The ad-hoc committee recommendations do not address signage therefore the general signage requirements for the respective locations/zones would apply.

*Staff recommends that signage be limited to the business name and address, with no logos, advertising, banners, green crosses or similar insignia. This will ensure that the presence of medical cannabis businesses does not detract from surrounding businesses and minimizes exposure to minors from these types of businesses.*

**Next Steps.** The information contained in this staff report was presented to the Police and Fire Commission on February 20, 2018. After receiving testimony from 18 members of the public including 11 in support of medical marijuana and 6 opposed, the commission had a variety of questions and concerns. They were particularly concerned about Federal prohibitions, public safety impacts and safety of medical marijuana for patients. While they were asked to provide feedback to be shared with the City Council, they unanimously approved (5-0) a motion to not recommend sending the Medical Marijuana Ad-hoc Committee’s recommendations to the City Council.

This report was presented to the Economic Development Commission on March 1, 2018. After receiving testimony from 12 members of the public including 8 in support of medical marijuana businesses and 4 opposed, the commission had a variety of questions concerning the economic impacts of medical marijuana businesses, taxation, banking, and the permitting process. The Chairman of the Economic Development Commission summarized the Commission’s comments as the following three concerns/recommendations:

1. Zealously guard the City’s image and reputation;
2. Take a measured approach including thoughtful research on impacts in other jurisdictions; and
3. Develop and deploy a taxing structure prior to issuing any permits.

This report was presented to the Planning Commission on March 12, 2018. After receiving testimony from 22 members of the public including 17 in support of medical marijuana businesses and 5 opposed, the Planning Commission voted unanimously (7-0) to recommend that the City Council approve amendments to the Zoning Ordinance and Oceanside City Code to set forth regulations for the establishment and operation of medical cannabis facilities. They would also like the City Council to consider increasing the number of dispensaries to 1 per 20,000 population, increasing the lot coverage requirement for agricultural cultivation from 10% to 20%, and allowing waivers of the locational requirements for regulated uses.
Implementation of the Council ad-hoc committee's recommendations will require City Council adoption by ordinance. If adopted on March 28, 2018, the ordinance would become effective on May 11, 2018.

Staff further recommends that an annual report be submitted to the City Council reporting on medical marijuana business activity in Oceanside. This would include the number of licensed and permitted facilities, their current status, and any impacts associated therewith.

**FISCAL IMPACT**

Medical marijuana businesses will generate minimal revenue for the City of Oceanside. This is due to the fact that the City cannot impose a tax on marijuana businesses unless it is approved by the voters. In the absence of voter approval of new local taxes on marijuana businesses, the only local taxes which apply to these businesses are the standard property tax, sales tax, and business license tax that apply to other business types. Sales tax is not applicable if a medical marijuana business requires patients to produce a medical marijuana card issued under H & S Code 11362.71 (issued by Health Departments) and a valid government-issued ID.

Most cities with voter-approved cannabis taxes have a cultivation tax ranging from $1 to $25 per square feet of cultivation and a gross receipts tax of 5-15% of gross receipts. The City of San Diego has an initial gross receipts tax of 5%, increasing to 8% on 7/1/2019 and a voter approved maximum of 15%. Recent reports indicate the City of San Diego is projecting revenue of $5.5 million annually to start, growing to $13.7 million in FY 2022/23. San Diego’s population is approximately eight times that of Oceanside, and they allow both adult use and medical marijuana sales. Therefore, if Oceanside adopted a 5% gross receipts tax, a proportionate revenue estimate is $687,500 to $1,712,500 annually to Oceanside.

The City may impose regulatory fees on medical marijuana businesses, but only to the extent that they offset actual costs to the City. Examples of regulatory fees that would apply to medical marijuana businesses include inspection and permitting fees for Conditional Use Permits, Local Licenses, Employee Permits and Fire Inspections. Staff estimates that it will take 180 days to develop a legally defensible regulatory fee structure for City Council consideration.

Staff recommends that regulatory fees be created for all medical marijuana businesses prior to accepting applications for any type of medical marijuana business. Furthermore, staff recommends that a taxing framework be developed for marijuana businesses and presented for voter approval in the November 2020 city elections. This will allow adequate time to assess actual impacts from marijuana legalization as well as the effectiveness of taxes in other jurisdictions in order to determine the appropriate taxing rate for Oceanside.
ENVIRONMENTAL DETERMINATION

The proposed ordinance, in and of itself would not occasion land development or any other material change to the environment. Projects subject to the amended zoning and municipal code provisions would be subject to separate CEQA review. Therefore, in accordance with the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), there is no possibility the proposed zoning text amendment would have a significant effect on the environment and is not subject to CEQA.

CITY ATTORNEY’S ANALYSIS

The City Attorney has drafted, and approved as to form, the Zoning Ordinance and City Code amendments consistent with the staff recommendation.

RECOMMENDATION

Staff recommends that the City Council review the 1) Medical Marijuana Ad Hoc Committee recommendations, 2) City Advisory Group comments, and 3) Staff recommendations; and introduce an ordinance amending the Oceanside Comprehensive Zoning Ordinance (aka 1992 OZO) and Chapter 7 Article XIII of the Oceanside City Code. The purpose of the amendment is to update regulations concerning commercial cannabis uses and allow the establishment and operation of specified commercial medicinal cannabis facilities only in designated zoning districts located east of the coastal zone boundaries, subject to conditions and limitations. The amended text will introduce new land use classifications (Article 4), will update commercial (Article 11), industrial (Article 13) and agricultural (Article 14) zoning district regulations and will modify regulated use provisions (Article 36). City Code Chapter 7 Article XIII, as proposed to be amended, will set forth the criteria and procedures for permits and licenses necessary to establish and operate commercial medicinal cannabis facilities within the City of Oceanside.

PREPARED BY:  
Deanna Lorson  
Assistant City Manager

SUBMITTED BY:  
Michelle Skaggs Lawrence  
City Manager

REVIEWED BY:

Frank McCoy, Police Chief  
Rick Robinson, Fire Chief  
Jonathan Borrego, Development Services Director  
John Mullen, City Attorney  
Jane McPherson, Financial Services Director
Attachments:

A. Planning Commission Resolution No. 2018-P11
B. Ordinance
C. December 20, 2017 Report of Findings from the Medical Marijuana Ad-hoc Committee
D. Matrix Summary of Business Types
E. Memo from Police Chief Frank McCoy
F. Memo from Fire Chief Rick Robinson
G. Notice of Exemption
PLANNING COMMISSION
RESOLUTION NO. 2018-P11


APPLICATION NO: ZA18-00002
APPLICANT: City of Oceanside
LOCATION: Citywide

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

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

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

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

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

WHEREAS, the California Legislature enacted Senate Bill 420 in 2003, the Medical Marijuana Program Act (codified at Health and Safety Code Section 11362.7 et seq.) ("MMPA"), as amended, which created a state-wide identification card scheme for qualified patients and primary caregivers; and
WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA"), effective January 1, 2016, which establishes a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit cannabis cultivation, manufacturing, dispensing, and delivery within their jurisdictions. Under the MMRSA, cities and counties may continue to ban medical cannabis cultivation, manufacturing, dispensing, and/or delivery, in which case the new law would not allow or permit these activities within the cities and counties; and

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

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

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

WHEREAS, the City Council added Chapter 7, Article XIII to the Oceanside City Code on January 20, 2016 to prohibit cannabis cultivation and delivery activities within the City of Oceanside for the express and specific purpose of preserving the City’s authority to ban and/or adopt future regulations pertaining to cannabis cultivation

WHEREAS, the City of Oceanside’s permissive Zoning Code does not list commercial cannabis activities as permitted uses in any zoning district in the City and, therefore, such uses are not presently allowed anywhere in the City; and

WHEREAS, the City Council adopted Ordinance 17-OR0234-1 on April 19, 2017 prohibiting all commercial non-medical cannabis businesses; and
WHEREAS, the California State Legislature adopted SB 94 in June 2017. The budget trailer bill took effect immediately and repeals the Medical Cannabis Regulation and Safety Act ("MCRSA"), passed in 2015, and incorporates many of MCRSA’s provisions into Prop 64. The new comprehensive regulatory system, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). SB 94 clarifies that cities and counties retain full land use authority as to cannabis businesses; cities and counties may prohibit such businesses entirely, allow only some, or allow them with locally developed regulations that fit local needs. SB 94 also establishes that local jurisdictions retain the authority to regulate cannabis businesses, may take enforcement action concerning Fire and Building Codes, conduct inspections, and implement audits.

WHEREAS, under SB 94, the state is now required to notify a local jurisdiction when it receives an application for commercial cannabis activity in that jurisdiction. The city or county then has 60 business days to notify the state whether the applicant is in compliance with local regulations. Although proof of authorization from a city or county is not required, an applicant may voluntarily include this information with its state application. The state is also prohibited from issuing a cannabis license if issuance would violate any local ordinance; and

WHEREAS, the City’s General Plan Land Use Element includes the objective of ensuring “the enhancement of long term community and neighborhood values through effective land use planning;” and

WHEREAS, subject to certain requirements and limitations, the City now desires to consider allowing specified commercial medical cannabis facilities only in designated zoning districts, subject to the conditions and limitations set forth in Exhibits A and B, to provide for the health, safety and welfare of the public, to prevent negative impacts to property values, to prevent odor created by cannabis plants from impacting adjacent properties, to prevent crime associated with cannabis, and to ensure that cannabis grown for medical purposes remains secure and does not find its way to non-patients, minors, or illicit markets; and

WHEREAS, the Planning Commission did, on the 12th day of March, 2018, conduct a duly advertised public hearing as prescribed by law to consider staff recommendations for zoning text amendments to the Oceanside Comprehensive Zoning Ordinance and City Code; and
WHEREAS, pursuant to the provisions of the California Environmental Quality Act (hereinafter “CEQA”) (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.), the City has determined that the proposed ordinance amendment is exempt pursuant to Section 15061(b)(3) of Title 14 the California Code of Regulations; and

WHEREAS, a Notice of Exemption was prepared by the Resource Officer of the City of Oceanside for this project pursuant to the California Environmental Quality Act of the 1970 and State Guidelines;

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts pertaining to the proposed Zoning Text Amendments:

1. The proposed text amendments conform to the General Plan of the City in that they set forth regulations that maintain community character and neighborhood values through effective land use planning by allowing specified cannabis uses only in designated zoning districts subject to the conditions and limitations set forth in Exhibits A and B, thus providing for the health, safety and welfare of the public;

2. That the granting of the Zoning Text Amendments is consistent with the purposes of the Oceanside Comprehensive Zoning Ordinance, and Municipal Code Chapter 7 and will ensure application of permitting procedures for cannabis facilities in the best interest of the City.
NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend approval of Zone Amendment (ZA18-00002) and associated City Code amendment to Chapter 7 Article XIII as represented in the attached Exhibit "A" and "B".

PASSED AND ADOPTED Resolution No. 2018-P11 on March 12, 2018 by the following vote, to wit:

AYES: Scrivener, Busk, Martinek, Troisi, Balma, Balch and Krahel
NAYS: None
ABSENT: None
ABSTAIN: None

John A. Scrivener, Chairperson
Oceanside Planning Commission

ATTEST:

Jeff Hunt, Secretary

I, JEFF HUNT, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2018-P11.

Dated: March 12, 2018

5
ORDINANCE NO.


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

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

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

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

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

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

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

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

WHEREAS, the MMRSA expressly allows cities and counties to ban cannabis businesses consistent with current state law; and

WHEREAS, the City Council of the City of Oceanside ("City Council") added Chapter 7, Article XIII to the Oceanside City Code on January 20, 2016 to prohibit cannabis cultivation and delivery activities within the City of Oceanside for the express and specific purpose of preserving the City’s authority to ban and/or adopt future regulations pertaining to cannabis cultivation and delivery as is required by California Health and Safety Code section 11372.777(c)(4), effective January 1, 2016; and

WHEREAS, on March 16, 2016, the Oceanside City Council added section 7.113 to Chapter 7, Article XIII of the Oceanside City Code to permit and regulate medical cannabis delivery services that originate from licensed dispensaries in other jurisdictions; and

WHEREAS, in adopting Ordinances 16-OR0041-1, and 16-OR0156-1, the City Council of the City of Oceanside made findings regarding the impacts associated with commercial cannabis activities and these findings are incorporated herein by reference and ratified; and

WHEREAS, Proposition 64 was adopted by the electorate on November 8, 2016 and authorizes the personal cultivation of up to six cannabis plants in a private residence for non-medical purposes; and
WHEREAS, Proposition 64 allows cities to enact reasonable regulations for the cultivation of non-medical cannabis that occurs inside a residence or accessory structure and may completely prohibit outdoor non-medical cultivation until such time as the California Attorney General determines that the non-medical use of cannabis is lawful in California under federal law. No such determination has yet been made; and

WHEREAS, Proposition 64 regulates the commercial activity of non-medical cannabis enterprises and assigns certain state agencies with regulatory tasks regarding commercial non-medical cannabis. Proposition 64 authorizes specified state agencies to issue licenses for commercial non-medical cannabis businesses; and

WHEREAS, Proposition 64 includes Business and Professions Code section 26200 which recognizes that a city may regulate or completely prohibit within its jurisdiction the establishment or operation of one or more types of non-medical cannabis businesses licensed by the state; and

WHEREAS, the City of Oceanside’s permissive Zoning Code does not list commercial cannabis activities as permitted uses in any zoning district in the City and, therefore, such uses are not presently allowed anywhere in the City; and

WHEREAS, the City Council adopted Ordinance 17-OR0234-1 on April 19, 2017 prohibiting all commercial non-medical cannabis businesses; and

WHEREAS, the California State Legislature adopted SB 94 in June 2017. The budget trailer bill took effect immediately and repeals the Medical Cannabis Regulation and Safety Act (“MCRSA”), passed in 2015, and incorporates many of MCRSA’s provisions into Prop 64. The new comprehensive regulatory system, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). SB 94 clarifies that cities and counties retain full land use authority as to cannabis businesses; cities and counties may prohibit such businesses entirely, allow only some, or allow them with locally developed regulations that fit local needs. SB 94 also establishes that local jurisdictions retain the authority to regulate cannabis businesses, may take enforcement action concerning Fire and Building Codes, conduct inspections, and implement audits.
WHEREAS, under SB 94, the state is now required to notify a local jurisdiction when it receives an application for commercial cannabis activity in that jurisdiction. The city or county then has 60 business days to notify the state whether the applicant is in compliance with local regulations. Although proof of authorization from a city or county is not required, an applicant may voluntarily include this information with its state application. The state is also prohibited from issuing a cannabis license if issuance would violate any local ordinance; and

WHEREAS, subject to certain requirements and limitations, the City now desires to allow the commercial cultivation of medical cannabis and specified commercial medical cannabis businesses only in designated zoning districts subject to the conditions and limitations set forth in Exhibits A and B, to provide for the health, safety and welfare of the public, to prevent negative impacts to property values, to prevent odor created by cannabis plants from impacting adjacent properties, to prevent crime associated with cannabis, and to ensure that cannabis grown for medical purposes remains secure and does not find its way to non-patients, minors, or illicit markets; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (hereinafter “CEQA”) (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.), the City has determined that the Ordinance is exempt pursuant to Section 15061(b)(3) of Title 14 the California Code of Regulations;

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

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

SECTION 2: Zone Amendment (ZA 18-00002) amending Articles 4, 11, 13, 14 and 36 of the 1992 Zoning Ordinance, as specified in Exhibit A, is hereby adopted.

SECTION 3 Chapter 7, Article XIII, of the Oceanside City Code, as specified in Exhibit B, is hereby adopted.

SECTION 3: The City Clerk of the City of Oceanside is hereby directed to publish this Ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15) days after its passage in a newspaper of general circulation published in the City of Oceanside.
SECTION 4. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 5. This ordinance shall be effective 30 days after its adoption for those areas outside of the Coastal Zone. Although this ordinance does not identify any zones within the Coastal Zone where any commercial cannabis businesses may be established, the amendments to Articles 4 and 36 apply citywide. Therefore, Articles 4 and 36 shall not be effective within the Coastal Zone until the City Council adopts a resolution approving a local coastal program amendment to amend these sections and said amendment is unconditionally certified by the Coastal Commission.

INTRODUCED at a regular meeting of the City Council of the City of Oceanside, California, held on the _____ day of ________, 2018, and, thereafter,

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside, California, held on the _____ day of ________, 2018, by the following vote:

AYES:
NAYS:
ABSENT:
ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

ATTEST:  
APPROVED AS TO FORM:  

CITY CLERK  
CITY ATTORNEY
Article 4 Use Classifications (Inland & Coastal Districts – Exclusive of Downtown)

Sections:

410 Purpose and Applicability

Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The City Planner shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this Title. The City Planner may determine that a specific use shall not be deemed to be within a classification, whether or not named within the classification, if its characteristics are substantially incompatible with those typical of uses named within the classification. The City Planner’s decision may be appealed to the Planning Commission.

411 Uses Not Classified

Any new use, or any use that cannot be clearly determined to be in an existing use classification is prohibited. Provided, however, that any new use may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 45.

412 Residential Use Classifications

A. Day Care, Limited. Non-medical care and supervision of up to and including fourteen persons on a less than 24-hour basis within a licensee’s home for children and adults.

B. Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes roominghouse/boardinghouse, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).

C. Live/Work Quarters. An area comprising one or more rooms in a building originally designed for industrial or commercial occupancy that includes cooking space, sanitary facilities, and working space for artists, artisans and similarly activities and Custom
Industry uses as defined herein.

D. Multifamily Residential. Two or more dwelling units on a site. This classification includes mobile home and factory-built housing.

E. Residential Care, Limited. Twenty-four-hour non-medical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.

F. Single-Family Residential. Buildings containing one dwelling unit located on a single lot. This classification includes mobile home and factory-built housing.

G. RV Parks. A facility renting or leasing space on a short-term or long-term basis to owners or users of recreational vehicles, not for permanent residence.

413 Public and Semipublic Use Classifications

A. Airport. Runways and related facilities for airplane landing and take-off.

B. Cemetery. Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes. Cemetery purposes include columbariums, crematoriums, mausoleums, and mortuaries operated in conjunction with the cemetery.

C. Child Care. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity, and not within a licensee's home for persons under the age of 18.

D. Clubs and Lodges. Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs, youth, and senior centers.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

E. Convalescent Facilities. Establishments providing care on a 24-hour basis for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services.

F. Cultural Institutions. Nonprofit institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries, museums, and art galleries.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

G. Day Care, General. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity, and not within a licensee's home for persons over the age of 18.
H. Detention Facilities. Publicly owned and operated facilities providing housing, care, and supervision for persons confined by law.

I. Emergency Health Care. Facilities providing emergency medical service with no provision for continuing care on an inpatient basis.

J. Emergency Shelter. Overnight sleeping accommodations intended to provide temporary housing to homeless families and/or individuals. Such accommodations may include basic supportive services such as food, shower and rest room facilities, laundry room, storage areas, and limited administrative or intake offices.

K. Government Offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

L. Heliports. Pads and facilities enabling takeoffs and landings by helicopters.

M. Hospitals. Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for outpatient treatment, as well as training, research, and administrative services for patients and employees.

N. Maintenance and Service Facilities. Facilities providing maintenance and repair services for vehicles and equipment, and materials storage areas. This classification includes corporation yards, equipment service centers, and similar facilities.

O. Marinas. A boat basis with docks, mooring facilities, supplies and equipment for boats.

P. Park and Recreation Facilities. Noncommercial parks, playgrounds, recreation facilities, and open spaces.

Q. Public Safety Facilities. Facilities for public safety and emergency services, including police and fire protection.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

R. Religious Assembly. Facilities for religious worship and incidental religious education and other religious facility related supportive and social services. This use classification specifically excludes private schools as defined in this section.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

S. Residential Care, General. Twenty-four hour non-medical care for seven or more
persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.

T. Resource Centers. Neighborhood facilities that are City-sponsored or under the control of the City and are used for neighborhood safety, enhancement, education, health care, and other similar neighborhood programs.

U. Schools, Public or Private. Educational institutions having a curriculum comparable to that required in the public schools of the State of California.

V. Transitional Housing. Transitional housing encompasses both housing and appropriate supportive services for homeless persons designed to enable them to move to independent living within a 24-month period.

W. Utilities, Major. Generating plants, electrical substations, aboveground electrical transmission lines, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or waste water treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification.

X. Utilities, Minor. Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines, and recycling centers within convenience zones, as defined by the California Beverage Container Recycling and Litter Reduction Act.

414 Commercial Use Classifications

A. Adult Business. An Adult Business is any business, where employees, independent contractors, or patrons expose "specified anatomical areas" or engage in "specified sexual activities," or any business which offers to its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities or "specified anatomical areas".

A use which has a majority of its conduct of activities, floor area, stock-in-trade, or revenue derived from, material characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas", shall be considered to be an Adult Business.

Adult Businesses do not include bona fide medical establishments operated by properly licensed and registered medical personnel with appropriate medical credentials for the treatment of patients.

Adult Businesses include, but are not limited to the following:
Exhibit “A”

1. Adult Bookstore/Novelty Store/Video Store. An establishment which has: (1) a substantial or significant portion of its gross revenues or of its stock in trade, books, magazines, and other periodicals or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas"; or (2) a substantial or significant portion of its stock in trade, instruments, devices or paraphernalia designed for use in connection with "Specified Sexual Activities".

2. Adult Entertainment Business. Any establishment that (1) is customarily only open to adults and excludes minors by reason of age, and (2) devotes a substantial or significant portion of its stock in trade to the sale or display of instruments, devices, or paraphernalia which are designed for use in connection with “Specified Sexual Activities”.

3. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features: (1) persons who appear in a state of nudity; or (2) live performances which are characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities"; or (3) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".

4. Adult Motel. A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".

5. Adult Motion Picture Theater. An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.

6. Adult Theater. A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

7. Figure Studio. Any premises on which the business of furnishing nude models who pose for the purpose of being photographed, sketched, painted, drawn or observed by persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity to depict or observe the model, or for admission to, or for permission to remain upon, or as a condition for remaining upon, the premises.

The term model shall include: Any person, male or female, who poses nude to be
photographed, sketched, painted, drawn or observed.

The term nude shall include: Completely without clothing; or with any pubic area exposed; or with the pubic area covered in such a manner that the private parts are visible or the form thereof discernible; or with the breasts exposed by female so that the nipples thereof are exposed.

"Figure studio" does not include any studio or classroom which is operated by any public agency, or any private post secondary educational institution authorized by California state law to issue and confer a diploma or degree.

8. Peep-Show Establishment. Peep-Show Establishment as defined in the Oceanside City Code.

B. Ambulance Services. Provision of emergency medical care or transportation, including incidental storage and maintenance of vehicles.

C. Animal Sales and Services.

1. Animal Boarding. Provision of shelter and care for animals on a commercial basis. This classification includes activities such as feeding, exercising, grooming, and incidental medical care.

2. Animal Grooming. Provision of bathing and trimming services for animals on a commercial basis. This classification includes boarding of domestic animals for a maximum period of 48 hours.

3. Animal Hospitals. Establishments where animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed, soundproofed, and air-conditioned. Grooming and temporary (30 days) boarding of animals is included if incidental to the hospital use.

4. Animals: Retail Sales. Retail sales and boarding of animals provided such activities take place within an entirely enclosed building. This classification includes grooming if incidental to the retail use, and boarding of animals not offered for sale for a maximum period of 48 hours.

D. Artists Studios. Work and display space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

E. Banks and Savings and Loans. Financial institutions that provide retail banking services to individuals and businesses. This classification is limited to institutions engaged in the on-site circulation of cash money including businesses offering check-cashing facilities.

1. Drive-through/Drive-up Service. Institutions providing self-service banking facilities
that are not associated with a primary banking or savings and loan building located on the same site.

2. **Self-service Facilities (ATM's).** Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.

F. **Bars and Cocktail Lounges.** Any premises designed, used or intended to be used for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food is not sold or served to the public as in a bona fide restaurant. Ancillary tasting facilities associated with craft breweries and craft wineries shall not be considered to constitute bars or cocktail lounges as here defined.

G. **Bath Houses.** Any establishment or business which has as its primary activity or service the provision of communal or private bathing in a sauna, jacuzzi or other therapeutic bath, save and except for bathing conducted as part or a hydrotherapy treatment practiced by or under the supervision of a medical practitioner who is formally associated therewith.

