City Council Staff Report

DATE: April 2, 2014 CONSENT CALENDAR

SUBJECT: RE-ADOPTION OF ORDINANCE NOS. 1845, 1846, AND 1847

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

SUMMARY:

The City Council will consider re-adoption of Ordinance Nos. 1845, 1846, and 1847.

RECOMMENDATION:

1) Waive the reading of the full text of the ordinance and re-adopt by title only Ordinance No. 1845, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 1.01.110, PARAGRAPH A.20 OF SECTION 92.15.O1, PARAGRAPH A.6 OF SECTION 92.10.01, PARAGRAPH A.5 OF SECTION 92.17.1.01, AND SECTION 93.23.15 OF, AND ADDING CHAPTER 5.35 TO, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES IN THE CITY."

2) Waive the reading of the full text of the ordinance and re-adopt by title only Ordinance No. 1846, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PLANNED DEVELOPMENT DISTRICT PDD 365 IN LIEU OF A CHANGE OF ZONE FOR A ROUGHLY 6.37 ACRE PARCEL ON THE WEST SIDE OF SOUTH BELARDO ROAD, APPROXIMATELY 500 FEET SOUTH OF THE MORONGO ROAD INTERSECTION."

3) Waive the reading of the full text of the ordinance and re-adopt by title only Ordinance No. 1847, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 12.12.050 OF, AND ADDING SECTION 12.12.055 TO, THE PALM SPRINGS MUNICIPAL CODE, PERTAINING TO SITTING OR LYING ON SIDEWALKS IN DOWNTOWN PALM SPRINGS."

STAFF ANALYSIS:

Pursuant to Cal. Gov. Code and Section 313 of the City Charter, requires the City Clerk publish all ordinances within 15-days of adoption. Ordinance Nos. 1845, 1846, and 1847 were adopted by the City Council on March 5, 2014; however the three ordinances did not get published until the 16th day after adoption.

Item No. 2.F.

On March 5, 2014, Ordinance Nos. 1845, 1846, and 1847 were adopted, as noted below, and City staff recommends the City Council re-adopt the ordinances, and Staff will re-publish the ordinances within 15-days of adoption as required by law

The re-adoption and publication will ensure the ordinances are procedurally compliant with law.

2.D. SECOND READING AND ADOPTION OF ORDINANCE NO. 1845 AMENDING SECTION 1.01.110, PARAGRAPH A.20 OF SECTION 92.15.O1, PARAGRAPH A.6 OF SECTION 92.10.01, PARAGRAPH A.5 OF SECTION 92.17.1.01, AND SECTION 93.23.15 OF, AND ADDING CHAPTER 5.35 TO, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES IN THE CITY:

ACTION: Waive the reading of the full text of the ordinance and adopt by title only Ordinance No. 1845, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 1.01.110, PARAGRAPH A.20 OF SECTION 92.15.O1, PARAGRAPH A.6 OF SECTION 92.10.01, PARAGRAPH A.5 OF SECTION 92.17.1.01, AND SECTION 93.23.15 OF, AND ADDING CHAPTER 5.35 AND SECTIONS 3.35.080, 3.35.090, 3.35.100, 3.35.110, AND 3.35.120 TO, AND REPEALING SECTION 6.08.150 OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES IN THE CITY." **Motion Councilmember Foat, seconded by Mayor Pro Tem Hutcheson and carried 4-1 on a roll call vote.**

AYES: Councilmember Foat, Councilmember Lewin, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: Councilmember Mills.

2.E. SECOND READING AND ADOPTION OF ORDINANCE NO. 1846 APPROVING PLANNED DEVELOPMENT DISTRICT PDD 365 IN LIEU OF A CHANGE OF ZONE FOR A ROUGHLY 6.37 ACRE PARCEL ON THE WEST SIDE OF SOUTH BELARDO ROAD, APPROXIMATELY 500 FEET SOUTH OF THE MORONGO ROAD INTERSECTION:

ACTION: Waive the reading of the full text of the ordinance and adopt by title only Ordinance No. 1846, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PLANNED DEVELOPMENT DISTRICT PDD 365 IN LIEU OF A CHANGE OF ZONE FOR A ROUGHLY 6.37 ACRE PARCEL ON THE WEST SIDE OF SOUTH BELARDO ROAD, APPROXIMATELY 500 FEET SOUTH OF THE MORONGO ROAD INTERSECTION." **Approved as part of the Consent Calendar," noting the business relationship abstention by Mayor Pougnet.**

AYES: Councilmember Foat, Councilmember Lewin, Councilmember Mills, Mayor Pro Tem Hutcheson.
NOES: None.
ABSENT: None.
ABSTAIN: Mayor Pougnet.

