

1 within their jurisdictions. Under the MMRSA, cities and counties may continue to ban medical
2 cannabis cultivation, manufacturing, dispensing, and/or delivery, in which case the new law
3 would not allow or permit these activities within the cities and counties; and

4 WHEREAS, marijuana remains a schedule I substance pursuant to federal law, 21 U.S.C.
5 § 812, Schedule 1 (c)(10), and federal law does not provide for any medical use defense or
6 exception (*Gonzales v. Raich*, 545 U.S. 1 (2005); *United States v. Oakland Cannabis Buyers’*
7 *Coop.*, 532 U.S. 483 (2001)); and

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

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

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

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

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

26 WHEREAS, Proposition 64 was adopted by the electorate on November 8, 2016 and
27 authorizes the personal cultivation of up to six cannabis plants in a private residence for non-
28 medical purposes; and

1 WHEREAS, Proposition 64 allows cities to enact reasonable regulations for the
2 cultivation of non-medical cannabis that occurs inside a residence or accessory structure and may
3 completely prohibit outdoor non-medical cultivation until such time as the California Attorney
4 General determines that the non-medical use of cannabis is lawful in California under federal
5 law. No such determination has yet been made; and

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

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

13 WHEREAS, at the time Proposition 64 was adopted, the City of Oceanside's permissive
14 Zoning Code does not list commercial cannabis activities as permitted uses in any zoning district
15 in the City and, therefore, such uses were not allowed anywhere in the City; and

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

18 WHEREAS, the California State Legislature adopted SB 94 in June 2017. The budget
19 trailer bill took effect immediately and repeals the Medical Cannabis Regulation and Safety Act
20 (MCRSA) passed in 2015, and incorporates many of MCRSA's provisions into Prop 64. The
21 new comprehensive regulatory system, intended to regulate all commercial cannabis uses, is
22 called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). SB
23 94 clarifies that cities and counties retain full land use authority as to cannabis businesses; cities
24 and counties may prohibit such businesses entirely, allow only some, or allow them with locally
25 developed regulations that fit local needs. SB 94 also establishes that local jurisdictions retain
26 the authority to regulate cannabis businesses, may take enforcement action concerning Fire and
27 Building Codes, conduct inspections, and implement audits.

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

7 WHEREAS, on April 11, 2018, the City Council adopted Ordinance 18-OR0199-1 to
8 allow, subject to certain requirements and limitations, commercial medical cannabis businesses,
9 (excluding dispensaries) in specified industrial and agricultural zoning districts, subject to a
10 conditional use permit and the issuance of a Local License pursuant to Chapter 7, Article XIII of
11 the Oceanside City Code; and

12 WHEREAS, after a duly noticed public hearing conducted on June 20, 2018, the City
13 Council introduced an ordinance to amend articles 4, 14 and 36 of the Oceanside Zoning
14 Ordinance to: 1. allow commercial cultivation in the Agricultural zone subject to a Local License
15 and CUP, without a 1000 foot buffer otherwise required in Article 36 on the condition that
16 cultivation does not exceed 20 percent lot coverage; 2. to permit waivers of the 1000 foot
17 separation requirement for commercial cannabis businesses in the Industrial zone on a case by
18 case basis; and 3. clarify that the existing law does not allow cultivation in the Industrial zone.

19 WHEREAS, on June 20, 2018, the City Council also directed staff to draft amendments
20 to the Oceanside City Code and Zoning Ordinance to permit no more than two medical cannabis
21 delivery establishments (M-Type 9) located in Oceanside; and

22 WHEREAS, on August 8, 2018, the City Council adopted Ordinance No. 18-OR0399-1:
23 1. eliminating zoning ordinance text limiting medical cannabis cultivation and nursery facilities
24 to 22,000 square feet per legal lot but retaining the twenty percent lot coverage cap; 2. eliminating
25 the 1,000 foot buffer between all medical cannabis cultivation and nursery facilities; and 3.
26 allowing the waiver of locational requirements for medical cannabis facilities pursuant to Section
27 3605 of the Article 36 of the Zoning Ordinance; and 4. clarifying that the land use classification
28 definition for medical cannabis manufacturing excludes propagation of medical cannabis; and

1 WHEREAS, on September 5, 2018, the City Council adopted OR0449-1 amending
2 Chapter 7 of the Oceanside City Code and applicable provisions of the Oceanside Zoning Ordinance to
3 allow the City to issue no more than two Local Licenses and conditional use permits for medical cannabis
4 non-storefront delivery establishments (M-Type 9 Non-Storefront Retailer); and

5 WHEREAS, on August 21, 2019, the City Council adopted a resolution capping the number of
6 Local Licenses for cultivation to no more than the twelve identified at that council meeting and directed
7 staff to prepare appropriate amendments to the Oceanside City Code and Zoning Ordinance to allow the
8 twelve cultivators with Local Licenses and conditional use permits to engage in cannabis cultivation for
9 adult use; and

10 WHEREAS, on June 24, 2020, the City Council adopted Ordinance 20-OR0463-1 to allow adult
11 cannabis cultivation in certain districts.