H. **Brewery, Craft.** A small-scale beer manufacturing facility that includes designated floor area (comprising no less than 20 percent and no more than 40 percent of the total floor area) for product sampling and/or retail sales of beer conforming to state requirements. Retail sales of craft brewery merchandise including mugs, pint glasses, growlers, tap handles, coasters, apparel, signs, bottle openers, and books are also permitted. A craft brewery shall produce a minimum of 250 barrels annually and not exceed a maximum output of 15,000 barrels annually (with a barrel of beer being equal to 31 U.S. gallons). Facilities housing a craft brewery shall not exceed 15,000 square feet of floor area. The category of a craft brewery (based upon floor area and scale of operation) shall determine the appropriate review and approval process, as specified below. Such facilities shall be subject to the following limitations:

1. Other than business name and/or logo, such uses shall not display exterior signage (including advertising directed to the exterior from interior spaces) that promotes the availability of alcoholic beverages.

2. There shall be no amusement or video machines maintained on the premises.

3. There shall be no “happy hour” or regular periods of reduced-priced alcoholic beverages.

4. Amplified live entertainment shall require issuance of an Administrative Use Permit.

5. Ancillary food service involving outdoor equipment (e.g., food trucks) shall require issuance of an Outdoor Facilities Permit.

6. Delivery/distribution activities involving Class 4 or higher vehicles shall not occur between the hours of 10 p.m. and 7 a.m.
7. Hours of operations shall not extend beyond 10 p.m., unless extended hours of operation are approved through a Conditional Use Permit.

Craft breweries shall be regulated under the following tiered review and approval process:

1. Tier 1: Produces at least 250 and no more than 10,000 barrels annually and does not exceed 10,000 square feet of floor area. Tier 1 facilities are subject to approval of an Administrative Conditional Use Permit (ACUP) when not abutting residential zoning districts, schools, and/or churches. Tier 1 facilities abutting residential zoning districts, schools, and/or churches are subject to approval of a Conditional Use Permit (CUP).

2. Tier 2: Produces at least 750 and no more than 15,000 barrels annually and does not exceed 15,000 square feet of floor area. Tier 2 facilities are subject to approval of a Conditional Use Permit (CUP).

I. Building Materials and Services. Retailing, wholesaling, or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, and building contractors' yards, but excludes establishments devoted exclusively to retail sales of paint and hardware, and activities classified under Vehicle/Equipment Sales and Services, including vehicle towing services.

J. Catering Services. Preparation and delivery of food and beverages for off-site consumption with provision for on-site pickup or consumption not to exceed 1,000 square feet. (See also Eating and Drinking Establishments.)

K. Commercial Recreation and Entertainment. Provision of participant or spectator recreation or entertainment. This classification includes theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, pool rooms, dance halls, ice/roller skating rinks, golf courses, miniature golf courses, scale-model courses, shooting galleries, tennis/racquetball courts, arcades and games centers having five or more coin-operated game machines and card rooms.

1. Dance Establishment. Any premises wherein a public dance, as defined in the Oceanside City Code, is held.

2. Pool Rooms, Billiard Rooms, and Shooting Galleries. Pool rooms, billiard rooms, and shooting galleries as defined in the Oceanside City Code.

3. Arcades and Game Centers. Any place having five or more coin-operated, slug-operated, or any type of amusement or entertainment machines for which payment is necessary for operation. These include, but are not limited to pinball machines and video games, but do not include merchandise vending machines or mini-jukeboxes (See Section 3027, Arcades and Game Centers).
4. **Limited.** Indoor movie theaters and performing arts theaters.

5. **Small-scale.** Establishments occupying no more than 5,000 square feet.

L. **Communications Facilities.** Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major). This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.

M. **Food and Beverage Kiosk.** An establishment that provides walk-up and/or drive-thru food and beverage services only through a kiosk window for off-site consumption. The sale and consumption of alcoholic beverages is prohibited.

N. **Food and Beverage Sales.** Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries, liquor stores, or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments.

1. **Convenience Markets.** Retail sales of food, beverage and small convenience items typically found in establishments with long or late hours of operation. This definition excludes delicatessens and other specialty food shops having a sizeable assortment of fresh fruits and vegetables, and fresh-cut meat or fish.

2. **Liquor Store.** A place or business engaged in the primary business of off-sale alcoholic beverages. For the purposes of this ordinance, primary business shall mean 25 percent or more of the shelf area of a business.

O. **Funeral and Interment Services.** Establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries. Typical uses include crematories, columbariums, mausoleums or mortuaries.

P. **Home Improvement.** Retailing or wholesaling of goods to be used for home improvements or the furnishing of homes. This classification is limited to specialty businesses in which the primary inventory of the business includes one of the following merchandise; furniture, carpet and other floor coverings, window coverings, wall coverings, bed and bath products, kitchen remodels, doors and windows, garage doors, glass, paint, mattresses, cabinets and shelves, fireplaces, patios, lighting materials, pool and spas, and similar uses. This use classification does not include a comprehensive home improvement store.

Q. **Horticulture, Limited.** The raising of fruits, vegetables, flowers, ornamental trees and shrubs on sites of 2.5 acres or less, as a wholesale commercial enterprise, provided that nursery equipment or materials necessary for the operation shall be stores on-site within
structures. Wholesale commercial horticulture accessory to a dwelling unit shall be regulated as a home occupation. On-site Agricultural Sales Stands may be allowed subject to the location and development standards of Section 3038.

R. Laboratories. Establishments providing medical or dental laboratory services; or establishments with less than 2,000 square feet providing photographic, analytical, or testing services. Other laboratories are classified as Limited Industry.

S. Maintenance and Repair Services. Establishments providing appliance repair, office machine repair, or building maintenance services. This classification excludes maintenance and repair of vehicles or boats and ships (see Vehicle/Equipment Repair and Marine Sales and Services).

T. Marine Sales, Rentals, and Services. Establishments providing supplies and equipment for shipping or related services, or pleasure boating and recreation. Typical uses include chandlery, yacht brokerage, sales, boat yards, boat docks, and sail-making lofts.

U. Nurseries. Wholesale or retail establishments for the selling of plants, shrubs, trees and related products in which all merchandise other than plants is kept within an enclosed building or a fully screened enclosure, and fertilizer or chemicals of any type are stored and sold in package form only. Nurseries may include the growing and propagation of plants as part of the operation. This classification excludes medical Cannabis Nurseries.

V. Offices, Business and Professional. Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, real estate, insurance, investment, legal, and medical/dental offices. This classification includes medical/dental laboratories incidental to an office use, but excludes banks and savings and loan associations.

W. Payday Loan/Paycheck Advance Establishment. A person or entity that for compensation, engages in whole or in part, in the business of lending limited amounts of funds for a short-term, against the borrower’s future paychecks. The aforementioned definition excludes State or federally chartered banks, savings associations, credit unions, or industrial loan companies offering direct deposit advance service to their customer that is incidental to their main purpose or business.

X. Pawn Shops. Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans secured by personal property and subject to Chapter 22 of the Municipal Code.

Y. Personal Improvement Services. Provision of instructional services or facilities, including: photography, fine arts, crafts, dance or music studios; driving, business or trade schools; diet centers, or reducing salons; and health/fitness studios, spas or clubs.

1. Health/Fitness Studios, Spas or Clubs. Establishments with equipment for exercise
2. **Massage Establishments.** Establishments providing massage service.

3. **Small Scale.** Establishments occupying no more than 5,000 square feet.

Z. **Personal Services.** Provision of services of a personal nature. This classification includes: tattooing establishments, body piercing establishment, escort services, barber and beauty shops, seamstresses, tailors, shoe repair shops, laundry and dry cleaning agencies (excluding large-sale plants - see Section 15.C.1), photo-copying, word processing, packaging, postal and office supply support facilities, and self-service laundries.

1. Tattooing Establishment. Any establishment or business engaged in "tattooing" as defined in the Oceanside City Code, excluding “micropigmentation” or “permanent cosmetic makeup” typically provided at beauty salon or day spas.

2. Body Piercing Establishment. Any establishment or business engaged in “body piercing”. Body piercing means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to, piercing of an ear, lip, tongue, nose, eyebrow, naval, male genitals, female breasts or female genitals. “Body piercing” does not include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

3. Escort Services. Any premises where patrons can purchase the social company or companionship of another person.

4. **Limited.** Excludes laundry and dry cleaning agencies and self-service laundries.

5. **Small-scale.** Establishments occupying no more than 2,500 square feet.

AA. **Research and Development Services.** Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic research firms, pharmaceutical research laboratories, and medical testing and analysis, but excludes manufacturing, except of prototypes. **This classification excludes Medical Cannabis Testing Laboratories.**

BB. **Restaurants. Fast Food.** A bona fide restaurant establishment where the principal business is the sale of prepared or rapidly prepared food and beverages to guests via counter, walk up, or window service for consumption on or off the premises. The sale of beer and wine for on-site consumption is permitted. As used in this definition, a “bona fide” restaurant shall have suitable kitchen facilities for cooking and/or preparation of meals. The word “meals” means the assortment of food commonly ordered at various hours of the day.
1. **Restaurants, Fast Food with Drive-thru or Drive-up.** A restaurant establishment providing service from a building to patrons in vehicles through an outdoor service window (Drive-thru) or delivery service to vehicles parked in designated parking spaces (Drive-up). The sale and consumption of alcoholic beverages at a restaurant with a Drive-thru or Drive-up window is prohibited.

CC. **Restaurant Full Service.** A bona fide restaurant establishment where the principal business is the sale of food and beverages to guests via table service for consumption on the premises. The sale of beer and wine for on-site consumption shall be considered incidental to the full service restaurant. Delivery service to vehicles parked in designated parking spaces (i.e. drive-up) is allowed as an ancillary service to the Restaurant Full Service. As used in this definition, a “bona fide” full service restaurant shall have suitable kitchen facilities for cooking of complete meals. The word “meals” means the assortment of foods commonly ordered at various hours of the day; the service of only such foods as sandwiches or salads does not meet the bona fide restaurant definition.

1. **Restaurants Full Alcohol.** A bona fide restaurant establishment authorized to sell distilled spirits for consumption on licensed premises. The sale of liquor is included as an appurtenant use to full service restaurants having table seating and service for more than 50 guests.

2. **Restaurants Full Service with Live Entertainment – (Small Scale).** Restaurant establishments providing live entertainment to patrons with 5 or fewer performers at restaurant facilities with no dance floor during typical lunch and dinner hours (11:00 a.m. – 11:00 p.m.) and having 75 percent food sales compared to alcohol sales.

DD. **Retail Sales.** The retail sale of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, comprehensive home improvement stores, furniture stores, and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies (including limited processing), electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, antiques, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

1. **Limited.** Excludes comprehensive home improvement stores, furniture, hardware, paint and wallpaper, carpeting and floor covering, and new automotive parts and accessories.

2. **Pharmacies and Medical Supplies.** Establishments primarily selling prescription drugs, and medical supplies and equipment.

EE. **Secondhand Furniture, Appliance, "Collectible" and Clothing Sales.** The retail sale of used furniture, appliances, "collectibles" and clothing, and secondhand dealers who are
subject to Chapter 22 of the Municipal Code. This classification excludes antique shops primarily engaged in the sale of antique furniture and accessories.

1. **Small-scale.** Establishments occupying no more than 5,000 square feet.

**FF. Sex Supermarket/Sex Mini-Mall.** The establishment or operation within the same building of more than one of any of the following Adult Businesses: adult bookstore or adult video store, adult cabaret, adult entertainment business, adult motion picture theater, adult theater, or peep-show establishment.

**GG. Swap Meets, Recurring.** Retail sale or exchange of handcrafted or secondhand merchandise for a maximum period of 48 hours, conducted by a sponsor on a more than twice yearly basis.

**HH. Tobacco and Drug Paraphernalia Establishment.** Any tobacco and drug paraphernalia establishment, as defined in the Oceanside City Code.

**II. Travel Services.** Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

**JJ. Vehicle/Equipment Sales and Services.**

1. **Automobile Washing.** Washing, waxing, or cleaning of automobiles or similar light vehicles.

2. **Commercial Parking Facility.** Lots offering short-term or long-term parking to the public for a fee.

3. **Service Stations.** Establishments engaged in the retail sale of gas, diesel fuel, lubricants, parts, and accessories. This classification includes incidental maintenance and repair of automobiles and light trucks, but excludes body and fender work or repair of heavy trucks or vehicles.

4. **Vehicle/Equipment Repair.** Repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes auto repair shops, body and fender shops, wheel and brake shops, and tire sales and installation, but excludes vehicle dismantling or salvage and tire retreading or recapping.

   (a) **Limited.** Excludes body and fender shops.

5. **Vehicle/Equipment Sales and Rentals.** Sale or rental of automobiles, motorcycles, trucks, tractors, construction or agricultural equipment, mobile homes, and similar equipment, including storage and incidental maintenance.
6. **Vehicle Storage.** Storage of operative or inoperative vehicles. This classification includes storage of parking tow-aways, impound yards, and storage lots for automobiles, trucks, buses and recreational vehicles, but does not include vehicle dismantling.

   (a) **Limited.** Storage of operable passenger automobiles, standard and small vans and motorcycles.

**KK. Visitor Accommodations.**

1. **Bed and Breakfast Inns.** Establishments offering lodging on a less than weekly basis in a converted single-family or multi-family dwelling, with incidental eating and drinking service for lodgers only provided from a single kitchen.

   (a) **Small-scale.** Establishments renting four or fewer rooms.

2. **Hotels, Motels, and Time-Share Facilities.** Establishments offering commercial lodging on a less than monthly basis. This classification includes incidental eating, drinking, and banquet services intended for the convenience of guests.

3. **Single-Room Occupancy (SRO) Residential Hotels.** Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.

4. **Vacation Club.** Prepaid point or credit based establishments offering lodging on a less than weekly basis and having kitchens. This classification includes eating, drinking and banquet services.

**LL. Warehousing and Storage, Limited.** Provision of storage space for household or commercial goods within an enclosed building. Access to individual storage units shall be via an interior access way. Exterior entry to individual storage units shall not be permitted. This classification includes facilities with a maximum of 5,000 square feet of gross floor area, but excludes Wholesale, Distribution and Storage, and Vehicle Storage. "Limited" vehicle storage as part of a Warehousing and Storage, Limited, facility is permitted subject to the approval of a Conditional Use Permit.

**MM. Winery, Craft.** A small-scale winemaking facility that includes designated floor area (comprising no less than 20 percent and no more than 40 percent of the total floor area) for product sampling and/or retail sales of wine conforming to state requirements. Retail sales of craft winery merchandise including wine glasses, wine bottles, decanters, corkscrews, home décor, apparel, signs, books, and other wine paraphernalia are also permitted. A craft winery shall produce a minimum of 300 cases annually and not exceed a maximum output of 10,000 standard cases annually (with a standard case of wine containing twelve 750 ml bottles or nine.
Exhibit “A”

1. Other than business name and/or logo, such uses shall not display exterior signage (including advertising directed to the exterior from interior spaces) that promotes the availability of alcoholic beverages.

2. There shall be no amusement or video machines maintained on the premises.

3. There shall be no “happy hour” or regular periods of reduced-priced alcoholic beverages.

4. Amplified live entertainment shall require issuance of an Administrative Use Permit (ACUP).

5. Ancillary food service involving outdoor equipment (e.g., food trucks) shall require issuance of an Outdoor Facilities Permit.

6. Delivery/distribution activities involving Class 4 or higher vehicles shall not occur between the hours of 10 p.m. and 7 a.m.

7. Hours of operations shall not extend beyond 10 p.m., unless extended hours of operation are approved through a Conditional Use Permit.

Craft wineries shall be regulated under the following tiered review and approval process:

1. Tier 1: Produces at least 300 and no more than 7,000 standard cases annually and does not exceed 10,000 square feet of floor area. Tier 1 facilities are subject to approval of an Administrative Conditional Use Permit (ACUP) when not abutting residential zoning districts, schools, and/or churches. Tier 1 facilities abutting residential zoning districts, schools, and/or churches are subject to a Conditional Use Permit (CUP).

2. Tier 2: Produces at least 900 and no more than 10,000 standard cases annually and does not exceed 15,000 square feet of floor area. Tier 2 facilities shall be subject to approval of a Conditional Use Permit (CUP).

**NN.** Medical Cannabis Dispensary means a facility wherein medical marijuana or medical marijuana products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical marijuana and medical marijuana products as part of a retail sale in compliance with all applicable state laws.
415 Industrial Use Classifications

A. **Food Processing.** Establishments primarily engaged in the manufacturing or processing and packaging of food or beverages for human consumption and wholesale distribution.

1. **Limited.** Establishments of less than 2500 square feet of floor area.

B. **Industry, Custom.** Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment. This use may include affiliated office and support facilities and limited showroom and a retail sales area when clearly secondary and associated with the primary business.

1. **Limited.** Includes mechanical equipment not exceeding two horsepower or a single kiln not exceeding eight kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle-making shops, and custom jewelry manufacture.

C. **Industry, General.** Manufacturing of products, primarily from extracted or raw materials, or bulk storage and handling of such products and materials. Uses in this classification typically involve a high incidence of truck or rail traffic, and/or outdoor storage of products, materials, equipment, or bulk fuel. This classification includes chemical manufacture or processing, large scale laundry and dry cleaning plants, auto dismantling within an enclosed building, oil and gas refining, stonework and concrete products manufacture, small animal production and processing within an enclosed building and power generation.

1. **Large Scale Laundry and Dry Cleaning Plants.** A laundry or dry cleaning facility having any of the following or similar type equipment:

   (a) Boiler(s) exceeding a total of 15 horsepower;
   (b) Dry cleaning machine(s) exceeding 60 pounds total capacity;
   (c) Dryer(s) exceeding 50 pounds total capacity;
   (d) Wet cleaning washer(s) exceeding 50 pounds total capacity.

D. **Industry, Limited.** Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services; both within an enclosed building. This classification includes processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials, and Vehicle/Equipment Services. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.

1. **Small-Scale.** Limited to a maximum gross floor area of 5,000 square feet.

E. **Industry, Research and Development.** Establishments primarily engaged in the
research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale. Uses include biotechnology, films, and non-toxic computer component manufacturers, specifically excluding uses which produce offensive odors, dust, and/or noise. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.

F. Wholesaling, Distribution and Storage. Storage and distribution facilities. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.

1. Trucking Terminals. Storage and distribution facilities having more than six heavy trucks on the premises at one time, but excluding trucking accessory to a Limited or General Industry classification.

3. Small-Scale. Wholesaling, distribution and storage having a maximum gross floor area of 5,000 square feet and having no more than two docks or service bays.

G. Medical Cannabis Distribution Site. A location where cannabis obtained from a licensed medical cannabis cultivator or medical cannabis products from a licensed medical cannabis manufacturer is temporarily stored, prior to delivery to a licensed medical cannabis dispensary and as part of performing a medical cannabis distributor’s duties under state law. A medical cannabis distributor is a person engaged in the procurement, sale, and transport of medical cannabis and medical cannabis products between licensees.

H. Medical Cannabis Manufacturing. The production, preparation, propagation and compounding of cannabis and cannabis products, without the use of a volatile solvent. Nonvolatile cannabis manufacturing includes and is not limited to the extraction of a substance from a cannabis plant with nonvolatile solvents, the infusion or mixture of cannabis into another substance, the preparation of an edible item that includes cannabis, and the packaging and labeling of cannabis or cannabis products. Nonvolatile cannabis manufacturing does not include medical cannabis cultivation.

I. Medical Cannabis Testing Laboratory. Laboratory, facility, or entity that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following: (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state. (2) Licensed by the state of California to perform medical cannabis testing consistent with Business and Professions Code section 26001.
Agricultural and Extractive Use Classifications

A. Animal Husbandry. Raising of animals or production of animal products, such as eggs or dairy products, on an agricultural or wholesale commercial basis. Typical uses include grazing, ranching, animal breeding, dairy farming, and poultry farming.

B. Crop Production. Raising and harvesting of tree crops, row crops, greenhouse crops or field crops on sites of greater than 2.5 acres on an agricultural or wholesale commercial basis, including packing and processing. **Medical Cannabis Cultivation Facilities are excluded from the definition of Crop Production.**

C. Animal, Horse and Dog Training and Shows. Animal training, holistic natural animal health care, and dog shows with 50 dogs or less. Shows with greater than 50 dogs shall require a special events permit.

D. Medical Cannabis Cultivation Facility means a facility wherein medical cannabis is propagated, planted, grown, harvested, dried, cured, graded, labeled, tagged for tracking or trimmed, or that does all or any combination of those activities. This definition excludes the cultivation of no more than six nonmedical marijuana plants by a person twenty-one years of age or older for personal use in a private residence provided the cultivation is in a fully enclosed structure that is secure, not visible from a public space and otherwise exempt from state licensing requirements.

E. Medical Cannabis Nursery means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of medical cannabis.

F. Mining and Processing. Places or plants primarily devoted to surface or subsurface mining of metallic and nonmetallic minerals, oil or gas, together with essential on-site processing and production of only nonmetallic mineral products. Typical places are borrow pits, quarries, oil and gas drilling rigs, or concrete batch plants. This classification specifically excludes any activities that are directly or indirectly associated with off-shore oil and gas exploration, production, or processing.

G. Wineries. An agricultural processing facility used for the fermenting and processing of fruit juice into wine; or the refermenting of still wine into sparkling wine. Tours, tastings and retail sales may be permitted as an accessory use only.

H. Assembly, ceremonies, and weddings. An activity involving assembly or the intention of attracting people for ceremonial, educational, and celebratory purposes at one specific location. Such assembly includes, but is not limited to: receptions, weddings, recitals, exhibits, private parties, and social gatherings.
417 Accessory Use Classifications

A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units ("second units") and home occupations.

418 Temporary Use Classifications

A. Agricultural Specialty Sales, Seasonal. Retail sale of seasonal specialty items for a period not to exceed 45 days (e.g. Christmas Tree Sales, Pumpkin Sales).

B. Yard/Garage Sales. A sales event advertised by any means at a residential location where members of the public may purchase identifiable or tangible items of personal property; provided however, it shall not mean any event which constitutes a sales activity, wholesale or retail, by any business which has a current business license issued by the City. Items sold shall be limited to personal property owned by the occupant of the property and/or surrounding neighbors.
Article 11  C Commercial Districts  (Inland)

Sections:

1110  Specific Purposes
1120  CN, CC, CG, CL, CR, CV, CS, and CP Districts: Land Use Regulations
1130  CN, CC, CG, CL, CR, CV, CS, and CP Districts: Property Development Regulations
1140  Review of Plans

1110  Specific Purposes

In addition to the general purposes listed in Article 1, the specific purposes of commercial district regulations are to:

A. Provide appropriately located areas consistent with the General Plan for a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the city and region.

B. Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city and surrounding communities.

C. Create suitable environments for various types of commercial uses, and protect them from the adverse effects of inharmonious uses.

D. Minimize the impact of commercial development on adjacent residential districts.

E. Ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area in which they are located.

F. Ensure the provision of adequate off-street parking and loading facilities.

G. Provide sites for public and semipublic uses needed to complement commercial development or compatible with a commercial environment.

The additional purposes of each C district are as follows:

CN Neighborhood Commercial District. To provide sites for businesses serving the daily needs of nearby residential areas while establishing development standards that prevent significant adverse effects on residential uses adjoining a CN district.

CC Community Commercial District. To provide sites for commercial centers containing a wide variety of commercial establishments, including businesses selling home furnishings, apparel, durable goods, and specialty items and generally having a citywide market area. Support facilities such as entertainment and restaurants are permitted, subject to certain limitations to avoid adverse effects on adjacent uses.
CG General Commercial District. To provide opportunities for the full range of retail and service businesses deemed suitable for location in Oceanside, including businesses not permitted in other commercial districts because they attract heavy vehicular traffic or have certain adverse impacts; and to provide opportunities for certain limited manufacturing uses that have impacts comparable to those of permitted retail and service uses to occupy space not in demand for retailing or services.

CL Limited Commercial District. To provide opportunities for a limited range of retail and service businesses that do not generate significant amounts of traffic, nor have high public service demands. Automobile-oriented uses, such as service stations and drive-up restaurants, are not permitted or are limited.

CR Commercial Recreation District. To provide sites for recreation-oriented residential and commercial activities conveniently located near recreational and scenic areas with easy access to freeways, expressways and arterials.

CV Visitor-Commercial District. To provide opportunities for recreation-oriented and visitor-serving commercial activities conveniently located near recreational and scenic areas. This district is intended for specialized commercial uses directly dependent, supportive or related to the Coast, including the Harbor, the San Luis River area, and the municipal pier.

CS Special Commercial District. To provide opportunities for residential, commercial, public and semipublic uses appropriate for the special commercial areas identified by the General Plan. Subdistrict designators are established as:

- HO for highway oriented commercial areas;
- L for limited commercial areas including the Mission Area and certain scenic areas.

CP Commercial Professional District. To provide a landscaped environment for offices that is protected from the more intense levels of activity associated with retail commercial development.