2.F. SECOND READING AND ADOPTION OF ORDINANCE NO. 1847 AMENDING THE PALM SPRINGS MUNICIPAL CODE PERTAINING TO SITTING OR LYING ON SIDEWALKS IN DOWNTOWN PALM SPRINGS:
ACTION: Waive the reading of the full text of the ordinance and adopt by title only Ordinance No. 1847, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 12.12.050 OF, AND ADDING SECTION 12.12.055 TO, THE PALM SPRINGS MUNICIPAL CODE, PERTAINING TO SITTING OR LYING ON SIDEWALKS IN DOWNTOWN PALM SPRINGS." **Approved as part of the Consent Calendar.**

AYES: Councilmember Foat, Councilmember Lewin, Councilmember Mills, Mayor Pro Tem Hutcheson, and Mayor Pougnet.
NOES: None.
ABSENT: None.
ABSTAIN: None.

This report provides for the City Council to waive further reading and re-adopt the ordinances.

James Thompson
City Clerk

David H. Ready, Esq., Ph.D.
City Manager

/kdh

Attachment: Ordinance No. 1845
Ordinance No. 1846
Ordinance No. 1847

ORDINANCE NO. 1845

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 1.01.110, PARAGRAPH A.20 OF SECTION 92.15.O1, PARAGRAPH A.6 OF SECTION 92.10.01, PARAGRAPH A.5 OF SECTION 92.17.1.01, AND SECTION 93.23.15 OF, AND ADDING CHAPTER 5.35 AND SECTIONS 3.35.080, 3.35.090, 3.35.100, 3.35.110, AND 3.35.120 TO, AND REPEALING SECTION 6.08.150 OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES IN THE CITY.

City Attorney Summary

This Ordinance relates to the City's regulatory program for medical cannabis cooperatives and collectives in the City. The current Code established a regulatory program as a part the City's Zoning Code. This Ordinance retains traditional zoning and land use considerations affecting medical cannabis cooperatives and collectives in the Zoning Code. This Ordinance also creates a comprehensive regulatory program for medical cannabis and collectives in the City as Chapter 5.35 of the Palm Springs Municipal Code.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA ORDAINS:

SECTION 1. Section 1.01.110 of the Palm Springs Municipal Code is amended by adding the following definition of "City Manager:"

"City Manager " means the City Manager of the City or the designee or designees of the City Manager.

SECTION 2. Section 3.35.080 is added to the Palm Springs Municipal Code to read:

3.35.080 Returns and Remittances. The Tax shall be due and payable as follows:

A. Each person owing Tax, on or before the last business day of each calendar month as established by the City Manager, shall prepare a tax return to the City Manager of the total proceeds and the amount of Tax owed for the preceding calendar month. At the time the Tax return is filed, the full amount of the Tax owed for the preceding calendar month shall be remitted to the Director.

B. All tax returns shall be completed on forms provided by the Director.

C. Tax returns and payments for all outstanding taxes owed the City are immediately due the City Manager upon cessation of business for any reason.

D. Whenever any payment, statement, report, request or other communication received by the City Manager is received after the time prescribed by this Section for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this Section for the receipt thereof, or whenever the City Manager is furnished substantial proof that the payment, statement, report, request, or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the City Manager may regard such payment, statement, report, request, or other communication as having been timely received. If the due day falls on Friday, Saturday, Sunday, or a holiday, the due day shall be the last regular business day on which the City hall is open to the public prior to the due date.

E. Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not paid on or before the due date specified in Subsection A of this Section.

F. The City Manager is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Resolution and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Resolution.