12 WHEREAS, on August 5, 2020, the City Council approved placing a Cannabis Business tax on
13 the November 2020 General Municipal Election.

14 WHEREAS, on November 3, 2021, Measure M Cannabis Business Tax was approved by the
15 voters.

16 WHEREAS, on December 16, 2020, the City Council approved Resolution 20-R0707-1
17 establishing the initial Cannabis Business Tax rates pursuant voter approved Measure M.

18 WHEREAS, on March 24, 2021, the City Council approved Resolution 21-R0203-1 to add
19 language to the City Code pertaining to odor control and local license status

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

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

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

1 SECTION 2: Amendments to Chapter 7, Article XIII, of the Oceanside City Code as
2 specified in Exhibit A are adopted.

3 SECTION 3: Zone Amendment (ZA21-00002) amending Articles 4, 4A, 12, 13 and 36 of
4 the Zoning Ordinance in Exhibit B are adopted.

5 SECTION 4. The City Clerk of the City of Oceanside is hereby directed to publish this
6 Ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)
7 days after its passage in a newspaper of general circulation published in the City of Oceanside.

8 SECTION 5. If any section, sentence, clause or phrase of this Ordinance is for any reason held to
9 be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not
10 affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it
11 would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase
12 thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be
13 declared invalid or unconstitutional.

14 SECTION 6. The amendments to the City Code shall be effective 30 days after adoption
15 for those areas outside of the Coastal Zone. Although this ordinance does not identify any zones
16 within the Coastal Zone where any commercial cannabis businesses may be established, the
17 amendments to Chapter 7 apply citywide. Therefore, the text amendments shall not be effective
18 within the Coastal Zone until the City Council adopts a resolution approving a local coastal
19 program amendment to amend these sections and said amendment is unconditionally certified by
20 the Coastal Commission.

21 /////

22 /////

23 /////

24 /////

25 /////

26 /////

27 /////

28 /////

1 INTRODUCTION at a regular meeting of the City Council of the City of Oceanside, California,
2 held on the 2nd day of June 2021, and, thereafter,

3 PASSED AND ADOPTED at a regular meeting of the City Council of the City of Oceanside,
4 California, held on the 16th day of June 2021, by the following vote:

5 AYES: KEIM, JENSEN, RODRIGUEZ, WEISS

6 NAYS: SANCHEZ

7 ABSENT: NONE

8 ABSTAIN: NONE

9 /s/ Esther Sanchez
10 MAYOR OF THE CITY OF OCEANSIDE

11 ATTEST:

12 APPROVED AS TO FORM:

13 /s/ Zeb Navarro
14 CITY CLERK

15 /s/ John Mullen
16 CITY ATTORNEY

Chapter 7
Article XIII
CANNABIS FACILITIES

Sections:

- 7.115 Purpose and intent.
- 7.116 Definitions.
- 7.117 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 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 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 cannabis cultivation authorized by state licenses ~~A~~-Type 1A (Specialty Indoor), ~~A~~-Type 2A (Small Indoor), ~~A~~-Type 3A (Indoor-Medium), ~~A~~-Type 1B (Specialty Mixed-light), ~~A~~-Type 2B (Specialty Mixed-light Small), ~~A~~-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, cannabis nurseries authorized by state license ~~A~~-Type 4, ~~medical~~ cannabis distribution authorized by state license M-Type 11, ~~medical~~-cannabis nonstorefront delivery establishments authorized by ~~M~~-Type 9, and ~~medical~~ cannabis manufacturing level 1 authorized by state license ~~M~~-Type 6 for sites that manufacture ~~medical~~ cannabis products using nonvolatile solvents or no solvents.

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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.

"Cannabis" has the same meaning as Section 26001(f) of the Business and Professions Code.

"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 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.

"Cannabis delivery establishment (Type 9 non-storefront retailer)" means a non-storefront retailer conducting retail cannabis sales exclusively by delivery as defined in Business and Professions Code section 26001(p) and applicable state regulations. For the purpose of licensing, a cannabis delivery non-storefront shall not be considered a marijuana dispensary.

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

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

"Cannabis facility" shall refer to cannabis cultivation facility, a cannabis testing laboratory, a cannabis manufacturer, a cannabis delivery establishment (Type 9 non-storefront retailer) and/or cannabis distributor.

"Cannabis manufacturer" means a facility involving production, preparation, propagation and compounding of cannabis and cannabis products, without the use of a volatile solvent. Nonvolatile cannabis manufacturing includes and is limited to the extraction

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of a substance from a cannabis plant with nonvolatile solvents, the infusion of 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 cannabis cultivation

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

"Cannabis testing laboratory" means a laboratory, facility, or entity that offers or performs tests of cannabis or 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 cannabis testing consistent with Business and Professions Code section 26001.

"Canopy" means the total combined indoor area for all locations on a property where 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(1) of the Business and Professions Code and shall include any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of 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 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;

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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.

"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 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.