The specific purposes of the Mixed-Use Plan are to:

A. Establish a procedure for the development of parcels as a mixed-use development.

B. Ensure orderly and thorough planning and review procedures that will result in quality urban design.

C. Encourage variety and avoid monotony in developments by allowing greater freedom in selecting the means to provide access, light, open space and amenities.

D. Provide a mechanism whereby the City may authorize desirable developments consistent with the General Plan without inviting speculative rezoning applications, which, if granted, often could deprive other owners of development opportunities without resulting in construction of the proposed facilities.
E. Encourage the preservation of serviceable existing structures of historic value or artistic merit by providing the opportunity to use them imaginatively for purposes other than that for which they were originally intended.

F. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.

1120 CN, CC, CG, CL, CR, CV, CS, and CP Districts: Land Use Regulations

In the following schedules, the letter "P" designates use classifications permitted in commercial districts. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" that follow. The letter "U" designates use classifications permitted on approval of a use permit. The letters "P/U" designate use classifications permitted on the site of a permitted use, but requiring a use permit on the site of a conditional use. Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Regulations" column reference regulations following the schedule or located elsewhere in this ordinance. Where letters in parentheses are opposite a use classification heading, referenced regulations shall apply to all use classifications under the heading.

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<th>CN, CC, CG, CL, CR, CV, CS, AND CP DISTRICTS: LAND USE REGULATIONS</th>
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<td>P - Permitted</td>
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<td>U - Use Permit</td>
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Public and Semipublic

Child Care     L-11 L-11 L-11 L-11 L-11 L-11 L-11 L-11  (A,T)

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C Commercial Land Use Regulations (continued)

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**Vehicle/Equipment Sales & Services:**

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**Visitor Accommodations:**

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**Industrial**

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**Agriculture and Extractive Uses**

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**Accessory Uses**

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**Nonconforming Uses**

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**Mixed Uses**

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C Districts: Additional Use Regulations

L-1 Not permitted on ground level.

L-2 Permitted as part of a mixed-use project, occupying less than 25 percent of the gross floor area.

L-3 Adult Bookstore/Novelty Store/Video Store, and Adult Entertainment Businesses as defined in Article 4, are allowed with an Administrative Regulated Use Permit, subject to the requirements of Article 36 of this Ordinance.

L-4 Permitted as a secondary use occupying no more than 1000 square feet in a building; Administrative Use Permit required for more space up to 5 percent of gross floor area of a building.

L-5 An Administrative Conditional Use Permit is required for convenience stores. Convenience stores shall not be located within 500 feet of a site occupied by a public or private school, park or recreational facilities, and no exterior vending machines shall be permitted. Convenience stores may be operated only between the hours of 6 a.m. and 10 p.m. Longer hours may be approved with the use permit if the use is found not to have an adverse effect on neighboring uses.

L-6 Only mortuaries allowed - subject to an Administrative Conditional Use Permit.

L-7 Conditional Use Permit required. Repair services and automobile washing are prohibited.

L-8 Only "limited," or "small-scale," facilities, as defined in Use Classifications allowed with an Administrative Conditional Use Permit.

L-9 Storage tanks, distribution terminals, emission-control systems, pumping stations, service yards, transportation facilities, pipelines, or any other facilities supporting offshore oil and gas drilling operations shall be prohibited.

L-10 Reserved.

L-11 See Article 30: Section 3041, Child Care Facility. Allowed within the RE, RS, RM, RH, RT, CN, CC, CG, CL, CR, CV, CS, CS-HO, CS-L, CP, IL, IG, IP, A, OS, PS and the D Districts subject to obtaining a Child Care Facility Permit issued by the City Planner and subject to the City’s adopted Child Care Guidelines. If new development (construction) is proposed for a child care facility, an Administrative Development Plan Review is required. An Administrative Development Plan Review may be conducted independently or concurrently with the Child Care Facility Permit review.

L-12 Up to 200 rooms allowed with a Conditional Use Permit.

L-13 Reserved.
Recreational vehicles and recreational equipment rentals only.

Administrative Conditional Use Permit required if use is an Ambulance Service or an Emergency Health Care facility which utilizes ambulance service and either use is also located within 1,000 feet of an R district or the boundaries of a site occupied by a Public or Private School or Park and Recreation Facility. Conditions may be imposed in approving such a permit to limit vehicle speeds or use of sirens. In the CS-L district, Emergency Health Care facility permitted with a Conditional Use Permit. No permitted within the Mission San Luis Rey Historic Core Area.

Only permitted outside the Mission San Luis Rey Historic Core Area. "Small-scale" Commercial Recreation and Entertainment allowed, all others require an Administrative Conditional Use Permit.

Reserved.

Only "small-scale" facilities allowed with the approval of an Administrative Use Permit.

A Conditional Use Permit is required for generating plants, electrical substations, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, water or wastewater treatment plants, transportation or communication utilities, and similar facilities of public agencies or public utilities. Aboveground electrical transmission lines are not permitted unless determined to be consistent with a utility corridor plan approved by the Planning Commission. Flood control or drainage facilities are permitted if they are consistent with approved master drainage and/or flood-control plans.

Limited or "small-scale" facilities allowed with a Conditional Use Permit outside the Commercial Village Core designated in the Mission SLR Historic Guidelines within a multi-tenant structure.

Walk-up automatic teller machines (ATMs) allowed if included within or attached to a building serving another use; freestanding structures for walk-up ATMs allowed with an Administrative Use Permit.

Large Scale facilities may be allowed if they include a retail component and an area for consumption of the products produced on the site (i.e., tables, chairs, etc.). An administrative use permit, approved by the City Planner, would define the minimum area devoted to retail customer service and office support to the principle food processing activity, but a minimum of 1/3 of the gross square footage of the building facility shall be used as a guideline for the retail service/office support area.

One drive-thru/drive-up restaurant allowed with an Administrative Conditional Use Permit in a Shopping Center of 10 acres or greater.

Allowed on sites of more than 2.5 acres with the approval of an Administrative Use Permit issued by the City Planner.
"Small-scale" facilities allowed. All others require an Administrative Conditional Use Permit. Within the CS-HO and CS-L, a personal improvement use greater than 5,000 square feet is allowed only in a community shopping center and requires an Administrative Conditional Use Permit. "Regulated" uses are subject to compliance with Article 36.

"Small-scale" facilities allowed. All others require the approval of an Administrative Use Permit issued by the City Planner.

"Small-scale" facilities allowed. All others require the approval of an Administrative Conditional Use Permit. "Regulated" uses are subject to compliance with Article 36. Card rooms require a Conditional Use Permit.

Only "small-scale" facilities allowed. Card rooms require a Conditional Use Permit. "Regulated" uses are subject to compliance with Article 36.

Glass installation and tinting, cellular phone installation, and stereo installation allowed with an Administrative Use Permit. All others require a Conditional Use Permit.

Limited to senior, residential care assisted-living units for persons age 55 and older with the approval of an Administrative Conditional Use Permit.

An Administrative Use Permit is required for nurseries having growing or propagation areas greater than 2.5 acres.

See Article 30: Section 3041, Child Care Facility. Allowed within the RE, RS, RM, RH, RT, CN, CC, CG, CL, CR, CV, CS, CS-HO, CS-L, CP, IL, IG, IP, A, OS, PS and the D Districts subject to obtaining a child Care Facility Permit issued by the City Planner and subject to the City's adopted Child Care Guidelines. If new development (construction) is proposed for a child care facility, a Development Plan Review is required. A Development Plan Review may be conducted independently or concurrently with the Child Care Facility Permit review.

Mixed use development is permitted and requires the approval of a "Mixed-Use Development Plan" and Conditional Use Permit to determine compatibility with surrounding development and uses in the area.

(A) See Section 3002: Relocated Buildings (Administrative Use Permit required).

(B) See Section 3036: Helicopter Takeoff and Landing Areas.

(C) Limited to facilities on sites 2 acres or less.

(D) In the CN district, a commercial use having open parking or wall openings within 100 feet of an R district shall not operate between 10 p.m. and 7 a.m. unless authorized by a use permit.
(E) RESERVED

(F) See Section 3027: Arcades and Game Centers. Card rooms, as defined and regulated by Chapter 8 of the City Code, are not permitted in the Coastal Zone.

(G) See Section 3011: Service Stations and Automobile Washing.

(H) See Section 3031: Bed and Breakfast Inns.

(I) See Section 3005: Nonresidential Accessory Structures.

(J) See Article 35: Nonconforming Uses and Structures.

(K) All "regulated uses", are subject to compliance with Article 36.

(L) See Section 3029: Recreational Vehicle Parks.

(M) See Section 3004: Religious Assembly Yard Requirements.

(N) Uses on separate freestanding sites that are outside shopping centers and have adjoining parking shall not be closer than 500 feet to a public or private school, park, or playground. Identifiable containers and napkins shall be used for all carryout food, and all litter shall be promptly removed. A use permit may require the operator to contract with a cleanup service if it is determined that a litter problem exists.

(O) See Section 3010: Live Entertainment.

(P) See Section 3030: Time-Share Resort Projects.

(Q) See Section 3025: Antennas and Microwave Equipment.

(R) Any Horticulture, Limited or Crop Production use must conform to the City's Grading Ordinance including the requirement that the grading and/or agricultural operation will not cause significant damage to any environmentally sensitive areas nor cause elimination of any significant wildlife habitat or riparian area. Sufficient buffering of the operation should be provided from adjacent residential uses.

(S) Agricultural Sales Stands, in conjunction with a Horticulture, Limited or Crop Production use, shall be permitted subject to the locational and development standards of Section 3038.

(T) See Section 3020: Outdoor Facilities; outdoor storage, outdoor display of materials, outdoor food service, outdoor storage containers, working outdoors and temporary outdoor sales events and activities shall comply with the standards of this section.

(U) See Section 3038: Agricultural Sales; Seasonal Agricultural Specialty Sales requires
a business license and is subject to the operational standards of Section 3038.

(V) See Section 3034: Mixed Use Plans.

**L-34** A Medical Cannabis Dispensary is a Regulated Use pursuant to Article 36, requires a Local License for Medical Cannabis Facilities in accordance with Chapter 7 of the Oceanside City Code and shall comply with all applicable state licensing requirements. The maximum number of medical cannabis dispensaries that may be permitted citywide shall be as specified in Chapter 7 of the Oceanside City Code.

**1130 CN, CC, CG, CL, CR, CS, CV, and CP Districts: Property Development Regulations**

The following schedule prescribes development regulations for the CN, CC, CG, CL, CR, CS, CV, and CP districts. The columns prescribe basic requirements for permitted and conditional uses in each district. Letters in parentheses in the "Additional Regulations" column reference regulations following the schedule or located elsewhere in the zoning ordinance.

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**CN, CC, CG, CL, CR, CS, CV, and CP DISTRICTS DEVELOPMENT REGULATIONS**

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<th>CN</th>
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**Residential Development**

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| Minimum yards:          |        |        |        |        |        |        |       |
| Front (ft.)             | 15     | 15     | 15     | 15     | 15     | 20     | (D,F) |
| Side (ft.)              | -      | -      | -      | -      | -      | -      | (D,E,F) |
| Corner Side (ft.)       | 10     | 15     | 10     | 10     | 10     | 20     | (D,F) |
| Rear (ft.)              | -      | -      | -      | -      | -      | 10     | (D,E,F) |

<p>| Height (max)          | 50 ft. | 50    | 50    | 50    | 50    | (G,H,V,W) |
| Lot Coverage (max)    | 50%    | 50%   | 75%   | 50%   | 50%   |           |</p>
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CN, CC, CG, CL, CR, CS, CV, and CP Districts:
Additional Development Regulations

(A) Dwelling units shall be subject to the standards for height limits, maximum density, court provisions, and outdoor living areas for the RM-A District, as prescribed by Section 1050. Recreational vehicle parks shall be subject to the requirements of Section 3029.

(B) See Section 3013: Development on Substandard Lots.

(C) Smaller lot requirements may be permitted with an approved development plan and tentative subdivision maps.

(D) See Section 3015: Building Projections into Yards and Courts. Double-frontage lots shall provide front yards on each frontage.

(E) A 15-foot side or rear yard shall adjoin an R district, and structures shall not intercept a 1:1 or 45-degree daylight plane inclined inward from a height of 6 feet above existing grade at the R district boundary line (See Diagram E).

(F) At least 50 percent of each required yard shall be landscaped. This area may be counted in determining compliance with minimum site landscaping requirements. The remainder of the required yard area may be used for necessary drives and walks.

(G) See Section 3017: Measurement of Height.

(H) See Section 3018: Exceptions to Height Limits.

(I) Additional FAR shall be permitted for:

1. Underground parking: 0.05 for each 10 percent increment of required parking that is provided underground or in structures up to a maximum of 0.4.

2. Transfer of FAR from historic buildings: twice the amount of unused FAR (restricted by recorded covenants or deed restriction) up to a maximum of 0.2.

3. Participation in a Planned Block Development (60,000 square feet or more of site area) approved by the City under the provisions of Article 24.
(E) REQUIRED DAYLIGHT PLANE AT ADJOINING DISTRICT (DIAGRAM)

(J) Planting Areas.

(1) **All Commercial Districts.** Sites in all C districts shall comply with the planting area requirements and design standards of Section 3019.

(2) **CN, CG, CL, and CS Districts.** Required yards shall be enclosed by a solid concrete or masonry wall at least 6 feet in height or shall be planting areas, provided that a wall within 15 feet of a street property line shall not exceed 3.5 feet in height.

(3) **CN, CC, CR, CS, CV, and CP Districts.** The minimum percentage of the site to be landscaped may be reduced 1 percent for each 20 percent increment of street frontage with a 25-foot-wide landscaped strip.

(K) See Section 3019: Landscaping, Irrigation and Hydro seeding.

(L) The maximum vertical wall height at the setback line shall be 26 feet in the CR and CV districts and 50 feet in all other districts. Walls shall be set back at least 1.5 feet for every foot above the maximum vertical wall height limit. During development plan review, exceptions from this standard may be granted by the Planning Commission for department stores, hotels, or other uses with unique requirements (See Diagram L).
(L) REQUIRED SETBACKS ABOVE BASE WALL HEIGHT (DIAGRAM)

(M) This requirement shall apply to building elements above 36 feet. A wall surface shall be no longer than 200 feet without a break: a recess or offset measuring at least 20 feet in depth and one-quarter of the building in length or a series of recesses or offsets, at intervals of not more than 40 feet, that vary the depth of the building wall by a minimum of 4 feet. Not less than 25 percent of the building wall shall be varied in this way (See Diagram M).

(M) MAXIMUM WALL LENGTH AND REQUIRED BREAK
(See Diagram M for Break)

(M) AVERAGING OPTION FOR MAXIMUM WALL LENGTH (DIAGRAM)
(N) Maximum height of a fence or wall shall be 6 feet.

(O) A 6-foot solid masonry or concrete wall shall adjoin the property line of the site of a new ground-floor residential use abutting an existing non-residential use or the property line of a new non-residential use abutting the site of an existing ground-floor residential use. However, where the portion of the site within 10 feet of the property line is occupied by planting area or by a building having no openings except openings opposite a street property line, the City Planner may grant an exception to this requirement. A wall within 15 feet of a street property line shall not exceed 3 feet in height (See Diagram O Required Walls).

**(O) REQUIRED WALLS: RESIDENTIAL USE ABUTTING NONRESIDENTIAL USE (DIAGRAM)**

(P) In the CG, CL, CR, and CV districts that are within the Coastal Zone, a minimum of 40 percent of the front building surface on a street with a collector classification or greater, as designated in the Master Street Plan, shall be at the front-yard setback line (See Diagram P).

**(P) BUILDING FACE AT SETBACK LINE (DIAGRAM)**

In the CS-L Special Commercial Mission Historic Area District building lines shall be required as follows:

(1) **Village Core** (as designated in the Development Guidelines for the Mission Area): At the first level a minimum of 50 percent of the front building face shall be at the front-yard setback line;

(2) **Major Streets** (as designated in the Development Guidelines): A minimum of
25 percent of the front building face shall be at the front-building setback line.

(Q) Parking of automobiles, motorhomes, motorcycles, and other such motor vehicles is not permitted in a required front, corner side, side, or rear yard setback areas. See Section 315, Driveways; Visibility.

(R) See Article 31: Off-Street Parking and Loading Regulations.

(S) See Article 39: Wireless Communications Facility, satellite Dish and Antenna Standards.

(T) On frontages designated on the Zoning Map, 50 percent of the first story of that portion of a building facing a street shall consist of opening, clear or tinted glass windows providing views of merchandise displayed, building interiors, or courtyards.

**Exceptions:** This requirement may be waived by the City Planner with respect to the following building types:

(1) corner buildings, provided that at least 20 percent of the site facing the street affords views into the building; or

(2) architecturally and historically significant buildings.

(U) Outdoor eating facilities for employees shall be provided for all industrial and office buildings or developments containing more than 10,000 square feet of building area. See Section 3028: Employee Eating Areas.

(V) The maximum height of structures may be increased beyond 50 feet with the approval of a use permit.

(W) RESERVED

(X) See Section 3042: Mixed-Use Plans.

**1140 Review of Plans**

All projects shall require development plan review, as per Article 43.
Article 13 I Industrial Districts (Inland)

Sections:

1310 Specific Purposes
1320 IL, IG, and IP Districts: Land Use Regulations
1330 IL, IG, and IP Districts: Property Development Regulations
1340 Review of Plans

1310 Specific Purposes

In addition to the general purposes listed in Article 1, the specific purposes of the industrial district regulations are to:

A. Provide appropriately located areas consistent with the General Plan for a broad range of manufacturing and service uses.

B. Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city and surrounding communities.

C. Provide a suitable environment for various types of industrial uses, and protect them from the adverse impacts of inharmonious uses.

D. Ensure that the appearance and effects of industrial uses are compatible with the character of the area in which they are located.

E. Minimize the impact of industrial uses on adjacent residential districts.

F. Ensure the provision of adequate off-street parking and loading facilities.

The additional purposes of each I district are as follows:

IL Limited Industrial District. To provide areas appropriate for a wide range of (1) moderate to low-intensity industrial uses capable of being located adjacent to residential areas with minimal buffering and attenuation measures and (2) commercial services and light manufacturing, and to protect these areas, to the extent feasible, from disruption and competition for space from unrelated retail uses or general industrial uses.

IG General Industrial District. To provide and protect industrial lands for the full range of manufacturing, industrial processing, general service, and distribution uses deemed suitable for location in Oceanside; and to protect Oceanside's general industrial areas, to the extent feasible, from disruption and competition for space from unrelated retail and commercial uses that could more appropriately be located elsewhere in the city. Performance standards will minimize potential environmental impacts.
IP Industrial Park District. To provide and protect industrial lands for the development of communities of high technology, research and development facilities, limited industrial activities (including production and assembly but no raw materials processing or bulk handling), small-scale warehousing and distribution, industrial office centers, and related uses in a campus or park-like setting.

1320 IL, IG, and IP Districts: Land Use Regulations

In the following schedule, the letter "P" designates use classifications permitted in industrial districts. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" which follow. The letter "U" designates use classifications permitted on approval of a use permit. The letters "P/U" designate use classifications permitted on the site of a permitted use, but requiring a use permit on the site of a conditional use. Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Regulations" column reference regulations following the schedule, or located elsewhere in this Ordinance. Where letters in parentheses are opposite a use classification heading, referenced regulations shall apply to all use classifications under the heading.
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IL, IG, and IP Districts: Additional Use Regulations

L-1 Conditional Use Permit and Heliport permit from California Department of Transportation, Division of Aeronautics, required, and no heliport may be located within 1,000 feet of an R district.

L-2 Walk-up automatic teller machines (ATMs) allowed if included within or attached to a building serving another use; freestanding structures for walk-up ATMs allowed with an Administrative Use Permit.

L-3 Permitted as a secondary use in a building and occupying no more than 2,500 square feet; Administrative Conditional Use Permit required for more space or for Restaurants Full Service with full alcohol beverage service. No freestanding structure allowed.

L-4 Reserved.

L-5 Photocopying, word processing, packaging, postal support and office supplies, and printing permitted. Other personal service uses allowed (except self-service laundries) if "small-scale". These uses are to be ancillary to the industrial uses within the area.

L-6 No new or used automobile, truck or motorcycle retail sales permitted, except indoor automobile sales allowed with an Administrative Use Permit. Wholesale sales and rentals allowed with Conditional Use Permit if adequate storage and parking can be provided.

L-7 Only limited or small-scale facilities, as defined in Article 4, Use Classifications, allowed with a Conditional Use Permit.

L-8 Offices permitted except medical/dental offices require an Administrative Conditional Use Permit.

L-9 A Conditional Use Permit is required for generating plants, electrical substations, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, water or wastewater treatment plants, transportation or communication utilities, and similar facilities of public agencies or public utilities. Above ground electrical transmission lines are not permitted unless determined to be consistent with a utility corridor plan approved by the Planning Commission. Flood control or drainage facilities are permitted if they are consistent with approved master drainage and/or flood-control plans.

L-10 See Article 30: Section 3041, Child Care Facility. Allowed within the RE, RS, RM, RH, RT, CN, CC, CG, CL, CR, CV, CS, CS-HO, CS-L, CP, IL, IG, IP, A, OS, PS and the D Districts subject to obtaining a Child Care Facility Permit issued by the City Planner and subject to the City's adopted Child Care Guidelines. If new development (construction) is
Exhibit “A”

proposed for a child care facility, a Development Plan Review is required. A Development Plan Review may be conducted independently or concurrently with the Child Care Facility Permit review.

L-11 Permitted if building area is 50,000 square feet or less or when it is associated with a permitted use. Allowed with a Conditional Use Permit if independent building facilities floor area is greater than 50,000 square feet.

L-12 Permitted and the area for on-site consumption of food shall not exceed 1000 square feet.

L-13 Religious Assembly allowed with the approval of an Administrative Conditional Use Permit, allowing for a maximum of 5 years if the following findings can be made:

a. The location proposed is not in an area considered "prime" for immediate industrial development.

b. Parking must be provided as required by the parking regulations for churches under Article 31, except that parking may be shared with other industrial users in the vicinity if it can be shown that the uses will not be occurring simultaneously.

c. Buildings shall meet the requirements imposed by the current applicable edition of the Uniform Building Code for assembly occupancy.

d. The church activities do not interfere with the primary industrial uses in the area. The analysis of whether there is such interference shall include consideration of the immediate existing users in the vicinity and any public health and safety issues in establishing a religious assembly use at that location.

L-14 Allowed on sites of more than 2.5 acres with the approval of an Administrative Use Permit issued by the City Planner.

L-15 "Small-scale" facilities allowed with an Administrative Use Permit.

L-16 "Adult" (no K-12) schools allowed with a Conditional Use Permit.

L-17 Permitted as a secondary use in a building and occupying no more than 1000 square feet. Administrative Conditional use permit required for more space. No freestanding structure or convenience market allowed.

L-18 Indoor boarding only. Outdoor exercise area in conjunction with indoor boarding allowed.

L-19 Administrative Conditional Use Permit required if use is located within 1,000 feet of an R district or the boundaries of a site occupied by a Public or Private School or Park and Recreation facility. Otherwise permitted by right. Conditions may be imposed in approving such a permit to limit vehicle speeds or use of sirens.
The following retail uses are allowed. "Limited" retail under the following uses shall mean "a maximum of 5000 square feet or 25% of the business floor area whichever is greater".

**Auto Stereo, Mobile Phone & Alarm Service & Installation** - "limited" retail allowed

**Auto Parts** - "limited" retail allowed

**Appliance Sales and Service** - "limited" retail allowed

**Art Supplies** - "limited" retail allowed

**Bicycle Sales and Service** - "limited" retail allowed

**Blue Prints & Reprographic Services** - allowed

**Floral Supplies** - "limited" retail allowed

**Home Health/Medical Equipment** - retail, rentals, service or wholesale allowed

**Industrial Equipment Sales, Service & Rentals (Large Equipment: Compressors, Lifts, Backhoes, etc.)** - allowed

**Locksmiths** - allowed

**Office Furniture and Supplies** - retail of office furniture and "limited" retail of office supplies allowed.

**Photo Labs and Studios** - retail allowed as part of on-site production facility

**Pest Control** - allowed (Administrative Use Permit if hazardous Materials: Section 3026)

**Printers and Publishers** - "limited" retail allowed

**Playground Equipment Sales & Service** - retail, rentals, service or wholesale allowed

**Restaurant Equipment Sales & Service** - retail, rentals, service or wholesale allowed

**Sporting Goods (Fitness Machines, Kayaks, Rafts, Equestrian Supplies, etc.)** - specialized store with large-scale equipment allowed. No comprehensive sporting goods stores.

Conditional Use Permit required. Food and Beverage Sales and convenience market allowed as part of the Service Station if within the same building. Car wash allowed as an affiliated part of the Service Station on the site.