SECTION 3. Section 3.35.090 is added to the Palm Springs Municipal Code to read:

3.35.090 Failure to Pay Tax.

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

1. A penalty equal to twenty-five percent of the amount of the Tax in addition to the amount of the Tax, plus interest on the unpaid Tax calculated from the due date of the Tax at a rate established by resolution of the City Council; and

2. An additional penalty equal to twenty-five percent of the amount of the Tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid Tax and interest on the unpaid penalties calculated at the rate established by resolution of the City Council.

B. Whenever a check is submitted in payment of a Tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the Tax amount due plus penalties and interest as provided for in this section plus any amount allowed under state law.

C. The Tax due shall be that amount due and payable from January 1, 2014 or the first date on which the collective first operated in the City, whichever date occurred last, together with applicable penalties and interest calculated in accordance with Subsection

A of this Section.

D. The City Manager may waive the first and second penalties of twenty-five percent each imposed upon any person if:

1. The person provides evidence satisfactory to the City Manager that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid the delinquent business tax and accrued interest owed the City prior to applying to the City Manager for a waiver.

2. The waiver provisions specified in this subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four month period.

SECTION 4. Section 3.35.100 is added to the Palm Springs Municipal Code to read:

3.35.100 Refunds.

A. No refund shall be made of any tax collected pursuant to this Resolution, except as provided in this Section.

B. No refund of any Tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a MCCC.

C. Any person entitled to a refund of taxes paid pursuant to this Chapter may elect in writing to have such refund applied as a credit against MCCC's Taxes for the next calendar month.

D. Whenever the amount of any tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, such amount may be refunded to the claimant who paid the Tax provided that a written claim for refund is filed with the City Manager.

E. The City Manager shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant therefor refuses to allow such examination of claimant's books and business records after request by the City Manager to do so.

G. In the event that the Tax was erroneously paid and the error is attributable to the City, the entire amount of the Tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this Chapter from the amount to be refunded to cover expenses.

H. The City Manager shall initiate a refund of any Tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is uncovered by a City audit of Tax receipts. In the event that the Tax was erroneously paid and the error is attributable to the City, the entire amount of the Tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this Resolution from the amount to be refunded to cover expenses.

SECTION 5. Section 3.35.110 is added to the Palm Springs Municipal Code to read:

3.35.110 Enforcement.

A. It shall be the duty of the City Manager to enforce each and all of the provisions of this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the City Manager, with the concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations.

C. The City Manager shall have the power to audit and examine all books and records of collectives as well as persons engaged in the operation of a MCCC, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of MCCC or persons engaged in the operation of a MCCC, for the purpose of ascertaining the amount of Tax, if any, required to be paid by the provisions of this Chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this Chapter. If such MCCC or person, after written demand by the City Manager, refuses to make available for audit, examination or verification such books, records, or equipment as the City Manager requests, the City Manager may, after full consideration of all information within the City Manager's knowledge concerning the collective and its business and activities of the person so refusing, make an assessment in the manner provided in Sections 3.35.120.

D. The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes.

E. Any person violating any of the provisions of this Chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring the certificate or document from the City as provided for in this Chapter or Chapter 5.35 shall be deemed guilty of a misdemeanor

SECTION 6. Section 3.35.120 is added to the Palm Springs Municipal Code to read:

3.35.120 Debts; Deficiencies; Assessments.

A. The amount of any tax, penalties, and interest imposed by the provisions of this Chapter shall be deemed a debt to the City and any person operating a MCCC without first having procured a business tax license as provided in Division II of this Title of the Palm Springs Municipal Code shall be liable in an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such MCCC.

B. If the City Manager is not satisfied that any statement filed as required under the provisions of this Chapter is correct, or that the amount of tax is correctly computed, the City Manager may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Subsections C, D, and E of this Section.

C. Under any of the following circumstances, the City Manager may make and give notice of an assessment of the amount of tax owed by a person under this Chapter:

1. If the person has not filed any statement or return required under the provisions of this Resolution;

2. If the person has not paid any tax due under the provisions of this Resolution;

3. If the person has not, after demand by the City Manager, filed a corrected statement or return, or furnished to the City Manager adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under the provisions of this Chapter;

4. If the City Manager determines that the nonpayment of any business tax due under this Chapter or Division II of this Title is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter.