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~~"Cannabis facility" shall refer to cannabis cultivation facility, a medical cannabis testing laboratory, a medical cannabis manufacturer, a medical cannabis delivery establishment (M-Type 9 non-storefront retailer) and/or medical cannabis distributor.~~

~~"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 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 delivery establishment (M-Type 9 non-storefront retailer)" means a non-storefront retailer conducting retail medical cannabis sales exclusively by delivery as defined in Business and Professions Code section 26001(p) and applicable state regulations. For the purpose of licensing, a medical cannabis delivery non-storefront shall not be considered a medical marijuana dispensary.~~

~~"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~~

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

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~~"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 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:

1. The Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5).
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~~" ~~□~~

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7.117 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, cannabis facilities may be operated within the City. Except as provided in Section 7.126 (L), medical and/or adult use cannabis dispensaries are prohibited in the City of Oceanside.

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 cannabis facilities, or any other measure determined by the City Council. Unless otherwise authorized by the City Council, no more than two Local Licenses may be issued by the City Manager or designee to permit a ~~medical~~ cannabis delivery establishment (~~M-~~ Type-9 non-storefront retailer) located in Oceanside.

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 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 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 cannabis facility, the legal representative of the persons wishing to operate a 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 local license must be valid and in good standing during the conditional use permit review process. A conditional use permit will not be issued to a facility that has not maintained a valid local license.** 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 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.

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C. It shall be unlawful for any person or entity to operate a 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 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 cannabis facility including the following information:

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

b. A floor plan designating all interior dimensions and the layout of the cannabis facility, including all limited access areas, areas of ingress and egress, and

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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 cannabis facility will use to track the cannabis.

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

a. Video surveillance. The 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 cannabis facility shall have an audible

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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 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 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 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.

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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 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 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 cannabis facility shall comply with the following:

A. The Licensee shall report the transfer of ownership interest, modification of cannabis facility, and/or change of manager, location or other material change of the 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 cannabis facility that materially or substantially alters the 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 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 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.

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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 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 cannabis facility;

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

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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 cannabis facility in addition to those specified in this Chapter.

7.126 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

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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 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. Cannabis maintained at a 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 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 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 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 cannabis facility shall not permit a physician to evaluate patients or to provide recommendations for cannabis within its licensed premises. Cannabis facilities shall not offer or provide any form of remuneration to a physician who recommends cannabis.

I. Community relations designee. A cannabis facility must provide the City's ~~D~~ 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

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problems associated with the cannabis facility or refer members of the public who may have complaints or concerns regarding the 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 cannabis facility must utilize third-party software that tracks all sales, transfers, purchases, receipts, deliveries of cannabis and cannabis products. The software must be capable of producing electronic shipping manifests, tracking all cannabis inventory in possession of the 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 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(t)(2) of the Health and Safety Code, adhere to the requirements set by the California Department of Food and Agriculture and be the equivalent to those administered by the California Department of Food and Agriculture.

L. Delivery Requirements. A state and local licensed ~~medical~~ cannabis dispensary located outside of the City of Oceanside may engage in ~~medical~~ cannabis delivery directly from the dispensary to qualified patients, ~~or~~ primary caregivers, or customers within Oceanside subject to the following conditions:

- (1) All drivers 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 or customer. Any other delivery or transaction is prohibited. The qualified patient, ~~or~~ primary caregiver, or customer 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.

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(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) The applicant shall obtain a business license from the business license division of the City of Oceanside in accordance with all applicable provisions of Chapter 15 of the Oceanside City Code with the written approval of the City Attorney and Police Chief. The applicant shall furnish proof of its state license and local approval to operate a ~~medical~~ cannabis dispensary outside of the City of Oceanside.

A ~~medical~~ cannabis delivery establishment in Oceanside (~~M~~-Type 9 non-storefront retailer) shall comply with all applicable state licensing requirements, including applicable regulations in Title 16 of the California Code of Regulations as amended from time to time and the requirements in this Section 7.126.L.

M. Hours of Operation. A 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.

N. Security. A 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 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 cannabis facility in accordance with the requirements of the approved security plan.

P. Odor Control.

(a) Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial

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cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the Development Services Director or his/her designee(s) determine is a more effective method or technology:

(1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;

(2) An air system that creates negative air pressure between the commercial cannabis business' interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

(b) Any failure on the part of a permitted commercial cannabis business to comply with subdivision (a) resulting in odor complaints shall subject the business to inspection at a time to be determined by the City Manager or his/her designee(s).

7.127 Employee permits

A. No person shall be employed by a cannabis facility without a valid cannabis facility employee permit issued by the City to such person. A 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 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

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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 or designee 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;

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4. The 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:
 - a. Possession of a controlled substance for sale pursuant to Health and Safety Code Section 11351.
 - b. Sale of a controlled substance pursuant to Health and Safety Code Section 11352.
 - 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. Such other crimes or offenses as may be determined by the City Council by resolution.
 - g. 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 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 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.

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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 **without the express written consent of the City Manager or designee. The City Manager or designee shall reject any proposed transfer request unless the licensee provides its written consent to the proposed transfer,**

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the transferee demonstrates compliance with all application submittal requirements set forth in this Article XIII and with all other provisions of the Oceanside City Code and the Oceanside Zoning Ordinance.

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.

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