An Administrative Use Permit is required for nurseries having growing or propagation
areas greater than 2.5 acres.

L-23 See Article 30: Section 3041, Child Care Facility. Allowed within the RE, RS, RM, RH, RT, CN, CC, CG, CL, CR, CV, CS, CS-HO, CS-L, CP, IL, IG, IP, A, OS, PS and the D Districts subject to obtaining a child Care Facility Permit issued by the City Planner and subject to the City's adopted Child Care Guidelines. If new development (construction) is proposed for a child care facility, a Development Plan Review is required. A Development Plan Review may be conducted independently or concurrently with the Child Care Facility Permit review.

(A) See Section 3002: Relocated Buildings (use permit required).

(B) See Section 3036: Helicopter Takeoff and Landing Areas.

(C) Limited to facilities on sites of 2 acres or less.

(D) See Section 3011: Service Stations and Automobile Washing.

(E) See Section 3005: Nonresidential Accessory Structures.

(F) Maximum: one dwelling unit per site as caretaker’s housing.

(G) See Article 35: Nonconforming Uses and Structures.

(H) See Section 3026: Hazardous Materials Storage.

(I) Facilities intended to serve off-shore oil and gas exploration, drilling, or production, including storage tanks, distribution terminals, emissions-control systems, service yards, transportation facilities, pipelines, or any other facilities supporting such activities shall be prohibited.

(J) See Section 3025: Antennas and Microwave Equipment.

(K) See Section 3004: Religious Assembly Yard Requirements

(L) Any Horticulture, Limited or Crop Production use must conform to the City's Grading Ordinance including the requirement that the grading and/or agricultural operation will not cause significant damage to any environmentally sensitive areas nor cause elimination of any significant wildlife habitat or riparian area. Sufficient buffering of the operation should be provided from adjacent residential uses.

(M) Agricultural Sales Stands, in conjunction with a Horticulture, Limited or Crop Production use, shall be permitted subject to the locational and development standards of Section 3038.

(N) See Section 3020: Outdoor Facilities; outdoor storage, outdoor display of materials,
outdoor food service, outdoor storage containers, working outdoors and temporary outdoor sales events and activities shall comply with the standards of this section.

(O) See Section 3038: Agricultural Sales; Seasonal Agricultural Specialty Sales requires a business license and is subject to the operational standards of Section 3038.

(P) See Section 3030: Timeshare Resort Projects.

(Q) See Art. II, Chapter 3 B / Oceanside City Code: Airport Approach Zoning.

(R) Regulated uses as defined in Article 4 are subject to compliance with Article 36.

L-24 A Medical Cannabis Dispensary, as defined in Article 4, is a regulated use subject to compliance with Article 36, the Local License requirement in Chapter 7 of the Oceanside City Code, and all applicable state licensing requirements. The maximum number of medical cannabis dispensaries that may be permitted citywide shall be as specified in Chapter 7 of the Oceanside City Code.

L-25 Medical Cannabis Distribution Site, as defined in Article 4, is a regulated use subject to compliance with Article 36, the Local License requirement in Chapter 7 of the Oceanside City Code, and all applicable state licensing requirements.

L-26 Medical Cannabis Manufacturing Facility, as defined in Article 4, is a regulated use subject to compliance with Article 36, the Local License requirement in Chapter 7 of the Oceanside City Code, and shall be limited to manufacturing level 1 for sites that manufacture cannabis products using nonvolatile solvents, or no solvents. A manufacturing level 1 M-Type 6 state licensee shall only manufacture medical cannabis products for sale by a retailer with a state-issued M-Type 10 license.

L-27 A Medical Cannabis Testing Laboratory, as defined in Article 4, requires an Administrative Conditional Use Permit, a Local License pursuant to Chapter 7 of the Oceanside City Code, and shall comply with all applicable state licensing requirements.

1330 IL, IG, and IP Districts: Property Development Regulations

The following schedule prescribes development regulations for the IL, IG, and IP districts. The first four columns prescribe basic requirements for permitted and conditional uses. Letters in parentheses in the "Additional Regulations" column reference regulations following the schedule or located elsewhere in this ordinance.
## IL, IG, and IP DISTRICTS: DEVELOPMENT REGULATIONS

<table>
<thead>
<tr>
<th>Use Classifications</th>
<th>IL</th>
<th>IG</th>
<th>IP</th>
<th>Add. Reg.</th>
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IL, IG and IP Districts: Additional Development Regulations

(A) See Section 3013: Development on Substandard Lots.

(B) Smaller lot dimensions may be permitted with an approved development plan and tentative subdivision map.

(C) See Section 3015: Building Projections into Yards and Courts. Double-frontage lots shall provide front yards on each frontage.

(D) A 10-foot interior side or rear yard shall adjoin an R district, and structures shall not intercept a 45-degree daylight plane inclined inward from a height of 12 feet above existing grade at the R district property line (See Diagram D).

(E) See Section 3017: Measurement of Height.

(F) Additional height above the maximum height standard may be allowed with a Conditional Use Permit. See also Section 3018: Exceptions to Height Limits.

(G) Planting Areas.

(1) IL and IP Districts. A minimum of 50 percent of all required yards shall be planting areas. This area may be counted in determining compliance with minimum site landscaping requirements. The remainder of the required yard area may be used for necessary drives and walks.
Exhibit “A”

(2) IG District. Required yards shall be enclosed by a solid concrete or masonry wall at least 6 feet in height or shall be planting areas. A wall within 15 feet of a street property line shall not exceed 3.5 feet in height.

(H) See Section 3019: Landscaping, Irrigation and Hydroseeding.

(I) This requirement shall apply to building elements above 36 feet. A wall surface shall be no more than 200 feet long without a break: a recess or offset measuring at least 20 feet in depth and one-quarter of the building in length. The City Planner may waive this requirement for industrial facilities on the basis of the engineering requirements for the specific process used, which make it infeasible to provide the required break.

(J) Reserved.

(K) Reserved.

(L) See Article 31.

(M) See Section 3025: Antennas and Microwave Equipment.

(N) Outdoor eating facilities for employees shall be provided for all industrial and office buildings or developments containing more than 10,000 square feet of building area. See Section 3028: Employee Eating Areas.

(O) Parking of automobiles, motorhomes, motorcycles, and other such motor vehicles is not permitted in a required front, corner side, side, or rear-yard setback areas. See Section 3115, Driveways; Visibility.

1340 Review of Plans

All projects shall require development plan review as per Article 43.
Article 14 A Agricultural District (Inland)

Sections:

1410 Specific Purposes
1420 Land Use Regulations
1430 Development Regulations
1440 Review of Plans
1450 Agricultural Activities

1410 Specific Purposes

In addition to the general purposes listed in Article 1, the specific purposes of the A district are to:

A. Provide a suitable classification for large-scale agricultural and mining operations and related open space uses.

B. Limit non-agricultural uses to those incidental to agricultural operations.

C. Permit only very low-density residential development, compatible with low-intensity agriculture and keeping of livestock.

1420 Land Use Regulations

In the following schedule, the letter "P" designates use classifications permitted in the A district. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" which follow. The letter "U" designates use classifications granted on approval of a use permit, as provided in Article 41. The letters "P/U" designate use classifications permitted on the site of a permitted use, but requiring a use permit on the site of a conditional use. Letters in parentheses in the "Additional Regulations" column refer to "Additional Use Regulations" following the schedule.
### A District: Land Use Regulations

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<th>Additional Regulations</th>
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A District: Additional Use Regulations

L-1 Administrative Use permit required for more than six domestic or exotic animals; conditions may be imposed limiting herd size and restricting grazing to designated areas to protect water resources from agricultural runoff.

L-2 A use permit is required for generating plants, electrical substations, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, water or wastewater treatment plants, transportation or communication utilities, and similar facilities of public agencies or public utilities. Aboveground electrical transmission lines are not permitted unless determined to be consistent with a utility corridor plan approved by the Planning Commission. Flood control or drainage facilities are permitted if they are consistent with approved master drainage and/or flood-control plans.

L-3 Administrative Use permit required and limited to the stabling of horses (See Section 3034 and the City Code).

L-4 See Article 30: Section 3041, Child Care Facility. Allowed within the RE, RS, RM, RH, RT, CN, CC, CG, CL, CR, CV, CS, CS-HO, CS-L, CP, IL, IG, IP, A, OS, PS and the D Districts subject to obtaining a child Care Facility Permit issued by the City Planner and subject to the City's adopted Child Care Guidelines. If new development (construction) is proposed for a child care facility, a Development Plan Review is required. A Development Plan Review may be conducted independently or concurrently with the Child Care Facility Permit review.

(A) Limited to one primary dwelling unit and one accessory dwelling unit per site, subject to the requirements of Section 3006: Accessory Dwelling Units. A mobile home shall be allowed as a primary residence or as a caretaker's unit, subject to the requirements of Section 3033. Development within an Agricultural Preserve shall also be subject to the terms of the Agricultural Preserve Contract.

(B) See Section 3031: Bed and Breakfast Inns.

(C) See Chapter 4 of the Municipal Code.
A District: Additional Use Regulations (continued)

(D) Limited to facilities incidental to an agricultural or extractive use. Farmworkers' housing requires a use permit issued in accord with the provisions of Article 41. The Planning Commission shall approve or conditionally approve applications for facilities with 10 or more beds, while the City Planner shall approve or conditionally approve applications for facilities with fewer than 10 beds. As conditions of approval, the Planning Commission or the City Planner, as the case may be, may establish restrictions on the number of rooms and the size and location of kitchen facilities, and may limit occupancy to farmworkers employed by the owner and/or operator of the farm on which the housing is located with the objective of ensuring that a use is compatible with adjacent agricultural and residential uses.

(E) See Article 35: Nonconforming Uses and Structures.

(F) Residential development shall be permitted provided such development does not interfere with existing, proposed, or potential agricultural operations, that the open space character of the area is preserved, and that the proposed residential development is consistent with General Plan policies. In all cases the minimum lot size shall not be less than two and one-half (2.5) acres.

(G) See Section 3025: Antennas and Microwave Equipment.

(H) Agricultural Sales Stands, in conjunction with a Horticulture, Limited or Crop Production use, shall be permitted subject to the locational and development standards of Section 3038.

(I) See Section 3020: Outdoor Facilities; certain outdoor facilities are subject to the development standards of this section.

(J) i. Medical Cannabis Cultivation Facilities and Medical Cannabis Nurseries shall be limited to the A district and shall require the approval of a conditional use permit in accordance with Article 36 of the Zoning Ordinance. Medical Cannabis Cultivation Facilities and Medical Cannabis Nurseries shall not be permitted in any other zoning district even where agricultural uses are otherwise permitted. The City Council may establish by resolution the maximum number of Medical Cannabis Cultivation Facilities or Medical Cannabis Nurseries that may be permitted.

ii. No person or entity shall operate a Medical Cannabis Cultivation Facility or Medical Cannabis Nursery without obtaining the required state license and a Local License in accordance with Chapter 7 of the Oceanside City Code and remaining in compliance with all applicable terms of the state and Local License.
iii. All cultivation within a Medical Cannabis Cultivation Facility or Medical Cannabis Nursery shall take place in the interior of a fully enclosed, secured structure as required by the Local License. No light source used to cultivate cannabis shall be visible from a public right of way or from any adjacent property. Medical Cannabis Cultivation Facilities or Medical Cannabis Nurseries shall not be subject to an Agricultural Activity Permit, however Section 1450.C. Development Standards for Agricultural Activities shall be implemented via a conditional use permit.

iv. Medical Cannabis Cultivation Facilities and/or Medical Cannabis Nurseries shall not exceed, either individually or combined, the lesser of either 10% lot coverage, or 22,000 square feet per legal lot existing at the time of adoption of this ordinance (Ordinance______).

1430 Development Regulations

Development regulations shall be as specified by a use permit, provided that, if the use permit fails to regulate an element regulated by an abutting base district, the regulations of the nearest base district shall apply to each portion of an A district. The following development regulations shall apply as applicable:

1. All single-family residential dwelling units, accessory dwelling units, and nonresidential accessory structures within the A district shall comply with the development standards of the RE-A district, provided that the following standards shall be in addition and shall govern where conflicts arise:

   Minimum Lot Area (acres) 2.5

   Minimum Yards:

   Front (ft.) 40
   Side (ft.) 30
   Corner side (ft.) 40
   Rear (ft.) 40

   Maximum Coverage 25%

2. The maximum height of a fence or wall, including a retaining wall, shall be 6 feet and decorative fences and walls shall be allowed in the front-yard setback area upon meeting visibility standards and the approval of the City Planner. Decorative entry gates which exceed the height of 6 feet shall require a building permit and the approval of the Traffic Engineer and the Fire Department to insure adequate accessibility for emergency vehicles and to meet visibility standards. Entry gates shall have a minimum front yard setback of 25
feet. See Section 3040 for additional fence and wall standards.

1440 Review of Plans

All projects shall require development plan review as per Article 43.

1450 Agricultural Activities

SPECIFIC PURPOSES

The specific purposes of the Agricultural Activities provisions are to:

1. Provide for a quality working and business environment for agricultural businesses within the City.

2. Recognize the potential for conflicts between agricultural uses and residential uses in the Agricultural District, and provide appropriate standards and criteria for activities associated with agriculture to avoid potential conflicts and promote compatibility between uses.

3. Provide a streamlined approach to achieving compliance with specific development standards within the Agricultural District.

A. Definitions of Agricultural Activities and Locational Criteria

For purposes of this section, the types of Agricultural activities are grouped into two categories, Growing Grounds and Other Agricultural Activities, and the regulation of such uses on a parcel are based upon their location on an Internal or Perimeter Site Area. These are defined as follows:

1. Growing Grounds: Includes crop production, both in the ground and/or in containers, the cultivation and tillage of the soil, cultivation, growing and harvesting of any agricultural or horticultural commodities, and any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, which activities are open to the sky.

2. Other Agricultural Activities: This includes agricultural uses and activities which are not growing grounds open to the sky, including crop production within structures. Specific types of agricultural activities are as follows.

   (a) Activity Hub: Includes areas of the agricultural business activity which accommodate uses other than crop production, such as staging areas, packing facilities, distribution facilities, storage areas, loading areas, offices, and similar uses.

   (b) Greenhouse: A structure covered with a translucent or transparent material to grow plants. Such facilities may include mechanical equipment for heating or cooling,
such as wall fans, horizontal air flow (HAF) fans, or other similar mechanical equipment.

(c) **Shade Structures**: A structure which does not require a building permit and is not mechanically heated, cooled, or lighted.

3. **Internal Site Area**: Uses located 500 feet or more from the external property line of the agricultural use.

4. **Perimeter Site Area**: Uses located within 500 feet from the external property line of the agricultural uses.

**B. Review Process**

1. **Growing Grounds**: Growing Grounds are allowed to be located anywhere within the Agricultural District, and no permit is required.

2. **Other Agricultural Activities** (includes buildings, shade structures and activity hubs) shall be permitted subject to an approved Agricultural Activity Permit submitted on application forms prescribed by the City Planner, based on the type of use and location on the site, as follows:

(a) **Agricultural Activity Permit**: If the proposed Agricultural Activity is located at Internal Site Areas and is consistent with the standards listed below, an Agricultural Activity Permit may be issued over the counter. No public notice, Development Plan or public hearing is required. A building or grading permit shall be obtained if otherwise required for the proposed use. An Agricultural Activity Permit may also be issued over the counter if the proposed Agricultural Activity is located within a Perimeter Site Area and each owner of any property or properties within 500 feet of the external property line of the proposed Agricultural Activity provides a written waiver of the public hearing requirement (see (B.2.c) below).

(b) **Alternate Agricultural Activity Permit**: If the proposed Other Agricultural Activity is located at Internal Site Areas and is not consistent with all of the standards listed below, alternatives to the standards may be proposed. An application for an Alternate Agricultural Activity Permit shall be submitted on forms provided by the City, and shall be reviewed by the City Planner. Public notice is required. No Development Plan or public hearing is required, however, the following findings must be made by the City Planner to approve or conditionally approve the proposed alternative and issue an Alternate Agricultural Activity Permit. The City Planner may, at his discretion, forward the Alternate Agricultural Activity Permit to the Planning Commission for its review and action. A building or grading permit shall be obtained if otherwise required for the proposed use.

**Findings for an Alternate Agricultural Activity Permit**:

I. There is reasonable justification for the alternative proposed.
II. The proposed use is in accordance with the objectives of the zoning ordinance and the purposes of the agricultural district.

III. The proposed use is reasonably necessary to the operation of the business at the site.

IV. Any environmental impacts can be mitigated in accordance with the California Environmental Quality Act.

V. The proposed use will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City nor shall it constitute a nuisance.

VI. The proposed modifications generally meet the intent of the guidelines herein.

(c) Planning Commission Review – If the proposed Other Agricultural Activity is located within Perimeter Site Areas, an Agricultural Activity Permit or an Alternate Agricultural Activity Permit shall be reviewed and approved conditionally approved or denied at a public hearing conducted by the Planning Commission. If other development-related applications are also required for aspects of the proposed project, such plans shall be reviewed concurrently by the Planning Commission. A public hearing is not required if the proposed Other Agricultural Activity is located within a Perimeter Site Area, and each owner of any property or properties within 500 feet of the external property line of the proposed Agricultural Activity provides a written waiver of the public hearing requirement.

(d) Appeals – Decisions of the City Planner may be appealed to the Planning Commission and decisions of the Planing Commission may be appealed to the City Council in accord with Article 46.

C. Development Standards for Agricultural Activities

Agricultural uses shall be permitted within the A District if the following standards are met:

1. All activity shall take place on the premises, including but not limited to staging, parking of all vehicles for employees, customers, vendors, suppliers and visitors, the breaking down of trucks, and truck turn-around areas; no parking or idling or breaking down or other aspects of the Activity shall be permitted on the public streets.

2. All parking, access driveways and staging areas must be surfaced and maintained with either asphalt, concrete, DG, gravel or rock and no mud shall be tracked onto
the public roads.

3. Sufficient parking spaces for employees, clients and guests must be provided onsite to meet the needs of the agricultural operation and activities.

4. Truck parking shall be provided on site that is sufficient in size and number to meet the needs of the agricultural operation and activities.

5. Adequate site access must be provided for all vehicles. See Section 3114 regarding driveway widths and clearances.

6. A truck turnaround area or other suitable truck route through the property shall be provided to accommodate trucks serving onsite operations.

7. Trucks serving the property, including but not limited to packing and greenhouse operations, cannot park and/or idle on public streets. Onsite parking must be available 24-hours per day.

8. Outdoor area lighting shall not employ a light source higher than 25 feet. Building plans submitted for building permit shall include provisions indicating the lighting is properly shielded and directed so as to prevent glare on surrounding properties or onto an adjacent street. Lighting shall comply with all City codes and ordinances in effect at the time of building permit issuance including any light pollution control measures.

9. Agricultural operations shall use Best Management Practices for dust and emissions control and erosion control and must comply with the City's Erosion Control ordinance.

10. The use and storage of chemicals and pesticides shall comply with the regulations set forth by the California State Department of Pesticide Regulation, as enforced by the San Diego County Agriculture Weights and Measures Department.

11. Agricultural operations shall meet all federal, state, regional and City requirements for discharge and drainage including, but not limited to requirements of Regional Water Quality Control Board (RWQCB) and National Pollution Discharge Elimination System (NPDES).

12. Owner/operator/tenant will be responsible for maintaining property and the street area directly adjacent to the property. All trash found within this area will be collected and disposed of properly. In addition, owner/operator/tenant will be responsible for collecting any other trash directly identifiable with the operation, and will dispose of it properly.

13. The agricultural operation shall be in compliance with all local, state and federal environmental protection laws.
14. Outdoor storage areas shall conform with the requirements of Section 3020.

15. Other Agricultural Activity areas shall not be located in any required setback or yard area, required landscape area, required drive aisle, or driveway.

16. Other Agricultural Activity areas and any associated screening or landscaping shall be maintained in good repair. Any dilapidated or dangerous conditions shall be repaired or removed. Graffiti shall be removed in accordance with the City's Graffiti Ordinance.

17. Any grading shall be done in compliance with the City's Grading Ordinance.

18. The maximum height of a fence or wall, including retaining walls, shall be 8 feet and shall be maintained. In addition, all fences and walls shall be subject to the driveway visibility requirements of Section 3115 and all retaining walls over 4 feet in height shall be a planted and irrigated crib-type wall.

19. Signs shall conform with the requirements of Article 33.

20. The screening of mechanical equipment shall conform with the requirements of Section 3021.

21. Agricultural activities shall conform with the Performance Standards in Section 3024.

22. The keeping of animals shall conform with the requirements of Section 3034.
Article 36 Separation of Regulated Uses (City-wide)

Sections:

3601 Statement of Purpose
3602 Regulated Uses
3603 Definitions
3604 Locational Requirements
3605 Waiver of Locational Requirements
3606 Applicability of Other regulations
3607 Severance Clause

3601 Statement of Purpose

In the development and execution of this ordinance, it is recognized that there are certain land uses including adult oriented businesses and tattoo establishments which create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods, family-oriented uses or sites commonly used by minors. Special regulations separating such uses from each other and from nearby residential areas, family-oriented uses, or sites commonly used by minors, are therefore necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, and interference with residential neighborhoods as well as interference with activities oriented toward families or minors.

3601.1 Findings – Adult Oriented Businesses

A. The City of Oceanside has certain provisions found in its Zoning Ordinance relating to locational criteria including zoning and buffer requirements for adult-oriented businesses that are in need of refinement. The City Council finds that it is necessary and appropriate to amend various provisions of the Zoning Ordinance to add, refine and update the provisions relating to planning and zoning standards for adult-oriented businesses operating within Oceanside. The public health, safety and welfare of the City and its residents require the enactment of this Ordinance in order to: (1) mitigate and reduce the judicially recognized potential adverse secondary effects of adult-oriented businesses, including but not limited to crime, the prevention of blight in neighborhoods and the increased threat of the spread of sexually transmitted diseases; (2) protect the quality of life and neighborhoods in the City, the City’s retail and commercial trade, and local property values, and minimize the potential for nuisances related to the operation of sexually oriented businesses; and (3) protect the peace, welfare and privacy of persons who own, operate and/or patronize sexually oriented businesses.

B. The City Council finds that the revisions to the City’s Zoning Ordinance implemented by this Ordinance are necessary in order to respond to recent developments within the regulation of adult uses and case law and in order to protect the City from the potential
adverse secondary effects of adult-oriented businesses, including crime, the protection of the City’s retail trade, maintenance of property values, protecting and preserving the quality of the City’s neighborhoods and the City’s commercial districts, and the protection of the City’s quality of life, based on the referenced studies and the findings set forth herein. Specifically, the revisions and amendments to the City’s Zoning Ordinance included in this Ordinance are essential and necessary to ensure the orderly land use regulation as to adult-oriented business uses within the City and thereby protect the public peace, safety and general welfare in the City of Oceanside.

C. The City Council, in adopting this Ordinance, takes legislative notice of the existence and content of the following studies concerning the adverse secondary side effects of adult-oriented businesses in other cities: Austin, Texas (1986); Indianapolis, Indiana (1984); Garden Grove, California (1991); Seattle, Washington (1989); Houston, Texas (1997); Phoenix, Arizona (1979); Tucson, Arizona (1990); Chattanooga, Tennessee (2003); Los Angeles, California (1977); Whittier, California (1978); Spokane, Washington (2001); St. Cloud, Minnesota (1994); Littleton, Colorado (2004); Oklahoma City, Oklahoma (1986); Dallas, Texas (1997 and 2007); Ft. Worth, Texas (2004); Kennedale, Texas (2005); Greensboro, North Carolina (2003); Amarillo, Texas (1977); Cleveland, Ohio (1977); Newport News, Virginia (1996); Jackson County, Missouri (2008); Louisville, Kentucky (2004); New York, New York (1994); New York Times Square (1994); Beaumont, Texas (1982); the Report of the Attorney General’s Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); A Methodological Critique of the Linz-Paul Report: A Report to the San Diego City Attorney’s Office (2003); Summaries of Key Reports Concerning the Negative Secondary Effects of Sexually Oriented Businesses, by Louis Comus III (2001). The City Council finds that these studies are relevant to the problems addressed by the City in enacting this Ordinance to regulate the adverse secondary side effects of adult-oriented businesses, and more specifically finds that these studies provide convincing evidence that:

1. Adult-oriented businesses, as a category of uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, liner, traffic, noise, and sexual assault and exploitation.

2. The studies from other cities establish by convincing evidence that adult-oriented businesses often have a deleterious effect on nearby businesses and residential areas, causing, among other adverse secondary effects, an increase in crime and a decrease in property values. Buffering and locational regulations for adult-oriented businesses should be developed to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created.