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

D. The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business appearing on the face of the business tax certificate issued under Division II of this Title, Chapter 5.35, or to such other address as he or she shall register with the City Manager for the purpose of receiving notices provided under this Chapter or Chapter 5.35; or, should the person have no business tax certificate issued and should the person have no address registered with the City Manager for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.

E. Within ten days after the date of service the person may apply in writing to the City Manager for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the City Manager shall become final and conclusive. Within thirty days of the receipt of any such application for hearing, the City Manager shall cause the matter to be set for hearing before a hearing officer pursuant to the provisions of Section 1.06.050 of this Code not later than thirty days after the date of application, unless a later date is agreed to by the City Manager and the person requesting the hearing. Notice of such hearing shall be given by the City Manager to the person requesting such hearing not later than five days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the City Manager should not be confirmed and fixed as the tax due. After such hearing the hearing officer shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in this Chapter for giving notice of assessment.

SECTION 7. Chapter 5.35 is added to the Palm Springs Municipal Code to read:

Comprehensive Medical Cannabis Regulatory Program

5.35.100	**General Provisions**
5.35.110	**Definitions**
5.35.120	**Maximum Number of MCCCs**
5.35.200	**Applications**
5.35.210	**Process for Issuing a New Permit for a MCCC**
5.35.220	**Process for Renewing a MCCC Permit**
5.35.230	**Changes in Governance of Permitted Entities**

5.35.240 Complete Applications Required for Certain Individuals
5.35.250 Permittee Required to Keep Mailing Address Current with the City Manager
5.35.260 Length of Permit
5.35.270 Possession of Location
5.35.280 Changing, Altering, or Modifying Location
5.35.300 Security Plan
5.35.310 Video Surveillance
5.35.320 Waste Disposal
5.35.330 Health and Safety Regulations
5.35.340 Cultivation Operation: Health and Safety Regulations
5.35.500 Mobile Marijuana Dispensaries
5.35.600 Maintenance of Business Records.
5.35.610 Independent Audit May Be Required
5.35.620 Manager Change Must Be Reported
5.35.700 Labeling, Packaging, and Product Safety
5.35.710 Testing
5.35.720 False and Misleading Statements
5.35.800 Violation
5.35.810 Authority and Responsibility Under this Chapter
5.35.820 Appeals
5.35.830 Specific Enforcement Alternatives

5.35.100 General Provisions.

No person shall engage in the business or activity of cultivating, possessing, selling, distributing, dispensing, or offering to sell, distribute, or dispense Medical Cannabis or Medical Cannabis Infused Product unless such person fully complies with the provisions of this Chapter, has received any and all permits required in this Chapter, and operates solely at a Location approved by the City pursuant to Section 93.23.15 of this Code, subject to all requirements and conditions of approval attendant to the issuance of such permits and approval of such Location.

5.35.110 Definitions.

The following definitions of terms shall apply to this Chapter, unless the context requires otherwise:

"Advertising" means the publication, dissemination, solicitation, or circulation, visual, oral, or written, to induce directly or indirectly any Person to patronize a particular a MCCC, or to purchase particular Medical Cannabis or a Cannabis-Infused Product.

"Alarm Installation Company" means a Person engaged in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving, or installing a Security Alarm System in a Location and operating in full compliance with Chapter 5.02 of this Code.

"Applicant" means a Person that has submitted an application pursuant to this Chapter that was accepted by the City Manager for review but has not been approved or denied by the City.

"Application Period" means a sixty (60) day period commencing on a date approved by the City Council (or such period of time as the Council may establish) plus an additional thirty (30) days (or such period of time as the City Council may establish) to complete the reviews and the preparation of the reports called for in Section 5.35.210.

"Cannabis-Infused Product" means any product that contains Medical Cannabis or marijuana that is intended to be consumed orally, including but not limited to, any type of food, drink, pill, baked goods, or other consumable products, or used topically such as tinctures.

"Change in Governance" means any change in the Operator or the Board of Directors of the MCC.

"Child-Resistant" means special packaging that is:

a. Designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as provided under federal law;

b. Opaque so that the product cannot be seen from outside the packaging;

c. Closable for any product intended for more than a single use or containing multiple servings, and

d. Labeled properly as required by this Chapter.

"Container" means the sealed package in which Medical Cannabis or a Cannabis-Infused Product is placed for sale to a patient and that has been labeled according to the requirements set forth in this Chapter.