D. In developing this Ordinance, the City Council is mindful of legal principles relating to regulation of adult-oriented businesses, and the City Council does not intend to suppress
or infringe upon any expressive activities protected by the First Amendment of the United States and California Constitutions but instead desires to enact reasonable time, place, and manner regulations that address the adverse secondary effects of adult-oriented businesses. The City Council takes legislative notice of the:


2. Decisions of the Ninth Circuit Court of Appeals addressing adult-oriented businesses including but not limited to: Alameda Books, Inc. v. City of Los Angeles, 631 F.3d 1031 (9th Cir. 2011); Fantasyland Video, Inc. v. County of San Diego, 505 F.3d 996 (9th Cir. 2007); Tollis, Inc. v. County of San Diego, 505 F.3d 935 (9th Cir. 2007); Gammoh v. City of La Habra, 395 F.3d 1114 (9th Cir. 2005), amended 402 F.3d 875; World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Dream Palace v. County of Maricopa, 384 F.3d 990 (9th Cir. 2004); Talk of The Town v. Department of Finance and Business Services, 343 F.3d 1063 (9th Cir. 2003); Deja Vu-Everett-Federal Way, Inc. v. City of Federal Way, 46 Fed.Appx. 409 (9th Cir. 2002); Clark v. City of Lakewood, 259 F.3d 996 (9th Cir. 2001); Isbell v. City of San Diego, 258 F.3d 1108 (9th Cir. 2001); Isbell v. City of San Diego, 450 F.Supp.2d 1143 (S.D. Cal. 2006); Diamond v. City of Taft, 215 F.3d 1052 (9th Cir. 2000); L.J. Concepts, Inc. v. City of Phoenix, 215 F.3d 1333 (9th Cir. 2000); Lim v. City of Long Beach, 217 F.3d 1050 (9th Cir. 2000); Young v. City of Simi Valley, 216 F.3d 807 (9th Cir. 2000); 4805 Convoy, Inc. v. City of San Diego, 183 F.3d 1108 (9th Cir. 1999); North v. City of Gilroy, 78 F.3d 594 (9th Cir. 1996); Spokane Arcade, Inc. v. City of Spokane, 75 F.3d 663 (9th Cir. 1996); Topanga Press, Inc. v. City of Los Angeles, 989 F.2d 1524 (9th Cir. 1993); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986); and Lydo Entertainment v. Las Vegas, 745 F.2d 1211 (9th Cir. 1984).

E. The negative secondary effects from adult-oriented businesses constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City’s rationale for this Ordinance, exists independent of any comparative analysis between adult-oriented and non-adult-oriented businesses. Additionally, the City’s interest in regulating adult-oriented businesses extends to preventing future secondary effects of either current or future adult-oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects. The City refers to and incorporates by reference, the record of cases and documentation relating to secondary effects associated with adult-oriented businesses which will remain on file with the City Clerk.

F. Locational criteria are a legitimate and reasonable means of ensuring that adult businesses are conducted in a manner so as to minimize their adverse secondary effects and thereby protect the health, safety, and welfare of the City’s residents, protect citizens from increased crime, preserve the quality of life, preserve property values and the character of surrounding neighborhoods and businesses, and deter the spread of urban blight. The locational requirements contained in this Ordinance do not unreasonably restrict the establishment or operation of constitutionally protected adult businesses in Oceanside and a sufficient and reasonable number of alternative locations for adult-oriented businesses are provided by this Ordinance. The City Council takes legislative notice of the United States Supreme Court decision in Renton that requires that adult businesses be provided a reasonable opportunity to open and operate. The City Council also takes legislative notice of the Ninth Circuit’s decisions in Topanga Press, Lim and Isbell with respect to availability of sites for adult businesses and finds that under the distance and locational restrictions imposed by this Ordinance there are sufficient sites available for adult-oriented businesses within Oceanside.

G. Relying on the following, the City finds that adult-oriented businesses in its community may lead to detrimental secondary effects including prostitution and engagement in unlawful sexual activity. The City bases this conclusion on the experiences of Oceanside, as well as that of other California communities, such as La Habra and Arcadia, which the City has a reasonable basis to believe reflect the experiences of its own community, including numerous police reports and affidavits from those communities, and judicial decisions in the public record:

1. Evidence indicates that some dancers, models, entertainers, performers, and other persons who publicly perform specified sexual activities or publicly display specified anatomical areas in adult-oriented businesses (collectively referred to as “performers”) have been found to engage in sexual activities with patrons of adult-oriented businesses on the site of the adult-oriented business.
2. Evidence has demonstrated that performers employed by adult-oriented businesses have been found to offer and provide private shows to patrons who, for a price, are permitted to observe and participate with the performers in live sex shows.

3. Evidence indicates that performers at adult-oriented businesses have been found to engage in acts of prostitution with patrons of the establishment.

4. Evidence indicates that fully enclosed booths, individual viewing areas, and other small rooms whose interiors cannot be seen from public areas of the establishment regularly have been found to be used as locations for engaging in unlawful sexual activity.

5. As a result of the above, and the increase in incidents of HIV, AIDS, and hepatitis B, which are sexually transmitted or blood borne diseases, the City has a substantial interest in adopting regulations that will reduce the possibility for the occurrence of prostitution and unlawful sex acts at adult-oriented businesses in order to protect the health, safety, and well-being of its citizens. The City finds this is relevant to Oceanside and the need to regulate the secondary effects of adult-oriented businesses within the community.


I. The City Council recognizes the possible harmful effects on children and minors exposed to the effects of adult-oriented businesses and recognizes the need to enact regulations which will minimize and/or eliminate such exposure. The City Council takes legislative notice of the Penal Code provisions authorizing local governments to regulate matter that is harmful to minors (i.e., Penal Code § 313 et seq.). The City Council further takes legislative notice of the cases that recognize that protection of minors from sexually explicit materials is a compelling government interest, including Crawford v. Lungren, 96 F.3d 380 (9th Cir. 1996) and Berry v. City of Santa Barbara, 40 Cal.App.4th 1075 (1995).

J. While the City Council is obligated to protect the rights conferred by the United States Constitution to adult-oriented businesses, it does so in a manner that ensures the continued and orderly use and development of property within the City and diminishes, to the greatest extent feasible, those undesirable adverse secondary effects which the above mentioned studies have shown to be associated with the operation of adult-oriented businesses.

K. Zoning and locational restrictions are a legitimate and reasonable means of helping to reduce the secondary effects from adult-oriented businesses and thereby protect the health, safety, and welfare of Oceanside residents, protect citizens from increased crime, preserve the quality of life, and preserve the character of surrounding neighborhoods.
and businesses, and deter the spread of urban blight. The zoning and locational requirements contained in this Ordinance do not unreasonably restrict the establishment or operation of constitutionally protected adult-oriented businesses in Oceanside.

L. The City Council in recognizing that these standards do not preclude reasonable alternative avenues of communication and notes that the proliferation of adult-oriented material on the Internet, satellite television, direct television, CDs, DVDs, all provide alternative avenues of communication. Additionally, the City Council takes note that numerous web-based services, such as www.sugardvd.com and www.wantedlist.com, deliver adult videos and DVDs directly to customers’ homes via the mail. The City Council recognizes the following review of one of these web-based services: “SugarDVD has made it so easy to rent and view adult movies, you may never leave your house again ... SugarDVD is discreet with quick turnaround times and a massive selection ... SugarDVD offers six rental plans, catering to the casual porn viewer and diehards who can never get enough hard-core fare.” (Hustler Magazine, January 2006.) The City Council also considers and relies on published decisions examining the proliferation of communications on the Internet. Reno v. American Civil Liberties Union, 521 U.S. 844 (1997) [the principle channel through which many Americans now transmit and receive sexually explicit communication is the Internet]; Anheuser-Busch v. Schmoke, 101 F.3d 325 (4th Cir. 1996) [the Fourth Circuit rejected a First Amendment challenge to a Baltimore ordinance restricting alcohol advertisements on billboards acknowledging that the Internet is one available channel of communication]; U.S. v. Hockings, 129 F.3d 1069 (9th Cir. 1997); see also U.S. v. Thomas, 74 F.3d 701 (6th Cir. 1996) [recognizing the Internet as a medium for transmission of sexually explicit material in the context of obscenity prosecutions]. The Internet brings with it a virtually unlimited additional source of adult-oriented sexual materials available to interested persons in every community with a mere keystroke. An adult-oriented business no longer has to be “actually” physically located in a city to be available in the community.

M. The City Council recognizes that adult devices (i.e. adult novelties and/or adult related products) such as dildos, fur-lined handcuffs, leather whips, anal beads, and devices that are physical representations of human genital organs, are not speech and enjoy no First Amendment protections. (See Ford v. State of Texas, 753 S.W.2d 451, 452-453 (1988); Sewell v. State of Georgia, 233 S.E.2d 187, 188-189 (1977); Chamblee Visuals, LLC v. City of Chamblee, 506 S.E.2d 113, 115 (1998); and Red Bluff Drive-In, Inc. v. Vance, 648 F.2d 1020 (5th Cir. 1981).)

N. It is not the intent of the City Council in enacting this Ordinance, or any provision thereof, to condone or legitimize the distribution of obscene material, and the City and its Council recognize that state law prohibits the distribution of obscene materials and expect and encourage law enforcement officials to enforce state obscenity statutes against such illegal activities in Oceanside.

O. The City Council does not intend to regulate in any area preempted by California law including, but not limited to, regulation of obscene speech, nor is it the intent of the City
Council to preempt regulations of the state Alcoholic Beverage Control Department ("ABC").

P. Nothing in this Ordinance is intended to authorize, legalize, or permit the establishment, operation, or maintenance of any business, building, or use which violates any other City ordinance in any respect, or any statute of the State of California regarding public nuisances, unlawful or indecent exposure, sexual conduct, lewdness, obscene or harmful matter, or the exhibition or public display thereof.

Q. On September 12, 2016, the Planning Commission Council held a duly noticed public hearing during which it allowed for public input and testimony concerning this proposed Ordinance. At the conclusion of the public hearing the Planning Commission recommended this Ordinance to the City Council for approval.

R. On September 21, 2016, the City Council held a duly noticed public hearing during which it received input and testimony and considered the adoption of this Ordinance.

3601.2 Findings – Tattoo Establishments

A. The City Council has a reasonable basis to believe that there are land use compatibility issues relating the siting of tattoo facilities and their customers when located adjacent to residential uses. Through its zoning code provisions, the City of Oceanside seeks to maintain property values, protect tax revenues, provide neighborhood social and economic stability, attract business and industry, and encourage conditions that make the City of Oceanside a pleasant place to live and work.

B. The City Council has a reasonable basis to believe that it is important from a land use compatibility perspective to buffer tattoo facilities from sensitive land uses such as residential zones, schools, parks, and day care facilities while allowing a wide range of potential alternative sites and, as well, to have a buffer between regulated uses to prevent their concentration within one part of the City. These buffer provisions will serve to: (1) protect the quality of life and neighborhoods in the City; (2) protect the City’s retail and commercial trade; (3) minimize the potential for nuisances related to the operation of tattoo establishments; (4) protect the well-being, tranquility and privacy of the home with the residential buffer; and (5) protect the peace, welfare, and privacy of persons who own, operate and/or patronize tattoo establishments.

C. The City Council also desires to avoid the clustering of tattoo establishments so that the City does not experience a significant change in the character of the community. Tattoo establishments have the potential to have a detrimental impact individually or when located in close proximity to each other, can create a "skid row" atmosphere, and have a deleterious effect upon adjacent areas. For example, Oceanside’s downtown area has been the subject of substantial redevelopment and the addition of new businesses that are attractive to families and tourists. It is important that the character of the downtown area remain family and tourist-oriented. The buffer restrictions applicable to tattoo establishments serve to preserve this interest. Furthermore, the area of south Oceanside
has seen a revitalization in the past several years and it is important that this residential zoned areas be preserved, and that adjacent neighborhood serving commercial and visitor serving establishments be preserved and maintained. The City recognizes that the tattoo establishments serve as a specialty destination service and accordingly, is not compatible to place such facilities within 500 feet of a residential zone because it would contribute to neighborhood blight and is not consistent with and would not serve to protect the commercial zones that are designed to offer the neighborhood needed commercial services.

D. The City’s certified Local Coastal Program (“LCP”) provides that, “[i]n granting approvals for new development within the Coastal Zone, the City shall give priority to visitor serving commercial recreation facilities over private residential, general industrial or general commercial uses.” According to the City’s Land Use Plan (LUP), a component of the LCP, the visitor serving commercial land use category “encompasses specialized commercial uses which are directly dependent supportive or related to the coast. Such uses provide services or goods for coastal industries or recreationalists, and include boat sales, supplies, and services; diving, commercial fishing, and sport-fishing establishments; restaurants, snack bars, and convenience markets; gift, sundries, and novelty shops; tourist-cottages, campgrounds, and recreational vehicle parks; and recreational equipment rentals (such as bicycles, roller skates, surfboards).” A tattoo establishment is not a visitor serving use. This Ordinance advances the City’s interest in implementing its LCP.

E. The City has a reasonable basis to believe, based on its own experience, along with those of other communities including Vista, Signal Hill, Santa Clar, Torrance, Hermosa Beach, and Ventura as to the secondary effects of tattoo establishments in its community may lead to detrimental effects including noise, light, traffic, and parking compatibility issues with neighboring residential zones. The City is aware of other communities experience and based on its own experience is concerned for the potential for criminal activity from tattoo parlors and their potential to attract the criminal element, especially gangs.

F. Specifically, the City takes note of the Oceanside’s Police Crime Analysis report dated July 27, 2016 that documents increased criminal activity from tattoo facilities in Oceanside. Such criminal activity is not compatible with adjacent residential uses. The City takes note that within Oceanside, since January 2013, Oceanside PD has received 34 Calls for Police Service (CFS) at Oceanside’s 3 tattoo parlors; About Face, Frontline and Body Temple. The About Face Tattoo shop is located downtown at 423 S. Coast Hwy and has generated the most CFS, with 17 calls between 2013 and July 2016. In addition, since January 2005, Oceanside PD has received 73 CFS at About Face Tattoo shop which accounts for 92% more CFS than the neighboring barbershop; and 564% more CFS than the neighboring day spa. CFS at all 3 tattoo shops include calls related to fights, public disturbances, property crimes, calls for violent activity; none of which are compatible with adjacent schools, daycares or residential zones. In one case, a known drug user was displaying a weapon which required police officers to deploy a taser in order to arrest the suspect.
G. The City Council also takes note of the August 2014 investigation of a felony battery at Power Tattoo located in the neighboring city of Vista where an individual was assaulted by 20-30 people at a tattoo facility event. In addition, the City of Santa Clara Police Department conducted a study on secondary effects of crime from regulated businesses, which include tattoo shops, and concluded that these shops can be a magnet for organized crime, gang activity, loitering, and increased police calls. And, the City also takes note that in May 2011, the Los Angeles Police Department and federal agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives, arrested nineteen alleged members of the gang Venice 13 at a tattoo parlor called ‘Villainz Ink’ that attracted a number of suspected criminal street gang members and associates who, in the course of a four-month investigation, sold illegal narcotics, committed numerous firearms violations, and sold a firearm to an ATF undercover agent.

H. The City Council has a reasonable basis to be concerned over the criminal activity associated at tattoo facilities affiliated with the outlaw gang known as the Hells Angels based on the City’s own experience and those of neighboring jurisdictions. The Hells Angels are involved in the production, transportation, and distribution of marijuana and methamphetamine. Additionally, the Hells Angels are involved in the transportation and distribution of cocaine, hashish, heroin, LSD (lysergic-acid diethylamide), ecstasy; PCP (phencyclidine), and diverted pharmaceuticals. The Hells Angels are involved in other criminal activity including assault, extortion, homicide, money laundering, and motorcycle theft.” https://www.justice.gov/criminal-ocgs/gallery/outlaw-motorcycle-gangs-omgs. Moreover, according to a 2015 report by the National Gang Intelligence Center (“FBI Report”), the most common criminal activities committed by outlaw motorcycle gangs over the past two years have included weapons possession, threats and intimidation, assault, and drug trafficking. The FBI Report documents a March 2014 incident in which two Hells Angels members sought medical treatment for stab wounds sustained during an altercation with rival gang members on a freeway near Temecula, California. The injured Hells Angels members were not willing to cooperate with law enforcement or say who was responsible for their injuries. According to the report, outlaw motorcycle gang members are increasingly involved in self-owned businesses (in particular tattoo parlors) and that some of these businesses are used to facilitate criminal activity. https://www.fbi.gov/image-repository/pub3.jpg/view.

I. Zoning and locational regulations for tattoo establishments are necessary to prevent deterioration and/or degradation of the vitality of the community before the problem exists, rather than waiting for problems to be created. Buffer requirements are a legitimate and reasonable means of ensuring against the negative secondary effects of tattoo facilities and to balance the various land uses in order to minimize and control problems associated with such businesses and thereby protect the health, safety and welfare of Oceanside residents, preserve the quality of life, and preserve the character of surrounding neighborhoods. The buffer requirements of the City do not unreasonably restrict the establishment or operation of constitutionally protected adult businesses in Oceanside. The City Council recognizes that these buffer requirements do not preclude reasonable alternative avenues of communication and that there are several hundred potentially available sites for tattoo establishments. And, Oceanside is already home to
three (3) existing tattoo establishments, a fourth is undergoing tenant improvements, and there is a wide menu of potential sites for other prospective users to select from in this seaside community.

J. The City is concerned as to the health and well-being of adolescents within the community and is aware of prior studies conducted which have shown an association between adolescents who obtain tattoos and their involvement in high-risk behaviors that are detrimental to their health and welfare. The City Council has a reasonable basis to conclude that businesses offering tattoo services may result in negative impacts on sensitive uses, such as residential and educational institutions serving persons under 21 years of age. The City Council reasonably believes that in its community, a buffer from schools decreases the accessibility of such shops to high school aged persons. Similarly, in the south Oceanside area, minors are located in these adjacent residential zones and this buffer will serve to decrease the accessibility to minors as well. The prior study titled “Tattooing and High-Risk Behavior in Adolescents,” shows that this type of use (tattoo establishments) demonstrates a link between the tattooing of high school aged persons and a propensity to engage in other high-risk behaviors including gang affiliation, substance abuse, and violence. The Council takes legislative note of Sable Commission of California, Inc. v. FCC (1989) 492 U.S. 115 wherein the Court found that there is a compelling interest in protecting the physical and psychological well-being of minors.

K. The City of Oceanside has a reasonable basis to believe that there are serious health issues at play in the provision of tattoos. The City is aware that the practice of providing tattoos, through the use of implements which pierce the skin, create an increased risk of the transfer of blood borne diseases. Tattoo inks, dyes, and pigments have not been approved by the FDA and the health consequences of using these products are unknown. This applies to all tattoo pigments, including those used for ultraviolet (UV) and glow-in-the dark tattoos. Many pigments used in tattoo inks are industrial-grade colors suitable for printers’ ink or automobile paint. And, the use of henna in temporary tattoos has not been approved by FDA. Henna is currently approved only for use as a hair dye.

L. Tattooing carries the risk of infection and transmission of disease if unsanitary conditions are present or unsterile equipment is used. The Centers for Disease Control and Prevention (“CDC”) and the United States Food and Drug Administration (“FDA”) confirm the significant health risks of tattooing. CDC, Body Art: Tattoos and Piercings (Jan. 21, 2008) (noting risks of infection, tuberculosis, Hepatitis B and C, and HIV). FDA, Tattoos and Permanent Makeup (Nov. 29, 2000) (discussing the risks of infection, removal problems, potential allergic reactions, and MRI complications). Research has also shown that some pigment migrates from the tattoo site to the body’s lymph nodes. Lymph nodes are part of the lymphatic system, a collection of fluid-carrying vessels in the body that filter out disease-causing organisms. Whether the migration of tattoo ink has health consequences or not is still unknown. The National Center for Toxicological Research (NCTR) is doing further research to answer this and other questions about the safety of tattoo inks.
M. The City Council is mindful of legal principles relating to regulation of tattoo establishments, and the City Council does not intend to suppress or infringe upon any expressive activities protected by the First Amendment of the United States and California Constitutions but instead desires to enact reasonable time, place, and manner regulations that address the adverse effects of tattoo establishments. The City Council has considered the following decisions: Anderson v. Hermosa Beach (9th Cir. 2010) 621 F.3d 1051; Buehrle v. Key West (11th Cir. 2015) 813 F.3d 973; Ward v. Rock Against Racism (1989) 491 U.S. 78; and City of Renton v Playtime Theaters (1986) 475 U.S. 41. As well, the City Council is mindful of the district court decision rendered this past June 2016 by USDC Stephen Wilson in the federal lower court matter of Tiffany Garcia v. City of Torrance.

**3602 Regulated Uses**

The uses subject to compliance with this Article are as follows:

A. Adult Bookstores/ Novelty Stores/ Video Stores  
B. Adult Cabaret  
C. Adult Entertainment Business  
D. Adult Motel  
E. Adult Motion Picture Theaters  
F. Adult Theaters  
G. Arcades and game Centers  
H. Bars and Cocktail Lounges  
I. Bath Houses  
J. Body Piercing Establishments  
K. Dance Establishments  
L. Escort Services  
M. Figure Studios  
N. Liquor Stores  
O. Massage Establishments  

**P. Medical Cannabis Facility**

QP. Payday Loans/ Paycheck Advance Establishments  
RQ. Peep-Show Establishments  
SR. Pool Rooms, Billiard Rooms, and Shooting Galleries  
TS. Tattooing Establishments  
UT. Tobacco and Drug Paraphernalia Establishments

Regulated Uses that have First Amendment protections shall require an Administrative Regulated Use Permit (ARUP) as called out in Section 3606. The balance of the Regulated Uses listed in this Section, shall require a use permit issued in accord with Article 41, however, the City Council shall have final authority to approve or disapprove the use permit.
3603 Definitions

The definitions appearing in Article 3 and the land use classifications appearing in Article 4 and 4a of this ordinance shall apply to any terms used in Article 36. The term “medical cannabis facility” shall have the same meaning in Oceanside City Code section 7.120.120 and shall include a medical cannabis cultivation facility, a medical cannabis nursery, a medical cannabis manufacturer and/or distributor, or medical cannabis dispensary but shall not include the term medical cannabis testing laboratory.

3604 Locational Requirements

A. It shall be unlawful for any Regulated Use to be located closer than one thousand (1,000) feet to any other Regulated Use. This distance shall be measured in a straight line, without regard to intervening structures from the closest point on the exterior structure walls of each business.

The separation requirement in this section 3604(A) shall not be applied to prevent a medical cannabis manufacturer from engaging in medical cannabis distribution or a medical cannabis cultivator from operating a medical cannabis nursery at the same premises provided a state license and Local License is issued to allow both activities from the same premises.

B. It shall be unlawful for any Regulated Use listed as Items A, B, C, D, E, F, M, P or RQ of Section 3602 to be located closer than one thousand (1,000) feet from any residential district or any parcel of land which contains any one or more of the following specific land uses:

1. Public or Private School;
2. Park, playground or public beach;
3. Church or other similar religious facility, and
4. Child care or pre-school facility.

(Items 1-4 shall collectively be referred to as “the Sensitive Land Uses”)

It shall be unlawful for any Regulated Use not enumerated in this Section B to be located any closer than five hundred (500) feet from any residential district or any Sensitive Land Uses.

C. The Regulated Use enumerated as TS (Tattooing Establishment) in Section 3602 above, shall not be located closer than five hundred (500) feet to any other tattooing establishment, or be located within five hundred (500) feet of any residential district or to any of the Sensitive Land Uses enumerated in Section 3604.B. 1, 2, or 4. No other locational requirements shall apply to tattooing establishments.

D. The distance between any Regulated Use and any residential district shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior structure wall of the use to the closest district line of any residential district. The
distance between any Regulated Use and any Sensitive Land Uses enumerated in Subdivisions (1) or (2) of Section 3604.B shall be measured in a straight line, without regard to intervening structures, from the closest point of the exterior structure wall of the regulated use to the closest point of the parcel line of such enumerated land use. The distance between any Regulated Use and any Sensitive Land Uses enumerated in Subdivisions (3) or (4) of Section 3604.B shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior structure wall of the Regulated Use to the closest point on the exterior structure wall of such enumerated land use.

3605 Waiver of Locational Requirements

Any person proposing a permitted Regulated Use (other than a medical cannabis facility) as listed in Section 3602 may apply for a waiver of the locational requirements provided in Section 3604, except that no waiver shall be available where the proposed Regulated Use is subject to Section 3606 or is otherwise afforded First Amendment Protections. Such waiver application shall be filed and processed concurrently with the conditional use permit entitlement request, if applicable, for the proposed use. The City Planner shall set the use permit application, and/or the waiver application, for public hearing before the Planning Commission or Community Development Commission as the case may be, provided that at least ten (10) days written notice of such hearing is given to owners and occupants of all property lying within all applicable distances set forth in the locational requirements.

The Planning Commission shall make recommendations to the City Council for the approval or disapproval of such waiver. No waiver shall be approved unless all of the following findings are made regarding the proposed use:

1. It will not be contrary to the public interest.
2. It will not be contrary to the spirit or intent of this Article.
3. It will not impair nearby property or the integrity of the underlying district.
4. It will not encourage the development of an adult entertainment area or otherwise promote community blight.
5. It will not negatively impact any governmental programs of redevelopment, revitalization, or neighborhood preservation.

3606 First Amendment Application – Administrative Regulated Use Permit

A. Approval of a Regulated Use protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution shall require approval of an Administrative Regulated Use Permit (ARUP) by the City Planner and shall not require approval of a Conditional Use Permit (CUP). The ARUP shall be approved by the City Planner provided:

1. The proposed use is allowed by Articles 11, 12 and/or 13 of the Zoning Ordinance;
2. The proposed use meets the locational requirements in Section 3604; and
3. The proposed use meets the operational requirements, if any, set forth for such proposed use in the Oceanside City Code or any other provision of law. No waiver of the locational requirements shall be permitted.

B. The City Planner shall determine within ten (10) business days whether the ARUP application is complete. The City Planner’s decision to approve or deny the ARUP application shall be made within sixty (60) days after the application is complete. The City Planner’s decision shall be deemed final for purposes of this section upon the date it is mailed by first-class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the applicant and all adjacent property owners within five hundred (500) feet of the proposed Regulated Use, as measured in accordance with Section 3604.D. The final City Planner’s decision shall not be subject to any administrative appeal. Judicial review of the City Planner’s decision shall be in accordance with the procedures set forth in the California Code of Civil Procedure section 1094.8.

3607 Applicability of Other Regulations

The provisions of this article are not intended to provide exclusive regulation of the regulated uses. Such uses must comply with any and all applicable regulations imposed in other articles of this zoning ordinance, other city ordinances, and state and federal law.

3608 Severance Clause

If any section, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, or the ordinance in its entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of such section, sentence, clause or phrase.
Exhibit “B”

Chapter 7
Article XIII
MEDICAL CANNABIS FACILITIES

Sections:
7.115 Purpose and intent.
7.116 Definitions.
7.117 Medical cannabis facilities permitted
7.118 License in addition to other permit
7.119 Permits required
7.120 Local License application process
7.121 Grounds for denial or revocation; conditions of approval
7.122 Transfer of ownership interest, modification or other material changes
7.123 Renewal of a Local License
7.124 Limitations on City's liability
7.125 Additional terms and conditions
7.126 Medical cannabis facility operational requirements
7.127 Employee permits
7.128 Inspections and enforcement.
7.129 Appeals.
7.130 Permits not transferable.
7.131 Violations.
7.132 Regulations

7.115 Purpose and intent

The purpose of this Chapter is to permit medical cannabis facilities, as defined herein, to operate within the City of Oceanside subject to the approval of: 1. a Local License in accordance with the criteria and procedures set forth in this Chapter; 2. a conditional use permit validly issued by the City pursuant to the Oceanside Zoning Ordinance; and 3. a state license required by applicable provisions of state law. The Local License shall only permit medical cannabis cultivation authorized by state licenses M-Type 1A (Specialty Indoor) M-Type2A (Small Indoor), M-Type 3A (Indoor-Medium) M-Type 1B (Specialty Mixed-light), M-Type 2B (Specialty Mixed-light Small), M-Type 3B (Specialty Mixed-light medium). In addition, the Local License shall only permit medical cannabis testing laboratories authorized by state license M-Type 8, medical cannabis nurseries authorized by state license M-Type 4, medical cannabis dispensaries authorized by state license M-Type 10, medical cannabis distribution authorized by state license M-Type 11, and medical cannabis manufacturing level 1 for sites that manufacture medical cannabis products using nonvolatile solvents, or no solvents. A Manufacturing Level 1 M-Type 6 licensee shall only manufacture medical cannabis products for sale by a retailer with an M-Type 10 license.
7.116 Definitions

A. The following terms shall be defined as follows:

"Applicant" means the person applying for a Local License pursuant to this Chapter.

"Canopy" means the total combined indoor area for all locations on a property where medical cannabis is being cultivated, as measured by the horizontal extent of the plant or combination of plants at the widest point and measured in a straight line. This does not include aisles or walkways.

"Cultivation" has the same meaning as Section 26001(l) of the Business and Professions Code and shall include any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis.

"Good Cause" for purposes of denying a Local License, for revoking a Local License, or for denying a Local License renewal, includes, but is not limited to, the following:

1. The Licensee or Applicant has violated any of the terms, conditions or provisions of this Chapter, of state law, of any regulations and/or rules promulgated pursuant to state law, any applicable local rules and/or regulations, or any special terms or conditions placed upon its conditional use permit, state license, and/or Local License;

2. For new applications, the City Manager or designee determines that issuance of the license would impair the health, safety or welfare of the public, cause negative impacts to property values, cause odor created by cannabis plants to impact adjacent properties, impair the City's ability to prevent crime associated with cannabis, and/or impair the City's ability to ensure that cannabis grown, manufactured or sold remains secure and does not find its way to minors, or illicit markets. For applications for permit renewal, the Licensed Premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the medical cannabis facility is located, causes adverse economic impacts, increased crime, decreased property values and/or an increase in the number of transients in the area;

3. The Licensee or Applicant has made false statements, misrepresentations or material omissions on an application form, renewal form, or any other document submitted to the City;

4. The Licensee or Applicant has failed to provide all required information required by this Chapter, or has failed to pay the required fee.

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 identified in Section 7.127.F, or any offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made. 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 may consider, among other things, the factors as set forth in Section 19323(b) of the Business and Professions Code;

6. The Licensee or Applicant is employing or being financed in whole or in part by any person whose criminal history indicates that person is not of good moral character;

7. The Applicant or Licensee has failed or refused to allow City officials to inspect security recordings, activity logs, or business records, of the licensed premises;

8. The Applicant or Licensee is owned by, has an officer or director who is, or is employing or financed in whole or in part by, a licensed physician making recommendations for cannabis;

9. The Applicant or Licensee has had a Local License revoked by the City; or

10. The Applicant or Licensee operated a cannabis business in violation of this Chapter, the Oceanside Zoning Ordinance, or any other applicable state or local law.

11. For new applications for a medical cannabis dispensary, the City Manager or designee determines that (in addition to the separation requirements set forth in Article 36 of the Zoning Ordinance), the proposed medical cannabis dispensary, if approved, would be located within 600 feet of a business catering to families, including commercial recreational uses, theaters, grocery stores, public libraries, public swimming pools and gymnasiums, youth clubs or sporting goods stores.

"Legal parcel" means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels may at the option of the property owner be counted as a single parcel for purposes of this Chapter.

"Licensee" means a person who has been issued a state license, Local License and a conditional use permit pursuant to this Chapter and the Oceanside Zoning Ordinance.

"Local License" means a medical cannabis facility permit issued by the City pursuant to this Chapter.

"Medical cannabis" has the same meaning as Section 26001(ai) of the Business and Professions Code.

"Medical cannabis facility" shall refer to a medical cannabis cultivation facility, a medical cannabis testing laboratory, a medical cannabis manufacturer and/or medical cannabis distributor, or a medical cannabis dispensary.
"Medical cannabis cultivation facility" means a facility wherein cannabis is propagated, planted, grown, harvested, dried, cured, graded, labeled, tagged for tracking or trimmed, or that does all or any combination of those activities for medicinal purposes consistent with California law. This definition excludes the cultivation of no more than six nonmedical cannabis plants by a person twenty-one years of age or older for personal use in a private residence provided the cultivation is in a fully enclosed structure that is secure, not visible from a public space and otherwise exempt from state licensing requirements.

"Medical cannabis dispensary" means a facility wherein medical cannabis, medical cannabis products, are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale in compliance with all applicable state laws.

"Medical cannabis distribution site." A location where medical cannabis obtained from a licensed medical cannabis cultivator or medical cannabis products from a licensed manufacturer is temporarily stored, prior to delivery to a licensed medical cannabis dispensary and as part of performing a Distributor's duties under state law. A medical cannabis distributor is a person engaged in the procurement, sale, and transport of medical cannabis and medical cannabis products between licensees.

"Medical Cannabis manufacturer" means a facility involving production, preparation, propagation and compounding of medical cannabis and medical cannabis products, without the use of a volatile solvent. Nonvolatile medical cannabis manufacturing includes and is limited to the extraction of a substance from a cannabis plant with nonvolatile solvents, the infusion of mixture of medical cannabis into another substance, the preparation of an edible item that includes medical cannabis, and the packaging and labeling of medical cannabis or medical cannabis products. Nonvolatile medical cannabis manufacturing does not include cannabis cultivation.

"Medical cannabis nursery" means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of medical cannabis.

"Medical cannabis testing laboratory" means a laboratory, facility, or entity that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following: (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; and (2) Licensed by the state of California to perform medical cannabis testing consistent with Business and Professions Code section 26001.

"State law(s)" shall mean and include California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7 through 11362.83 (Medical Cannabis Program Act); Medical Marijuana Regulation and Safety Act ("MMRSA"), Senate Bill 94 (Medicinal and Adult Use Cannabis Regulation and Safety Act "MAUCRSA"), Assembly Bill 133, codified at Business and Professions Code sections 26001.
through 26227.9; Government Code sections 11553 through 11553.5; Health and Safety Code section 11357; Revenue and Taxation Code section 34010 through 55044 and all other applicable laws of the state of California related to cannabis as may be amended from time to time.

"State license," "license," or "registration" means a state license issued pursuant by the state licensing authority to authorize the cultivation, distribution, testing, manufacturing or dispensing of medical cannabis.

"State licensing authority" shall mean the Bureau of Cannabis Control and/or any other agency authorized to issue licenses for the commercial cannabis activities or authorized to take disciplinary action against such license.

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


2. The Medical Cannabis Program Act (California Health and Safety Code Sections 11362.7 through 11362.83).

3. The Medical Marijuana Regulation and Safety Act (California Business & Professions Code Sections 19300 through 19360) as may be amended from time to time.

4. Assembly Bill 133, codified at Business and Professions Code sections 26001 through 26227.9; Government Code sections 11553 through 11553.5; Health and Safety Code section 11357; Revenue and Taxation Code section 34010 through 55044.

5. Senate Bill 94 (Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA").

7.117 Medical Cannabis facilities permitted

A. Subject to compliance with this Chapter, all applicable provisions of the Oceanside Zoning Ordinance, and all other applicable state and local laws and regulations, medical cannabis facilities may be operated within the City.

B. The maximum number of Local Licenses issued by the City may be limited by resolution of the City Council. Such limitation may be based on number of Local Licenses, the aggregate area of medical cannabis facilities, or any other measure determined by the City Council. No more than two medical cannabis dispensaries shall be permitted citywide.

C. A Local License issued pursuant to this Chapter shall specify the date of issuance, the period of licensure, the name of the Licensee, and the address of the medical cannabis facility.
7.118 License in addition to other permit

The Local License required under the terms of this Chapter shall be in addition and supplemental to any business license or any permit required by any ordinance of the City. The applicant shall pay all applicable business license administrative fees and taxes required by applicable law. The business license for any medical cannabis facility shall be deemed as Category II, High Level of Enforcement and shall be subject to the rules, regulations and policies of this classification.

7.119 Permits required

A. Prior to initiating operations and as a continuing requisite to operating a medical cannabis facility, the legal representative of the persons wishing to operate a medical cannabis facility shall first obtain a Local License from the City Manager or designee and then a conditional use permit pursuant to all applicable provisions of the Oceanside Zoning Ordinance. The Applicant shall file an application with the City Manager or designee upon a form provided by the City and shall pay an application fee as established by resolution adopted by the City Council as amended from time to time.

B. Nothing in this section shall permit a medical cannabis facility to operate at any time in a manner that is in violation of this Chapter, the Oceanside Zoning Ordinance, the City Building Code, Fire Code, or any other applicable state or local law or regulation.

C. It shall be unlawful for any person or entity to operate a medical cannabis facility in the City unless it has been granted a state license, a Local License pursuant to this Chapter, and a conditional use permit as required by the Oceanside Zoning Ordinance.

7.120 Local License application process

All applications for Local Licenses pursuant to this Chapter shall be made upon current forms prescribed by the City and shall include a statement by the Applicant under penalty of perjury certifying that all of the information contained in the application is true and correct. The City shall not receive or act upon an application for the issuance of a Local License pursuant to this Chapter until a completed application and the fee established by resolution of the City Council is submitted to the City. An Applicant shall have an opportunity to cure any incomplete application within thirty (30) days of written notice of incompleteness by the City. An application for a Local License shall include at least the following:

1. Proof of organizational status, such as articles of incorporation, taxpayer or employer identification number, by-laws, organizational minutes, partnership agreements, and other documentation as may be required by the City.
2. A written report prepared by the Oceanside Police Department concerning the acceptability of the background of the Applicant. The written report shall include a criminal background check of any Applicant for a Local License, including background checks on any management personnel who are responsible for the day-to-day operations and activities of the medical cannabis facility and any shareholder, partner, member, officer and/or director.

3. Documentation establishing that the Applicant is, or will be, entitled to possession of the premises for which application is made. Evidence of lawful possession consists of a properly recorded deed, lease, evidence of ownership of the premises, or other written documents acceptable to the City. The licensed premises shall only be the geographical area that is specifically and accurately described in executed documents verifying lawful possession. Licensees are not authorized to relocate to other areas or units within a building structure without first filing an application for a modification of the Local License, obtaining a conditional use permit for the new premises, and obtaining approval from the City.

4. An operating plan for the proposed medical cannabis facility including the following information:

   a. A general description of the types of products to be cultivated, tested, manufactured, distributed or sold at the medical cannabis facility;

   b. A floor plan designating all interior dimensions and the layout of the medical cannabis facility, including all limited access areas, areas of ingress and egress, and all security camera locations. Such floor plan shall also show the principal uses of the floor area depicted therein and shall identify all areas where product will be located;

   c. An employee list; and

   d. Name of third-party tracking software the medical cannabis facility will use to track the medical cannabis.

5. A security plan for the proposed medical cannabis facility including the following security requirements:

   a. Video surveillance. The medical cannabis facility must be equipped with a video surveillance system that meets all of the requirements set forth in this subsection.

      i. Security cameras and digital storage of recordings shall be maintained in good condition and used in an on-going manner, twenty-four hours per day, seven (7) days per week.

      ii. The security system must maintain at least 120 concurrent hours of digitally recorded video for each security camera in the Licensed Premises. Security footage should be stored in an MPEG4, MJPEG, H.264, or another format approved by the City in writing and the recorded video shall be made available to the Oceanside Police Department immediately upon request.
iii. Security Cameras must provide adequate and sufficient coverage for the facility, which must include but need not to be limited to, all restricted and limited access areas, all areas of ingress and egress, the public areas, storage areas, and any other areas as required by this Chapter and applicable provisions of state law.

iv. The video surveillance system must be equipped with a failure notification system that provides prompt notification to a security company licensed by the Department of Consumer Affairs, Bureau of Security & Investigative Services, of any surveillance interruption or complete failure of the surveillance system that lasts longer than fifteen (15) minutes. The licensed alarm company must promptly report any such notification to the Oceanside Police Department.

v. The video surveillance system shall have sufficient battery backup to support a minimum of one (1) hour of recording in the event of a power outage.

vi. The video surveillance system shall stream a live feed accessible to the Oceanside Police Department via a secure Internet portal, virtual private network or other form of secure remote access.

b. Alarm system. The medical cannabis facility shall have an audible interior and exterior security alarm system installed on all perimeter entry points and perimeter windows, operated and monitored by a security company licensed by the Department of Consumer Affairs, Bureau of Security & Investigative Services, and approved by the City. "Perimeter entry points" includes, regardless of size, all doors, windows, hatches and/or points at which systems (such as HVAC systems) enter a structure.

c. Signage requirement. The medical cannabis facility must comply with the following signage requirements.

i. A sign shall be posted in a conspicuous place near each point of public access which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than one inch in height, stating "All Activities Monitored by Video Camera."

ii. Limited access areas shall be clearly identified by the posting of a sign which shall be not less than 12 inches wide and 12 inches long, composed of letters not less than a half inch in height, which shall state, "Limited Access Area- Authorized Personnel Only."

iii. In addition to the requirements set forth in the Zoning Ordinance and applicable CUP, signage shall be limited to the business name and address with no logos, advertising, banners, green crosses, or similar insignia.

d. Lighting. The medical cannabis facility's 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, and other restrictions, and secure the necessary approvals and permits as needed.
e. Commercial-grade locks. All points of ingress and egress to a medical cannabis facility shall ensure the use of commercial-grade, nonresidential door locks and window locks.

6. Written Authorization for the City to seek verification of the information contained within the application and authorization for the Oceanside Police Department to conduct the background check(s).

7. Any additional information that the City may request to process and fully investigate the application. The additional information must be provided to the City no later than thirty (30) days after the date of the request unless otherwise specified by the City. Failure to provide such additional information by the requested deadline may result in denial of the application.

7.121 Grounds for denial or revocation; conditions of approval

A. The City Manager or designee shall reject an application for a Local License upon a finding of Good Cause.

B. The City Manager or designee may place conditions upon the approval of any Local License which are, in the opinion of the City Manager or designee, reasonably related to the protection of the health, safety and welfare of (i) the neighborhood in which the proposed medical cannabis facility is to be located and/or (ii) the general public.

C. All persons who are engaged in or who are attempting to engage in a medical cannabis activity in any form shall do so only in strict compliance with the terms, conditions, limitations and restrictions of state law, this Chapter, the Oceanside Zoning Ordinance, and all other applicable state and local laws and regulations.

D. The City Manager or designee is authorized to implement policies and procedures consistent with this Chapter concerning the application, the information required of Applicants, and the application procedures to implement this Chapter.

E. A Local License issued by the local licensing authority constitutes a revocable privilege. The Applicant has the burden of proving its qualifications for a Local License at all times.

7.122 Transfer of ownership interest, modification or other material changes

In addition to any requirements in this Chapter, the transfer of ownership interest, modification of a cannabis facility, and/or change of manager, location or other material change of the medical cannabis facility shall comply with the following:

A. The Licensee shall report the transfer of ownership interest, modification of medical cannabis facility, and/or change of manager, location or other material change of the medical cannabis facility to the City Manager or designee on forms prescribed by the local
licensing authority and must receive written approval from the City Manager or designee prior to any such transfer or change.

B. A Licensee shall not make physical change, alteration, or modification of the medical cannabis facility that materially or substantially alters the medical cannabis facility from the plans approved by the City without the prior written approval of the City. Material changes include, but are not limited to: a decrease in the number of security cameras, the relocation of a security camera identified in the application submitted pursuant to Section 7.120, an increase in the total square footage of the medical cannabis facility or the addition, sealing off, or relocation of a wall, common entryway, doorway, or other means of public ingress and/or egress. Applications for modifications of a medical cannabis facility shall be made on forms prescribed by the City.

C. For a transfer of ownership interest, a change in location or a change of manager, the City shall require a new Local License pursuant to this Section 7.119.

D. No Licensee may sublet any portion of a Licensed Premises for any purpose without prior written City approval.

7.123 Renewal of a Local License

A. A Licensee may apply for the renewal of a Local License no less than thirty (30) days prior to the Local License's expiration date. If the Licensee files a renewal application within thirty (30) days prior to expiration, the Licensee shall provide a written explanation detailing the circumstances surrounding the late filing. The City may accept or reject such late filing in its discretion. The City may elect to administratively continue a Local License past its expiration date, provided that the Licensee has submitted a renewal application that is complete and pending final action.

B. An application for renewal will only be accepted if it is accompanied by the requisite licensing fee.

C. Each application for renewal shall include updated information for any part of the application that has undergone a change in circumstance since the original application or last renewal filing and shall recertify all information submitted in prior application(s).

D. Unless the City has expressly authorized in writing the renewal of the Local License, a Local License is immediately invalid upon expiration and the cannabis facility shall cease operations. The City Manager or designee shall approve or deny the application for renewal based upon the grounds set forth in Section 7.121.

E. All Local Licenses are valid for one year from the date of issuance. A Local License may be valid for less than the applicable license term if revoked, suspended, voluntarily surrendered, or otherwise disciplined.
7.124 Limitations on City's liability

To the fullest extent permitted by law, the City shall not assume any liability with respect to approving any Local License pursuant to this Chapter or the operation of any medical cannabis facility approved pursuant to this Chapter. As a condition of approval of a Local License as provided in this Chapter, the Applicant or its legal representative shall:

A. Execute an agreement indemnifying the City from any claims, damages, liabilities or other obligations of any kind associated with the operation of the medical cannabis facility;

B. Maintain insurance in the amounts and of the types that are acceptable to the City Attorney;

C. Name the City as an additional insured on all City required insurance policies and submit proof of endorsements;

D. Agree to defend, at its sole expense and with counsel of the City's choice, any action against the City, its agents, officers, and/or employees related to the approval of a Local License and/or conditional use permit; and

E. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a Local License and/or conditional use permit.

F. Deposit with the City security in an amount determined in the judgment of City Manager and City Attorney that may be used by the City as, when and to the extent necessary to satisfy the Applicant's obligations under this Section. The security required by this paragraph shall be in the form of cash or any other form approved by the City in its sole and absolute discretion.

G. Expressly acknowledge in writing that (i) the City incurs no liability whatsoever as a result of the City's issuance of a Local License pursuant to this Chapter, a conditional use permit pursuant to the Oceanside Zoning Ordinance and/or approval of the security plan required by this Chapter, (ii) the Applicant is aware that the cultivation of cannabis may violate federal law, including, without limitation, the Controlled Substances Act, 21 U.S.C. § 801 et seq., and (iii) the Applicant assumes all liability for such violation.

7.125 Additional terms and conditions

Based on the information set forth in the application, the City Manager or designee may impose reasonable terms and conditions on the proposed operations of the medical cannabis facility in addition to those specified in this Chapter.
7.126 Medical Cannabis facility operational requirements

Licensees shall comply with the requirements set forth in this Chapter. Failure to comply with any of these requirements shall be considered grounds for suspension and/or revocation of a Local License.

A. General obligation to operate in compliance. A Licensee shall comply fully with all of the applicable restrictions and mandates in this Chapter, the Oceanside Zoning Ordinance, the applicable CUP, all applicable state and local laws, all requirements of the state and Local Licenses, and the security plan required by Section 7.120.

B. General obligation to pay taxes. A Licensee shall pay any applicable taxes pursuant to federal, state, and local laws.

C. Inspection of premises and records. A Licensee shall make the medical cannabis facility premises, books, records and all other documents related to its operation available for inspection by any City officer or official for purposes of determining compliance with all applicable legal requirements.

D. Secure storage of product. Medical cannabis maintained at a medical cannabis facility shall be kept and stored in a secured manner within a limited access area or restricted access area at all times in compliance with the approved security plan.

E. Prohibition on cannabis consumption on premises. On-site smoking, ingestion, or consumption of cannabis shall be prohibited on the premises of all medical cannabis facilities. The term "premises" as used in this subsection includes the actual building, as well as any accessory structures, common areas and parking areas. A sign shall be posted at each entrance of a cannabis facility that clearly and legibly states, "Smoking, ingestion, or consumption of cannabis on these licensed premises or in their vicinity is prohibited and a violation of the Oceanside City Code."

F. Prohibition on alcohol sales, distribution, or consumption on licensed premises. A medical cannabis facility shall not sell, provide, store, or distribute any product that would require that the seller possess a license issued by the California Department of Alcoholic Beverage Control.

G. Display of license and conditional use permit. A medical cannabis facility shall display a copy of its Local License issued pursuant to this Chapter and conditional use permit issued pursuant to the Oceanside Zoning Ordinance in a conspicuous place at the entrance to the licensed premises.

H. No physician evaluations on licensed premises. A medical cannabis facility shall not permit a physician to evaluate patients or to provide recommendations for cannabis within its licensed premises. Medical cannabis facilities shall not offer or provide any form of remuneration to a physician who recommends cannabis.
I. Community relations designee. A medical cannabis facility must provide the City’s Development Services Department and Police Chief with the name, phone number, facsimile number, and email address of an on-site community relations representative or staff person or other representative to whom the City can provide notice if there are operating problems associated with the medical cannabis facility or refer members of the public who may have complaints or concerns regarding the medical cannabis facility.