"Days" means calendar days.

"Flower" means the gametophytic or reproductive state of *Cannabis* in which the plant is in a light cycle intended to produce flowers, trichromes, and cannabinoids characteristic of Cannabis.

"Good Moral Character" means an individual with a personal history demonstrating honesty, fairness, and respect for the rights of others and for the law.

"Immature plant" means a nonflowering Medical Cannabis plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing/cultivating container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

"Location" means the premises specified in an application for a permit pursuant to this Chapter that is owned or in possession of the Permittee and within which the Permittee is authorized to cultivate, manufacture, distribute, dispense, or sell Medical Cannabis in accordance with the provisions of this Chapter.

"Limited Access" means a building, room, or other contiguous area upon the Location where Medical Cannabis is grown, cultivated, stored, weighed, packaged, sold, or processed for sale, under control of the Permittee.

"Location" means the premises specified in an application for a permit pursuant to this Chapter that is owned or in possession of the Permittee and within which the Permittee is authorized to cultivate, manufacture, distribute, dispense, or sell Medical Cannabis in accordance with the provisions of this Chapter.

"Management Permit" means a Permit for an individual who is an Operator of the MCCC.

"Medical Cannabis" and "Medical Marijuana" are defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

"Medical Cannabis Cooperative or Collective" or "MCCC" means five or more qualified patients and caregivers who collectively or cooperatively cultivate and share physician-recommended cannabis or marijuana in a manner strictly consistent with the State Guidelines. The term "Medical Cannabis Cooperative or Collective" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses: a clinic permitted pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility permitted pursuant to Chapter 2 of the Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness permitted pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly permitted pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a residential hospice; or a home health agency permitted pursuant to Chapter 8 of Division 2 of Health and Safety Code, as long as such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et. seq., or the cultivation, storage, or use by a qualified patient or patients or that patient's or patients' primary caregiver or caregivers, incidental to a residential use by, and for the sole use of, the patient or patients who reside at such residential use location.

"Mobile Marijuana Dispensary" means any clinic, cooperative, club, business, or group which transports or delivers, or arranges the transportation or delivery, of medical marijuana to a Person.

"Mobile Operation" means any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet, or assist in the operation of a Mobile Marijuana Dispensary.

"Monitoring" means the continuous and uninterrupted attention to potential alarm signals that could be transmitted from a Security Alarm System located at a MCCC Location, for the purpose of summoning a law enforcement officer to the premises during alarm conditions.

"Monitoring Company" means a Person in the business of providing Monitoring services for a MCCC.

"Operator" means the Person or Persons who operates as the President, Chief Executive Officer, Chief Administrative Officer, General Manager or such other position or holds such other title, position, or other similar designation with such authority or responsibilities commonly associated with such positions. Each individual Operator must have a Management Permit.

"Permittee" means any Person permitted or registered pursuant to this Chapter.

"Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof; except that "Person" does not include any governmental organization.

"Proficiency Testing Samples" means performing the same analyses on the same Samples and comparing results to ensure the Samples are homogenous and stable, and also that the set of Samples analyzed are appropriate to test and display similarities and differences in results.

"Propagation" means the reproduction of Medical Cannabis plants by seeds, cuttings or grafting.

"Restricted Access Area" means a designated and secure area within a Location in a Medical Cannabis Center where Medical Cannabis and Cannabis-Infused Product are sold, possessed for sale, and displayed for sale, and where no one without a valid patient registry card is permitted.

"Sample" means any Medical Cannabis or Cannabis-Infused Product provided for testing or research purposes.

"Security Alarm System" means a device or series of devices, intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).

"Shipping Container" means any container or wrapping used solely for the transport of Medical Cannabis or Cannabis-Infused Product in bulk.

"State Guidelines" means the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued August 2008, by the Office of the Attorney General for the State of California, as may be amended from time to time, on file in the Office of the City Clerk.

"Support Permit" means a permit for an individual who performs duties that support the MCCC operations. While a Support Permittee must conduct himself or herself professionally, he or she has limited decision making authority and always fall under the supervision of a Management Permittee. Examples of individuals who need this type of permit include, but are not limited to, sales clerks or cooks.

"Unrecognizable" means Cannabis or *Cannabis* plant material rendered indistinguishable from any other plant material.

"Vegetation" means the sporophytic state of the *Cannabis* plant that is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for flowering.

5.35.120 Maximum Number of Medical Cannabis Cooperatives and Collectives.

No more than four (4) permitted MCCCs shall be maintained or operated in the City at any time.

5.35.200 Applications.

A. General Requirements

1. Prior to initiating operations and as a continuing requisite to conducting operations, the legal representative of the persons wishing to operate a MCCC shall obtain and maintain a permit from the City Manager under the terms and conditions set forth in this Chapter.

2. All applications for permits required pursuant to this Chapter shall be made upon current forms prescribed by the City Manager. Applications submitted to the City Manager may include, but not be limited to, new business premises, transfers of ownership, change of locations, premises modifications, and changes in trade name.

3. All applications for a new MCCC must include application and permitting fees as established by resolution adopted by the City Council as amended from time to time.

4. A permit issued by the City Manager to a MCCC constitutes a revocable privilege. The burden of proving an Applicant's qualifications for a permit rests at all times with the Applicant.

5. If required by the forms supplied by the City Manager, each application shall identify the relevant local jurisdiction.

6. Applicants must submit a complete application to the City Manager before it will be accepted or considered.

a. All applications must be complete in every material detail.

b. All applications must include all attachments or supplemental information required by the current forms supplied by the City Manager.

c. All applications must be accompanied by a full remittance for the whole amount of the application and permit fees.

d. The Applicant or its authorized agent must provide a surety bond, if applicable, and prove that all tax returns related to the MCCC have been timely filed;

7. The City Manager may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Each Applicant shall provide any additional information required that the City Manager may request to process and fully investigate the application. The additional information must be provided to the City Manager no later than seven days of the request unless otherwise specified by the City Manager.

2. Nothing in this subsection is intended to limit the City Manager's ability to request additional information the City Manager deems necessary or relevant to determining an Applicant's suitability for a permit or a renewal of a permit under this Chapter.

3. Failure to provide such additional information by the requested deadline may result in denial of the application or renewal or revocation or suspension of a permit.

C. Information Must Be Provided Truthfully. All Applicants shall submit information to the City Manager in a full, faithful, truthful, and fair manner. The City Manager may recommend denial of an application where the Applicant made intentional or purposeful misstatements, omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis for additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

D. Application Forms Accessible. All application forms supplied by the City Manager and filed by an Applicant for a permit, including attachments and any other documents associated with the investigation, shall be accessible by the City Manager and any state or local law enforcement agency for a purpose authorized by this Chapter or for any other state or local law enforcement purpose.

E. Other Considerations Regarding MCCC Applications. The Applicant, if not an individual, must be comprised of individuals:

1. Whose criminal history background checks establish they are all of Good Moral Character; and

2. Who have met all other permitting requirements.

F. Background Checks and Application Review. The City Manager shall conduct a background check of any applicant for a regulatory permit, including any person who is managing or is otherwise responsible for the activities of the MCCC, and any employee, and shall prepare a report on the acceptability of the applicant's background and the suitability of the proposed location. Upon completing the review process, the permit shall be deemed a qualified application subject to the final certification and approval by the City Council pursuant to the allotment process, unless the City Manager finds that the applicant:

1. Has made one or more false or misleading statements, or omissions on the application or during the application process; or

2. The proposed MCCC is not allowed by state or local law, statue, ordinance, or regulation, including this Code, at a particular location.

3. Is not a Primary Caregiver or Qualified Patient or the legal representative of the MCCC; or

4. The applicant, or any person who is managing or is otherwise responsible for the activities of the MCCC, or any employee, if any, has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Compassionate Use Act. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

5. The applicant or any person who is managing or is otherwise responsible for the activities of the MCCC has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

6. The applicant or any person who is managing or is otherwise responsible for the activities of the MCCC has operated a marijuana dispensary, cooperative, or collective in the City without a permit for a MCCC issued or approved by the City pursuant to the provisions of this Code and refused or failed to comply with any order or instruction of the City to cease such operation.

G. Prior Operation Prohibited. An Applicant is prohibited from operating a MCCC or any other marijuana dispensary prior to obtaining all necessary permits or approvals from the City.