J. Seed to sale tracking required. Until such a time that the State of California fully implements Section 19335 of the Business and Professions Code, a medical cannabis facility must utilize third-party software that tracks all sales, transfers, purchases, receipts, deliveries of medical cannabis and medical cannabis products. The software must be capable of producing electronic shipping manifests, tracking all cannabis inventory in possession of the medical cannabis facility, promptly identifying a discrepancy in the stock, and tracking cannabis from a qualified patient or primary caregiver back to its source.

K. Unique identifiers. A medical cannabis facility must comply with the unique identification program promulgated by the City Manager; provided, however, that any unique identification program promulgated by the City Manager shall, pursuant to Section 11362.777(1)(2) of the Health and Safety Code, adhere to the requirements set by the California Department of Food and Agriculture and be equivalent to those administered by the California Department of Food and Agriculture.

L. Delivery Requirements. A Medical Cannabis dispensary may engage in medical cannabis delivery directly from a dispensary located within the City of Oceanside provided the approved Local License specifically permits deliveries, a conditional use permit has been approved pursuant to the Oceanside Zoning Ordinance, and all required state licenses have been secured, subject to the following conditions:

1. All drivers shall obtain employee permits pursuant to section 7.127, shall be twenty-one (21) years of age or older, and shall possess a valid California driver’s license.

2. The delivery vehicles shall not advertise any commercial cannabis activity nor shall it advertise the name of the dispensary.

3. Deliveries shall be directly to the residence or business address of the qualified patient who possesses an identification card issued pursuant to Health and Safety Code section 11362.71 et seq. or that person’s primary caregiver. Any other delivery or transaction is prohibited. The qualified patient or primary caregiver shall maintain a copy of the delivery request and make it available to law enforcement officers upon request as required by Health and Safety Code section 19340(e).

4. Delivery drivers shall not transport medical cannabis in excess of the limits established the state licensing authority. Prior to the issuance of regulations, no driver may transport more than eight ounces of medical cannabis.
(5) All orders shall be packaged by name of the qualified patient. The delivery driver shall maintain a copy of the delivery request and make it available upon request to law enforcement officers as required by Health and Safety Code section 19340(d).

(6) Deliveries shall occur only between the hours of 8:00 a.m. and 9:00 p.m.

(7) Prior to the issuance and renewal of the business license, the applicant shall present proof that each delivery vehicle is properly registered with California Department of Motor Vehicles.

(8) The Licensee shall maintain automobile liability insurance from an insurance company admitted by the Insurance Commissioner of the State of California to transact the business of insurance in the state which shall be for a combined single limit for bodily injury and property damage liability of not less than one million dollars ($1,000,000.00).

(9) Licensed Dispensaries located outside of the City of Oceanside may conduct medical cannabis deliveries to qualified patients within the City of Oceanside with the issuance of a business license by the business license division in accordance with all applicable provisions of Chapter 15 of the Oceanside City Code and with the written approval of the city attorney and police chief, provided the applicant furnishes proof of their state license and local approval, demonstrates compliance with all provisions of this Section 7.126.L and complies with the operational conditions in this section 7.126.

M. Hours of Operation. A medical cannabis facility may operate only during hours of operation as permitted by the applicable zoning ordinance, or more restrictive hours set forth in the applicable conditional use permit. No medical cannabis dispensary may operate prior to 8:00 a.m. or after 8 p.m.

N. Security. A medical cannabis facility shall utilize onsite armed and state licensed security staff twenty-four hours a day, seven days a week unless otherwise approved in writing by the Police Chief.

O. A medical cannabis facility shall not maintain cash overnight. A commercial grade safe shall be used to store all cash during hours of operation. All cash proceeds shall be transferred to and from the medical cannabis facility in accordance with the requirements of the approved security plan.
7.127 Employee permits

A. No person shall be employed by a medical cannabis facility without a valid cannabis facility employee permit issued by the City to such person. A medical cannabis facility shall promptly supplement the information provided as part of its application pursuant to Section 7.120 with the names of all employees within thirty (30) days of any change in the information originally submitted.

B. The City Manager, or designee, shall grant, deny and renew medical cannabis facility employee permits. The application for a permit shall be made on a form provided by the City Manager, or his or her designee. An original and two copies of the completed and sworn permit application shall be filed with the City Manager. The completed application shall contain the following information and be accompanied by the following documents:

1. The employee's legal name and any other names used by the employee.

2. The employee's age, date and place of birth.

3. The employee's present residence address and telephone number.

4. Whether the employee has been convicted of a criminal offense in the past 10 years as of the date of the application.

5. A photocopy of the employee’s state issued driver's license or identification card and social security number.

6. Satisfactory written proof that the employee is at least 21 years of age.

7. The employee's fingerprints on a form provided by the Oceanside Police Department and a color photograph clearly showing the employee's face.

8. If the application is made for the purpose of renewing a license, the employee shall attach a copy of the license to be renewed.

C. The completed application shall be accompanied by a non-refundable application fee as set by resolution of the City Council.

D. Upon receipt of an application and payment of the application fees, the City Manager shall immediately stamp the application as received, issue a temporary license to the employee which shall be valid for 15 days unless earlier terminated by the denial of a cannabis facility employee permit, and promptly investigate the application.

E. If the City Manager or designee determines that the employee has completed the application improperly or the application is otherwise incomplete, the City Manager or designee shall notify the employee of such fact within 10 business days of the date of receipt of the application, including the reasons the application is not complete. The City Manager or designee
shall, in such event, grant the employee an extension of time of 10 days to complete the application properly. In addition, the employee may request an extension, not to exceed 10 days, of the time for the City Manager or designee to act on the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension.

F. Within 15 days after receipt of the properly completed application, the City Manager or designee shall grant or deny the application and so notify the employee. The City Manager or designee shall grant the application and issue the permit unless the application is denied for one or more of the following reasons:

1. The employee has made any false, misleading, or fraudulent statement in the application;

2. The employee is under 21 years of age;

3. The employee is a gang member or associate as documented by applicable law enforcement agencies;

4. The medical cannabis facility employee permit is to be used for employment in a business prohibited by state or local laws, ordinances, or regulations;

5. Within the preceding 10 years, the employee has been convicted of any of the following:


   c. Any violent crime, as defined by Penal Code Section 667.5.

   d. Any crime considered a "strike" pursuant to Penal Code Section 1192.7(c).

   e. Any felony offense or crime of moral turpitude as determined by applicable case law.

   f. In the case of an application for an medical cannabis delivery, any conviction for driving under the influence of drugs or alcohol.

   g. Such other crimes or offenses as may be determined by the City Council by resolution.

   h. The City Manager or designee determines issuance of the license would
impair the health, safety or welfare of the public, cause negative impacts to property values, cause odor created by cannabis plants to impact adjacent properties, impair the City's ability to prevent crime associated with cannabis, and/or impair the City's ability to ensure that cannabis grown, manufactured or sold remains secure and does not find its way to minors, or illicit markets.

G. The medical cannabis facility employee permit, if granted, shall state on its face the name of the person to whom it is granted, and the expiration date. The City Manager shall provide each person issued a medical cannabis facility employee permit with an identification card containing the employee's name, address, photograph, and permit number. Both the permit and identification card shall be available for inspection at all times during which the employee is on the premises of the medical cannabis facility.

H. The City Manager or designee may revoke an employee permit for Good Cause and/or for any of the following reasons set forth in this Section 7.127.F that would have provided grounds for denial of the permit.

7.128 Inspections and enforcement

A. Recordings made by security cameras, books, records and all other documents related to the Licensee's operation and access to the facility shall be made immediately available to the City Manager or designee upon written request; no search warrant or subpoena shall be needed to view the materials or access the facility.

B. Operation of the Licensee's facility in non-compliance with any conditions of approval or the provisions of this Chapter shall constitute a violation of the City Code and shall be enforced pursuant to the provisions of this Code.

C. The City Manager or designee may summarily suspend or revoke a Local License if any of the following, singularly or in combination, occur:

1. The City Manager or designee determines that the Licensee has failed to comply with this Chapter or any condition of approval or a circumstance or situation has been created that would have permitted the City Manager or designee to deny the Local License.

2. Operations cease for more than ninety (90) calendar days.

3. Ownership is changed without securing a Local License.

4. The Licensee fails to allow inspection of the premises, security recordings, books, records or other documents by authorized City officials.

5. The Licensee fails to possess and/or maintain a valid state license or conditional use permit.
7.129 Appeals

Any decision regarding the denial, suspension or revocation of a Local License may be appealed pursuant to the procedures set forth in Chapter 15, Section 15.5(3) of this Code.

7.130 Permits not transferable

Notwithstanding any provision to the contrary set forth in this Chapter, Local Licenses issued pursuant to this Chapter are not transferable.

7.131 Violations.

A. Any violation of any of this Chapter is unlawful and a public nuisance.

B. Any violation of any of the provisions of this Chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed $1,000, or by imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

C. The City may issue an administrative citation for each violation of this Chapter pursuant to the procedures set forth in Chapter 1 of this Code, provided, however, that notwithstanding the provisions of any other Section of this Code, the penalty amounts of administrative citations issued for violations of this Chapter shall be as follows which the city council may periodically adjust by resolution:

1. For the first administrative citation, the penalty shall be ten thousand dollars ($10,000.00).

2. For the second and any subsequent administrative citation, the penalty shall be twenty thousand dollars ($20,000.00).

D. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the City may pursue any proceedings or remedies otherwise provided by law.

7.132 Regulations

The City Manager, in consultation with the City Attorney, is authorized to promulgate such regulations as may be necessary or convenient to implement this Chapter.
DATE: December 20, 2017
TO: Honorable Mayor and City Councilmembers
FROM: Medical Marijuana Ad-hoc Committee
SUBJECT: REPORT OF FINDINGS FROM THE MEDICAL MARIJUANA AD-HOC COMMITTEE AND RECOMMENDATIONS FOR NEXT STEPS

SYNOPSIS

The Medical Marijuana Ad-hoc Committee (the Committee) recommends the City Council receive its report and recommendations concerning enacting cannabis businesses within the city, and forward the recommendations of the Medical Marijuana Ad-hoc Committee to appropriate staff and advisory boards/commissions for review, and comments to be brought back to Council for adoption at a later date.

BACKGROUND

Medicinal cannabis use and possession has been legal in the State of California since 1996 with the voter approval of Proposition 215. In November of 2016, the voters approved Proposition 64 which allowed for adult use of cannabis, more commonly referred to as “recreational” use.

With the State beginning to issue licenses to cannabis-related businesses in January 2018, cities were given the option of enacting local ordinances to prohibit and regulate commercial medicinal cannabis businesses. The Oceanside City Council adopted two ordinances prohibiting cannabis businesses; the first for medicinal cannabis businesses and the second for adult-use (or recreational) cannabis businesses. The council did allow for deliveries of medicinal cannabis from dispensaries licensed by outside jurisdictions.

Because the voters of Oceanside approved Proposition 64 by a vote of 57%, the City Council convened an ad-hoc committee to explore the possible enacting of regulations allowing for medicinal cannabis businesses within the city. The City Council approved the ad-hoc committee at its April 19, 2017 meeting and the ad-hoc committee first met on April 24 to begin its work.

Over the course of its six month charter, the ad-hoc committee held eight public meetings and numerous organizational meetings, took tours of existing medicinal cannabis production facilities, and met with industry experts to understand the needs of the businesses involved in cannabis production and sales. The Committee also began
to look at how the different aspects of the cannabis industry might fit in the City of Oceanside and be beneficial to its residents.

ANALYSIS

The Medical Marijuana Ad-hoc Committee has held a number of meetings, both public and organizational, over the course of its six-month charter. The public meetings were designed to solicit input from both experts in the industry and the public on a number of specific areas of the cannabis industry. They are:

- Cultivation
- Testing
- Distribution/Manufacturing
- Retail Sales
- Public Safety

Additionally, the Committee held an exploratory public meeting on the progress and possibility of the State developing a banking/finance system which would provide an answer to the lack of banking opportunities for the cannabis industry.

After each of these meetings, the Committee met to evaluate the information gathered from expert testimony, along with public input, and drafted recommendations which were passed to the City Attorney's office to be formed into draft regulations. The Committee also met and solicited very preliminary input from the various city departments which would be affected by any new regulations. The input from the staff was incorporated into the draft regulations and will be finalized once staff is given the opportunity to fully analyze the draft regulations.

The Committee also kept track of the constantly changing State regulations which changed the face of the medicinal cannabis industry. Notably, SB94, a budget trailer bill passed and signed by the Governor in June, changed many of the already established regulations published by the various regulatory agencies. Also, more recently, at the end of the legislative year, AB133 was passed which further modified the landscape of the cannabis industry.

While most of the changes brought forward in both SB94 and AB133 were administrative and at the state level, there were changes which altered the face of the cannabis industry on a local level. Namely, SB94 changed the definition of vertical integration opportunities to businesses.

Vertical Integration

The State has allowed for full vertical integration of businesses within the cannabis industry with the sole exception of testing laboratories.
Businesses can have multiple licenses within the same facility without the need for distinct separations. For example, a licensee can hold a Cultivator (Type 1-3) license and a distributor (Type 11) license. Because of the change to State regulations, the Committee recommends removing the use separation requirements in Article 36 of the City's Zoning Ordinance for vertically integrated operations.

The State currently allows for full vertical integration with the previously noted exception of testing laboratories. The Committee has taken a strong position against allowing retail operations to be included in vertical integration and recommends retail operations be sole licenses. Also, the Committee recommends a prohibition on Type 12 – Microbusiness licenses which will allow a retail component along with all the other types of operations.

Cannabis Licenses and Uses

When all State regulations are fully implemented, there will be 36 different licenses for which a cannabis business can apply – 18 for medicinal cannabis and 18 for adult-use cannabis. The Committee has determined not all 18 licenses types should be available to local cannabis businesses.

With the passing and signing of SB94, the regulations for the two types of cannabis businesses were combined and streamlined. The determining factor, which distinguishes an adult-use cannabis business from a medicinal cannabis business is the letter designation in their license: an "A" for adult-use or an "M" for medicinal.

The Committee discussed the two license categories and met with a number of people in the industry. The supply side of the business (i.e. nurseries, cultivation, manufacturing, and distribution) is blind to the end use of the product, up to the point of packaging. For example, a cultivator who grows plants with both an "M" and an "A" license grows, essentially, the same plant.

Since the process, up to the packaging of the final product is "blind" to its final use, the Committee is recommending Cultivator, Distributor, Manufacturer, and Nursery licenses be both "M"-type for medicinal cannabis and "A"-type for adult-use cannabis. This will broaden the markets for these types of businesses which, otherwise, might be challenged with just an "M"-type license. The Committee believes there will be good paying, high-quality jobs which will come to Oceanside with the permitting of both categories of licenses.

Additionally, the Committee, in its deliberations, evaluated the types of uses. Based upon expert testimony, input from staff, and much deliberation, the Committee has decided there should be both regulated and non-regulated uses concerning the medicinal cannabis industry and the businesses located in Oceanside.

The Committee is recommending the creation of both regulated and non-regulated uses for cannabis businesses in Oceanside. The difference between the uses is the amount
of physical cannabis material present in the business, along with the total amount of cannabinoids present in the materials. Non-regulated uses will be found to have minimal amounts of both product and cannabinoids present.

The following is a break down of the licenses, their categories and uses the Committee is recommending.

**Regulated Uses**

**Cultivation – Categories M and A**

The Committee heard from a number of farmers in the South Morro Hills neighborhood of Oceanside throughout its entire six-month charter. The cultivation meeting was attended by a large crowd and the Committee heard from both farmers and a representative of the San Diego County Farm Bureau concerning the need for alternative crops to ensure survival of a number of farms in the South Morro Hills area.

The Committee recommends the City of Oceanside allow for cultivation of cannabis, subject to the approval of a Conditional Use Permit (CUP). The cultivation of cannabis would be restricted to the Agricultural Zone (A). The Committee also recommends the City limit the types of cultivator licenses. The state will allow for 11 different types of cultivator license. The Committee recommends the following license types be permitted in Oceanside:

- **Type 1A** – “Specialty indoor”
- **Type 1B** – “Specialty mixed light”
- **Type 2A** – “Small indoor”
- **Type 2B** – “Small mixed light”
- **Type 3A** – “Indoor”
- **Type 3B** – “Mixed light”

Each license has an alphanumeric designation. The number indicates the allowable square footage of cultivation, while the letter indicates the type of lighting used for cultivation.

Type 1 licenses would allow between 0 to 5,000 square feet of canopy size, varying with the letter designation. Type 2 would allow between 5,001 and 10,000 square feet of canopy size. Type 3 would allow between 10,001 and 22,000 square feet of canopy size. Licenses with the “A” designation would allow for indoor growth with only artificial lighting. The “B” designation would allow for a mixture of natural light and artificial light, most common in the industry. The City is allowed to set maximum threshold levels for artificial lighting and to prevent possible light pollution.

In 2023, the State will begin issuing Type 5 licenses, which will allow for cultivation without a cap on total amount of square footage. The City will need to revisit these
regulations at an appropriate time in the future to evaluate the need or desire to allow for local licensing and permits for Type 5 licenses.

There are a number of public safety conditions which the cultivators would need to fulfill which all licensees would need to meet and those will be addressed in the Public Safety portion of the analysis.

**Distribution – Categories M and A**

The Distributor license is a pivotal license in the new cannabis business regulations. The Distributor is responsible for the procurement of the product from the Cultivators before it is converted to product and transported to Retailers. The Distributor is responsible for storing the cannabis products.

The Distributor will contact an independent licensed Testing Laboratory to take samples and test harvested cannabis. Tested cannabis is then sent to a Manufacturer for processing and returned to the Distributor, to send to a Retailer. Also, the State of California has designated the Distributor responsible for applying and maintaining a Board of Equalization permit and collecting taxes – both cultivation tax and excise tax – and forwarding on to the State.

Under the proposed regulations, the Distributor would be responsible for the proper dissemination of the cannabis – adult-use cannabis and products to only “A”-type manufacturers and retailers and medicinal cannabis and products to only “M”-type manufacturers and retailers.

The Committee recommends the City of Oceanside allow for Distributor licenses to be issued within the City. The distribution businesses would be restricted to the Light and General Industrial zones (IL/IG), subject to the approval of a CUP.

Existing distributors who have testified to the Committee indicate the footprints for their facilities are on the small- to medium-range. The Distributor will need to have adequate, secure storage area for all products while they wait for testing and for final disposition. The impact to our existing industrial square footage should be minimal.

There are a number of public safety conditions which the Distributors would need to fulfill which all licensees would need to meet and those will be addressed in the Public Safety portion of the analysis.

**Manufacturing – Categories M and A**

The majority of users of medicinal cannabis do not smoke cannabis; instead, they use a variety of topical ointments or other consumables (edibles) to receive their treatment. The Manufacturer licensee would process the cultivated marijuana and create the various types of cannabis products which would be sold in addition to flower in retail settings.
The Committee recommends allowing Manufacturer licenses within the City of Oceanside which correspond with the State’s Type 6 license. Manufacturing businesses would be limited to the Light and General Industrial (IL/IG) zones, subject to the approval of a CUP.

This license type allows for only non-volatile substances to be used to extract the cannabinoids - tetrahydrocannabinol (THC – the psychoactive agent in marijuana) and cannabidiol (CBD – the medicinal agent in marijuana) - from the cannabis. Those processes which use volatile substances would be prohibited. Volatile substances are defined under California Health and Safety Code as “a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.”

Also, the manufacturers would be required to meet State Department of Health standards for their facilities – not unlike any other manufacturer of food or topical products – and would be inspected similarly by the Health Department. And, manufacturers who hold this license would only be allowed to sell their products to licensed cannabis retailers with similar category – either “M” or “A”. There is a prohibition against manufacturers cross selling products between medicinal and adult-use facilities.

There are a number of public safety conditions which the Manufacturers would need to fulfill which all licensees would need to meet and those will be addressed in the Public Safety portion of the analysis.

**Retail Operations (i.e. Dispensaries) – Category M only**

The Committee took its duties to examine the presence of dispensaries in Oceanside very seriously. As the “face” of the cannabis industry, regulations governing dispensaries need to be sufficiently strict to allow for a high-quality business with the lowest impact possible to the residents of the city.

The Committee recommends the City of Oceanside allow only medicinal cannabis dispensaries (M-Type10) to operate under the following guidelines.

1. There will be one dispensary per 40,000 (1 per 40,000) residents of the city permitted. This would currently allow for a total of four dispensaries in the City;
2. Operating hours would be from 7am to 9pm;
3. The facility will meet all State and Local requirements for security;
4. Dispensaries will operate as sole licensees, no vertical integration will be allowed;
5. All concerned parties (both owners and staff) will be subject to a background check annually at the time of license renewal.

The zones in which medicinal cannabis dispensaries will be permitted are the Light and General Industrial (IL/IG) zones, as well as the Commercial Center and Special
Highway-Oriented Commercial zones (CC/CS-HO), subject to the approval of a CUP. This is a consideration of patient access. While industrial zones are sufficient during the day hours, the high visibility and high traffic of the commercial zones add to patient security during evening and night hours.

Dispensary operators who testified to the Committee demonstrated proof of their dispensaries being high-quality businesses with a pharmacy or medical office feel and appearance. The old image of "pot shops" with flashing neon signage in the windows will not be allowed in Oceanside.

There are additional public safety conditions which the Retailers would need to fulfill, which all licensees would need to meet, and those will be addressed in the Public Safety portion of the analysis.

Non-Profits – Category M only

The State of California has acknowledged potential problems with patient access to medicinal cannabis due to income levels and the higher cost of products. The State allows non-profit organizations to provide different types of medicinal cannabis products to low-income people. Non-profits are able to provide medicinal cannabis products, from whole-plants to cannabis products, such as topicals and edibles, to those who need the product who cannot afford it through a retailer.

With the passing of Prop 64 and the legalization of adult-use cannabis, the State has opted to wait to analyze non-profit licenses. They have, instead, allowed for local licensing jurisdictions to issue annual licenses for non-profits to operate until they make a decision about licensing in 2020.

The Non-profit license would allow for an organization, which meets all the requirements laid out in State law and which the local jurisdiction has put into place, to provide low income people "whole-plant cannabis, cannabis products, and a diversity of cannabis strains and seed stock."

The Committee recommends the City of Oceanside allow non-profit organizations, which can meet all state and local requirements, to apply annually for a local, non-profit license to provide low income residents access to medicinal cannabis. The licenses will be valid until such time the State makes its determination on whether it will issue the license or not.

There are a number of public safety conditions which the Non-profits would need to fulfill which all licensees would need to meet and those will be addressed in the Public Safety portion of the analysis.

Non-regulated Uses
Testing Labs

Currently, there are no regulations concerning the qualifications a medicinal cannabis testing facility is required to obtain and maintain. Neither are there regulations concerning the types of testing to be performed on medicinal cannabis products. As of January 2018, the State of California is implementing very strict regulations regarding both of these areas.

Beginning in January 2018, Testing Labs will be required to obtain and maintain ISO/IEC 17025 accreditation. There are two labs in the general area which maintain this level of accreditation currently.

The testing performed on harvested medicinal cannabis, as well as manufactured products, will follow new, expanded guidelines and will be mandatory. Currently, only the tests which are asked for are performed on the products; this mostly consists of testing for potency levels of tetrahydrocannabinol (THC – the psychoactive agent in marijuana) and cannabidiol (CBD – the non-psychoactive agent in marijuana).

The Committee recommends the City of Oceanside allow testing labs to operate. The lab facilities would be permitted in the Limited and General Industrial (IL & IG) zones, as well as the Community Commercial, General Commercial and Special Highway Oriented Commercial (CC/CG/CS-HO) zones, subject to the approval of an Administrative Use Permit (ACUP). The Committee also recommends the City adopt language which requires licensed Distributors within the City to use only City licensed testing labs.

There are a number of public safety conditions which the labs would need to fulfill which all licensees would need to meet and those will be addressed in the Public Safety portion of the analysis.

Nurseries – Categories M and A

Nurseries are a source of plant stock and seeds for cultivators. The Nursery license restricts the licensee to only propagating the plant and seed stock and strictly prohibits cultivation of any type. Cloned or seedling plants in the nursery setting each contain less than one percent of any measurable cannabinoids and would not be at a stage near flower production. The plants which would be harvested for seeds would be grown to full flower stage, but would not be harvested because the seeds are produced after the flowering stage. Hence, no cultivating activities would be allowed.

The Committee recommends the City of Oceanside allow Nursery business to operate. Nurseries would be permitted in the Agricultural (A) zones. Because some nurseries also operate clean environments to process tissue propagation and other processes which affect the strains of cannabis, the Committee also recommends nurseries less than 1,000 square feet should be allowed in the Community Commercial, General
Commercial and Special Highway-Oriented Commercial (CC/CG/ CS-HO) zones, subject to the approval of an ACUP.

There are a number of public safety conditions which the labs would need to fulfill which all licensees would need to meet and those will be addressed in the Public Safety portion of the analysis.

Public Safety

Along with guaranteeing patient access, public safety was a top concern of the Committee and of those who gave the Committee input during our public meetings. The State has issued strict guidelines for the safety and security of all cannabis businesses and the Committee has chosen to adopt all of the State's guidelines.

The guidelines which the Committee is recommending are common sense guidelines. Keeping in mind, these are businesses whose owners are naturally protective of the product which they will store and which will already have a high-level of security in place. The extra required security which the State and the Committee are recommending will hopefully put residents at ease.

Security Plan

The Committee is recommending the following security measures be required of all cannabis businesses in the City and submitted in a security plan at time of application for local licensing:

**Video surveillance**
Covering every square inch of the facility, 24/7 and stored for 120 concurrent hours. Also, access to streaming feed must be provided to Oceanside Police Department.

**Alarm system**
Interior and exterior sounding alarms on all entry points as part of an alarm system which is operated and monitored by a security company licensed with the appropriate State agencies.

**Signage**
All existing exterior sign rules will be in place in accordance with existing sign codes, along with interior signage indicated both prohibited areas and the fact video surveillance is in use.

**Lighting**
All entrances will be illuminated during evening hours. Compliance with city lighting standards must be met and maintained.
Commercial grade locks
All entrances will be equipped with commercial, non-residential, grade locks.

On-site security
All businesses will provide for on-site security staff 24/7 unless otherwise approved by the Chief of Police.

Background Checks
All concerned parties in a cannabis business are required to submit to an annual background check at the time of license renewal. The background checks are subject to local scrutiny; the State will issue renewals of licenses based on the input of the local jurisdiction.

Track and Trace
The State of California has instituted the Track and Trace system and has made it mandatory for most cannabis businesses. The Track and Trace system will accurately trace the chain of custody for every gram of marijuana cultivated, manufactured, distributed, sold, and disposed of in the State.

Each plant is issued a unique identifying number at time of planting for cultivation. This number then follows the plant and product throughout its lifetime. Weights of harvested cannabis are taken – for both viable product and waste product – and entered into the system so that the total amount of cannabis is tracked.

At each step, the licensee is responsible for updating the Track and Trace system, at both time of receipt of product and at time of any disposition thereafter. This creates a complete chain of custody from planting to purchase or disposal for every gram of marijuana in the system.

The State has identified its software program and it is incumbent upon the licensees to purchase software which will fully integrate with the State’s software. Once connected, the State will monitor all aspects of the business and will be alerted if discrepancies or anomalies appear in the information provided. This in turn will trigger an automatic audit of the business concerned.

The Track and Trace system is designed to provide a record of the chain of custody for each product anywhere along throughout the process. A bar code read at a retailer will be able to provide the Cultivator, Distributor, Manufacturer and Testing Lab which handled the cannabis.

Nursery licensees will not be required to be a part of the Track and Trace system. At time of sale to cultivators, the THC level in a seedling is less than one percent and the State does not consider this a viable product in need of tracking. Also, “mother” plants
which are used to produce clones are kept in vegetative states and will not produce flowers and seed producing plants will not be suitable for harvesting.

**State Licensing**

The State of California will rely upon the local jurisdictions to issue licenses. While the business can apply to the State at any time, the eligibility of the licensee to operate in the jurisdiction will be the determining factor in the State issuing a license.

All local regulations and requirements must be met before the State of California will issue a cannabis business license.

**The Efficacy of the City's Ban on Cannabis**

As was mentioned before, the City of Oceanside currently has enacted bans on the commercial cultivation, production, and sales of both medicinal and adult-use cannabis. If the recommendations of the Ad-hoc Committee are not enacted, the bans the City currently has in place will remain.

The intent of the bans was to maintain local control over an industry which, if left to the State of California to regulate, would potentially create an environment around which the residents of the City of Oceanside would not want to live. While the bans were enacted with good intentions, further review of the realities in which we will operate beginning January 2018, calls to question the efficacy of the bans.

With the voter approval of Proposition 64, adult-use cannabis is legal in the State of California. This means, currently, citizens are allowed to grow up to six mature plants on their property and consume the product which they grow. They are allowed, at any one time, to be in possession of up to one ounce of cannabis (or eight grams of concentrate [e.g. wax, crumble, shatter, etc.]). In addition, an individual is allowed to "gift" a plant or product (up to an ounce) to another individual — "gift" meaning no exchange of money.

The current bans which the City of Oceanside has in place do nothing, and are unable to do anything, about this new reality. With the passage of Proposition 64, the bans which the City has in place are essentially rendered useless. The local control over the proliferation of adult-use cannabis, which the bans were meant to address, will be lost due to the legal status under state law. As personal, adult-use plants are grown and harvested, the product will continue to be available, not from a shady, back-room, illegal dispensary, but from your friend who has spent the money to install a grow room in their spare bedroom.

While the adult-use cannabis user is not adversely affected, the medicinal cannabis patient is, and it is for those people The Committee's recommendations are made. Medicinal cannabis patients need a reliable, safe, and regulated source for the medicine they use. Personal production is incapable of producing sufficient quantities of the product. Without this available source, the patient is forced to continue to use
unregulated, untested, and unsafe product delivered to them by unregulated and potentially unsafe delivery drivers.

The Committee’s recommendations will allow the City to continue to exercise reasonable local control over the cannabis industry by putting in place regulations which will govern the industry, foster an environment where legal activities will be desired and sought, and provide the needed product to the patients who use and need it.

FISCAL IMPACT

The potential revenue of these recommendations is not known at this time.

CITY ATTORNEY’S ANALYSIS

The City Attorney has prepared preliminary amendments to the Zoning Ordinance and the City Code at the direction of the Committee. Those amendments would be subject to additional review by staff and the Planning Commission should the City Council accept the Committee’s recommendations. The City Attorney is prepared to make additional changes as directed by the City Council. As noted in the Committee’s report, commercial cannabis businesses remain illegal in Oceanside and staff will not be issuing any permits for such uses unless appropriate amendments to the Zoning Code and City Code are made effective.

RECOMMENDATION

The Medical Marijuana Ad-hoc Committee (the Committee) recommends the City Council receive its report and recommendations concerning enacting cannabis businesses within the city, and forward the recommendations of the Medical Marijuana Ad-hoc Committee to appropriate staff and advisory boards/commissions for review, and comments to be brought back to Council for adoption at a later date.

PREPARED BY:

Don Greene
Council Aide to Deputy Mayor Lowery
Clerk, Medical Marijuana Ad-hoc Committee
## ATTACHMENT D

### Summary of Draft Medical Marijuana Ordinances

<table>
<thead>
<tr>
<th>Type</th>
<th>Definition</th>
<th>Allowable Zones</th>
<th>Number</th>
<th>Separation Requirements*</th>
<th>Other Restrictions</th>
<th>Comments</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cultivation</strong></td>
<td>A facility where medical cannabis is propagated, planted, grown, harvested, dried, cured, labeled, tagged for tracking or trimmed, or any combination thereof</td>
<td>Ag zone only with CUP and Ag Activity Permit</td>
<td>No limit</td>
<td>Regulated: 1,000 separation from other regulated uses and residential zones, schools, parks, churches and child care</td>
<td>Must be within a fully enclosed, secured structure; no light source shall be visible from public ROW or any adjacent property</td>
<td>Similar to other ag uses with additional requirements</td>
<td>Limit to one 22,000 sf of structure per legal lot and maximum 10% lot coverage</td>
</tr>
<tr>
<td><strong>Distribution</strong></td>
<td>A location where cannabis/products obtained from a licensed medicinal cannabis cultivator or licensed medicinal cannabis manufacturer is temporarily stored, prior to delivery to a dispensary. Persons engaged in the procurement, sale and transport of medical cannabis/products between licensees</td>
<td>IL/IG Zones with CUP</td>
<td>No limit</td>
<td>Regulated: 1,000 separation from other regulated uses and residential zones, schools, parks, churches and child care</td>
<td>Needs increased precautions and restrictions due to the nature of the product</td>
<td>Appropriate for industrial zones where warehousing and distribution is already allowed, with restrictions due to the nature of the product</td>
<td>No changes</td>
</tr>
<tr>
<td><strong>Manufacturing</strong></td>
<td>Production, preparation, propagation and compounding of cannabis/products without the use of a volatile solvent. Includes extraction, infusion, preparation of edibles, and the packaging and labeling of products. Excludes cultivation.</td>
<td>IL/IG zones with CUP</td>
<td>No limit</td>
<td>Regulated: 1,000 separation from other regulated uses and residential zones, schools, parks, churches and child care</td>
<td>Needs increased precautions and restrictions due to the nature of the product</td>
<td>Appropriate for industrial zones where manufacturing and food processing is already allowed, with restrictions due to the nature of the product</td>
<td>No changes</td>
</tr>
<tr>
<td><strong>Medical Cannabis Dispensary</strong></td>
<td>A facility wherein medical marijuana/products are offered, individually or in any combination for retail sale, including deliveries</td>
<td>CUP required in IL/IG, CC, CS-HO</td>
<td>1 per 40,000 residents</td>
<td>Regulated: 1,000 separation from other regulated uses and residential zones, schools, parks, churches and child care</td>
<td>Needs increased precautions and restrictions due to the nature of the product</td>
<td>Retail use but needs restrictions to limit visibility/accessibility for minors</td>
<td>Consider initial cap of two medical dispensaries, evaluate operations after 12 months to determine whether to increase to 1 per 40,000 residents</td>
</tr>
<tr>
<td><strong>Testing Laboratories</strong></td>
<td>Independently accredited and state licensed to offer or perform tests of medical cannabis/products</td>
<td>ACUP required in CC, CG &amp; CS-HO zones</td>
<td>No limit</td>
<td>Not a regulated use</td>
<td></td>
<td>Generally laboratories should be located in industrial zones</td>
<td>Limit to Industrial General and Industrial Limited zones subject to ACUP</td>
</tr>
<tr>
<td><strong>Nursery</strong></td>
<td>A facility that produces only clones, immature plants, seeds and other ag products specifically for the propagation and cultivation of medical cannabis</td>
<td>Ag zone with ACUP, ACUP required in CC, CG, CS-HO, IL &amp; IG zones if 1,000 sf or smaller</td>
<td>No limit</td>
<td>Not a regulated use</td>
<td>Non profits ineligible to receive a state license prior to 2020 may receive a temporary local license</td>
<td>Wholesale cultivation activity - generally located in ag zones</td>
<td>Classify as a regulated use limited to Ag zone subject to ACUP, with one 22,000 sf structure per legal lot and maximum 10% lot coverage</td>
</tr>
</tbody>
</table>

*Regulated uses:
1. Distance is measured in a straight line from the closest point on the exterior wall of the use to the closest district line of any residential district
2. Distance is measured in a straight line from the closest point on the exterior wall of the use to the closest parcel line of the regulated or sensitive use
3. Applicant can apply for a waiver concurrently with the CUP application for approval by the City Council per OMC 38605

1 of 2
# Summary of Draft Medical Marijuana Ordinances

## AD HOC COMMITTEE PROPOSAL

<table>
<thead>
<tr>
<th>General requirements for all types</th>
<th>1. All uses require a state license except non-profit nurseries ineligible to receive a state license prior to 2020 can receive a temporary local license</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. All uses require a local license per Chapter 7 of the GMC</td>
</tr>
<tr>
<td></td>
<td>3. All employees must have an individual employee license</td>
</tr>
<tr>
<td></td>
<td>4. All regulated medical cannabis facilities shall be owned and operated by a bona fide non-profit such as a cooperative or collective unless otherwise permitted under CA law</td>
</tr>
<tr>
<td></td>
<td>5. All licensees must also obtain a business license and pay all applicable business license fees and taxes</td>
</tr>
<tr>
<td>Local license Requirements</td>
<td>1. Proof of organizational status</td>
</tr>
<tr>
<td></td>
<td>2. OPD written background report including criminal background check</td>
</tr>
<tr>
<td></td>
<td>3. Documentation of possession of premises (deed, lease, etc.)</td>
</tr>
<tr>
<td></td>
<td>4. Operating plan with floor plan, employee list, 3rd party tracking software, security plan, video surveillance, alarm system, specific signage, lighting, commercial grade locks, on site security 24/7</td>
</tr>
<tr>
<td></td>
<td>5. Any additional info the City requests to process and fully investigate the application</td>
</tr>
<tr>
<td></td>
<td>6. Indemnification, insurance naming city as an additional insured, agreement to defend the City, assumption of all liability</td>
</tr>
<tr>
<td>Operational requirements</td>
<td>1. Operate in compliance</td>
</tr>
<tr>
<td></td>
<td>2. Pay all applicable taxes</td>
</tr>
<tr>
<td></td>
<td>3. Allow inspection of records</td>
</tr>
<tr>
<td></td>
<td>4. Secure storage of product</td>
</tr>
<tr>
<td></td>
<td>5. Prohibit of consumption on premises</td>
</tr>
<tr>
<td></td>
<td>6. Prohibit alcohol sales, distribution or consumption on premises</td>
</tr>
<tr>
<td></td>
<td>7. Display license and CUP</td>
</tr>
<tr>
<td></td>
<td>8. No physician evaluation on licensed premises</td>
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<tr>
<td></td>
<td>9. Community relations designee</td>
</tr>
<tr>
<td></td>
<td>10. Seed to sale tracking</td>
</tr>
<tr>
<td></td>
<td>11. Unique identifiers</td>
</tr>
<tr>
<td>Employee permits</td>
<td>1. Required for all employees</td>
</tr>
<tr>
<td></td>
<td>2. Issued by City Manager or designee</td>
</tr>
<tr>
<td></td>
<td>3. Identification and address</td>
</tr>
<tr>
<td></td>
<td>4. At least 21 years of age</td>
</tr>
<tr>
<td></td>
<td>5. Criminal background</td>
</tr>
<tr>
<td></td>
<td>6. Fingerprints</td>
</tr>
<tr>
<td></td>
<td>7. No conviction within preceding 10 years of possession of controlled substance for sale, sale of controlled substance, violent crime, &quot;strike&quot; crimes</td>
</tr>
</tbody>
</table>

## STAFF REVIEW

1. Add a standard for denying issuance or revoking a local license if issuance of the license would impair the health, safety or welfare of the public, cause negative impacts to property values, cause or odor created by medical cannabis plants to impact adjacent properties, impair the City's ability to prevent crime associated with medical cannabis, and/or impair the City's ability to ensure that medical cannabis grown, manufactured or sold remains secure and does not find its way to minors, or illicit markets."

2. Require that signage be limited to the business name and address, with no logos, advertising, banners, green crosses or similar insignia.

3. Establish regulatory fees for all medical marijuana businesses prior to accepting applications for any type of medical marijuana business.


5. Annual report to City Council reporting on medical marijuana business activity
TO: Deanna Lorson, Assistant City Manager
FROM: Frank S. McCoy, Chief of Police
SUBJECT: Potential Medical Marijuana Dispensary Concerns
DATE: February 12, 2018

This memorandum is to inform you of the concerns and potential impacts that opening Medical Marijuana Dispensaries can have on our community and more specifically on police resources. The opinions contained in this memorandum are based on issues we had with the illegal dispensaries, information received from other police agencies that currently have dispensaries in their jurisdictions and from reports and publications researched on this topic. The information is offered in abbreviated format.

Representatives from various law enforcement agencies in Colorado indicated that the biggest impact was the substantial increase in homeless population in their community. Other potential crime issues that will draw on police resources associated with dispensaries include:

Driving Under the Influence (DUI)
1. Increase in motorists driving under the influence.
2. Increase in traffic accidents related to drivers driving under the influence with THC in their system.
3. Increase in training of Officers as Drug Recognition Experts due to the lack of equipment that is able to detect drivers who are under the influence of THC.

Arrests
1. Increase in arrests for subjects who are under the influence of THC in public and unable to care for themselves and their own safety
2. Increase in arrests for subjects who are found in possession of more than the legal limit of marijuana authorized by law.
3. Potential increase in overtime costs due to Officers who have to appear in court on marijuana related arrests.
4. Increase in arrests due to marijuana dispensaries operating without a business license or illegally cultivating marijuana.
   a. Added costs associated with the labor, storage, and destruction costs associated with the seizure of illegal marijuana sales and grows.
Environmental Exposure
1. An increase in calls for service to the police department from neighboring businesses and residents due to the odor of marijuana permeating from individual marijuana usage, marijuana retailers, and marijuana cultivators.
2. Potential health risks to neighboring business employees and residents due to exposure to marijuana permeating from individual marijuana usage, marijuana retailers, and marijuana cultivators.
3. Potential health risks to public safety officers and other City employees who are exposed to marijuana odor as result of calls for service to marijuana retailers and cultivators.
4. Potential increase in workers compensation claims due to exposure to medical marijuana odors permeating from businesses.
5. Increase in the number of people utilizing cigarette vapes to smoke marijuana in public.

Crime
1. Potential increase in crime rate due to
   a. Marijuana will still have ties to the black market
   b. Gang Members and members of Mexican Drug Cartels are still associated with the illegal sale, distribution, and transportation of marijuana
   c. Potential loitering issues for people who want marijuana and cannot afford it. (Panhandling issues)
   d. Potential for robberies of those purchasing marijuana and leaving the business.
   e. Potential for drug dealers to attempt to sell black market product in the area of a dispensary.
   f. Increase in robberies, burglaries, and home invasion robberies to the business and owners due to that lack of financial institutions who are allowed to accept money from marijuana related businesses.

Juveniles
1. Increase in access of marijuana to juveniles
   a. Social Acceptance
   b. Edibles in the form of candy and/or cookies
2. Increase in potential labor costs to conduct enforcement details to combat the likely sales of marijuana to juveniles.
3. Potential that marijuana may be a gateway drug that may lead to the usage of more dangerous drugs for some juveniles.

Costs
1. Increase in costs in labor to enforce City Ordinances associated with medical marijuana dispensaries, cultivators, and transportation companies in the form of background checks.
2. Increase in costs in labor to monitor, track, and maintain business files on medical marijuana dispensaries, cultivators, and distributors.
Regulation

1. Burden placed on law enforcement due to the lack of consistency in the mandating of medical marijuana cards.
2. Burden placed on law enforcement due to the current lack of readiness of the State to regulate medical marijuana dispensaries, cultivators, and distributors.
3. Conflicts of interest between Federal Law Enforcement and Local Law Enforcement Agency mandates.
4. Challenges with regulating patient caregiver rights and guidelines.
5. Conflicts arising from probable cause searches due to the difficulty in differentiating between recreational marijuana and medical marijuana usage.
6. Increase in marijuana tourism.

The true impacts on the demand for police services from opening Medical Marijuana Dispensaries in our community are not known for sure. Even though we can look at the issues that law enforcement agencies in Colorado have faced, our laws and regulations in California can have different impacts on this issue.

The residents of our community currently have the ability to have Medical Marijuana delivered to their house. My recommendation is that our City wait on moving forward with opening any type of dispensary in City of Oceanside to give the police department time to evaluate concerns, issues and problems other cities that opened dispensaries are having. Our department can then come back with meaningful recommendations to ensure that any dispensaries opened in our City will be able to meet the needs of those desiring Medical Marijuana and address the overall safety of our community.
MEMORANDUM

To: Deanna Lorson, Assistant City Manager
From: Rick Robinson, Fire Chief
Date: February 8, 2018
Subject: Comments on the Medical Marijuana Ad-hoc Committee Report

After review of the committee report the Oceanside Fire Department was asked to identify actual or potential issues as they relate to the implementation of medical marijuana dispensaries. This information has been developed through available research and examples provided by fire departments which serve communities with dispensaries.

I. Concerns Related to Emergency Medical Response.
   a. Many first response agencies report an increase in medical emergencies involving marijuana.
   b. Some agencies saw an increase in child and pet accidental consumption of edibles found in the home.
   c. Some studies identify marijuana as a gateway drug which has a corollary increase in medical responses. The cost of illicit drugs may be less expensive than marijuana and overtime may become the drugs of choice.
   d. There will likely be an increase in calls from adults experiencing side-effects due to overmedicating or sensitivity to a particular edible or type of marijuana.
   e. Many jurisdictions report an increase in the number of vehicular accidents caused by impairment. Some jurisdictions reported an increase in loss of life accidents. However, there are also reports that show a decrease in the same.
   f. The Fire Department will need to develop new EMS response procedures and protocols.

II. Concerns Related to Firefighting, Fire Prevention, and Lifeguarding.
   a. There are concerns related to the impact of short and long-term exposure of firefighters to smoke and residue generated during fire conditions in a dispensary.
      i. The inability to distinguish after the fact between exposure and usage by personnel.
      ii. Changes in decontamination procedures are likely.
   b. Vehicles which transport marijuana may present new challenges in fire conditions and/or traffic collisions.
   c. The cost associated with the development and training of personnel to be prepared to respond to dispensary fires.
   d. Some communities reported an increase in the number of home growers and start up commercial growers. There is a known risk of fires in unmonitored and inspected growing facilities due to the high use of electrical equipment, lighting distribution, and other equipment.
   e. An increased inspection load for the Fire Prevention Department. The Fire Department will ask for mandatory inspections of dispensaries, permits, and plan checks.
III. Fire Management Concerns.
   a. Potential impacts to Federal grant funding should City policy be in conflict with Federal regulations.
      i. Urban Area Security Initiative (UASI) Grants
      ii. Assistance to Firefighter Grants
      iii. Medicare and Medicaid reimbursements
   b. A potential impact to Worker's Compensation Claims, Line of Duty Death Claims, OSHA investigated accidents, and insurance claims by employees. These impacts may come from direct or secondary exposures.
   c. The use of marijuana by on-duty personnel. While policies exist that forbid the use of intoxicating substances on duty or for being under the influence while on duty, easy access to medical marijuana in any form creates a potential for misuse/abuse. While alcohol is more widely available, it is generally easier to detect and less likely to become a case for accidental or unintentional use. Even if accidental, an employee who ingests cannabis will have traces in their system for a much longer time. An employee who has used alcohol is usually free of any levels within 24 hours and could return to work. Marijuana on the other hand remains in the body for a much longer time. Employees that may test positive for marijuana may have to be off duty for multiple days. If proven to be an on the job exposure, the cost to the fire department would be significant.

The items indicated in this memo is not intended to be a comprehensive list. Few studies exist that focus on medical marijuana and the community impacts to the Fire Service. The issue is a young one and it is likely over time new issues will arrive as buildings age, processes become obsolete, and accessibility widens.

Thank you for seeking out input from the Oceanside Fire Department.
ATTACHMENT G

NOTICE OF EXEMPTION
City of Oceanside, California

1. APPLICANT: City of Oceanside
2. ADDRESS: 300 N. Coast Highway, Oceanside, CA 92054
3. PHONE NUMBER: (760) 435-3534
4. LEAD AGENCY: City of Oceanside
5. PROJECT MGR.: Amy Fousekis, Principal Planner
6. PROJECT TITLE: Zone Amendment (ZA18-00002) - Zoning Ordinance and City Code Amendments.
7. DESCRIPTION: City initiated amendments to the Oceanside Comprehensive Zoning Ordinance (aka 1992 OZO, as amended) and to Chapter 7 Article XIII of the Oceanside City Code. The purpose of the amendment is to update regulations concerning commercial cannabis uses and allow the establishment and operation of specified commercial medicinal cannabis facilities only in designated zoning east of the coastal zone boundaries, subject to conditions and limitations. The amended text will introduce new land use classifications (Article 4), will update commercial (Article 11), industrial (Article 13) and agricultural (Article 14) zoning district regulations and will modify regulated use provisions (Article 36). City Code Chapter7 Article XIII, as proposed to be amended, will set forth the criteria and procedures for permits and licenses necessary to establish and operate commercial medicinal cannabis facilities within the City of Oceanside.

ADMINISTRATIVE DETERMINATION: Pursuant to the California Environmental Quality Act of 1970 and State Guidelines thereto, the City of Oceanside acting as Lead Agency has determined that the project is exempt from CEQA per Article 5, Section 15061(b)(3), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Therefore, the Planning Division has determined that further environmental evaluation is not required because:

[X] "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (Section 15061(b)(3)); or,

[ ] The project is statutorily exempt, Section_______, (Sections 15260-15277); or,

[ ] The project is categorically exempt, Class 8, "Action by Regulatory Agencies for Protection of the Environment" per Section 15308 of the California Environmental Quality Act; or,

[ ] The project does not constitute a "project" as defined by CEQA (Section 15378).

__________________________ Date: ____________________, 2018
Amy Fousekis, Principal Planner

cc: [X] Project file  [X] Counter file  [X] Library  Posting: [X] County Clerk $50.00 Admin. Fee