5.35.210 Process for Issuing a New Permit for a MCCC.

A. General Requirements

1. The City Council shall review and evaluate all qualified applications and will approve issuance of a regulatory permit to the most qualified as determined through the Allotment Process described in this Section. Where the City Council has reviewed qualified applications within two (2) years of any review and allotment process under the provisions of this Section, the City Council may limit its review to one or more of the qualified applications reviewed and considered during such previous Allotment Process.

2. Each Applicant for a new permit, at the time of application, shall fully comply with the requirements of Section 5.35.200, and provide the following information:

a. Suitable evidence of proof of lawful presence or residence and Good Moral Character and reputation as required by the current forms prescribed by the City Manager;

b. All requested information concerning financial and management associations and interests of other Persons in the business; including the names, mailing addresses, and Operator's background forms of all of its principal officers, directors, and Operators; a copy of its articles of incorporation or articles of organization; and evidence of authorization to do business as a non-profit within the State;

c. An estimate of the size of the group of primary caregivers and/or qualified patients who will be served by the non-profit MCCC; this description should include whether delivery service will be provide and the extent of such service.

d. The address of the location from which the MCCC for which application is made will be operated;

e. Accurate site plan and floor plans for the premises to be permitted denoting all the use of areas on the premises, including storage, cultivation areas, exterior lighting, restrooms, signage, and parking; other tenant spaces if the MCCC is proposed for a multi-tenant building site;

f. The deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises permitted or proposed to be permitted.

g. A security plan that fully addresses and complies with the provisions of Sections 5.35.330 and 5.35.340 of this Code.

h. The name and address of any person who is managing or responsible for the MCCC's activities, and the names and addresses of any employees, if any, and a statement as to whether such person or persons has

or have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received for such conviction(s).

i. The name and address of the owner and lessor of the real property upon which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a MCCC will be operated on his/her property.

j. Authorization for the City Manager to seek verification of the information contained within the application.

k. Evidence that the MCCC is organized as a bona fide non-profit cooperative, affiliation, association, or collective of persons comprised exclusively and entirely of qualified patients and the primary caregivers of those patients in strict accordance with the Compassionate Use Act.

l. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

m. Any such additional and further information as is deemed necessary by the City Manager to administer this Section.

3. Based on the information set forth in the application and the City Manager's report, the City Manager, or the City Council pursuant to the allotment process, may impose reasonable terms and conditions on the proposed operations in addition to those specified in this Section. A regulatory permit issued pursuant to this Section is not transferable.

B. Application Review; Allotment Process.

1. The City Manager will accept and review applications for MCCCs during the Application Period.

2. In the event there is no more than one qualified application for each unallocated permit for a MCCC as allowed under Section 5.35.120 determined to be conditionally qualified by the City Manager, the City Manager shall refer each such application to the City Council with a recommendation that the City Council approve the issuance of a permit to the applicants, subject to full compliance with the provisions of this Chapter and any conditions of approval.

3. In the event there is more than one application submitted for each unallocated regulatory permit for a MCCC as allowed under Section 5.35.120 during the Application Period, the City Manager shall submit the qualified applications and the City Manager report on each application to the City Council for review and consideration. The qualified applications shall be considered concurrently by the City Council at a public hearing noticed and conducted pursuant to the provisions of Section 94.02.00.C of this Code.

4. The City Council shall consider the qualified applications after evaluating the applications on their respective merits and the City Council may conditionally approve each qualified application or deny one or more of such applications if the Council makes one or more of the findings listed in Subsection F of Section 5.35.200. The City Council shall rank all qualified applications in order of those that best satisfy the requirements of this Section and provide the highest level of service and opportunities for residents of Palm Springs. The highest ranked qualified application equal to the number of available regulatory permits shall be granted regulatory permits pursuant to this Section.

C. Operations Covenant. The obligations of the MCCC, including all on-going and continuing obligations required pursuant to any provision of this Chapter or as may be provided in any conditional approval of the City Manager or the City Council, shall be set forth in a covenant running with the land or the leasehold interest, approved as to form by the City Attorney, and enforceable by the City. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, and expressly does not waive sovereign immunity, with respect to medical cannabis, or for the activities of any MCCC. The Covenant shall also contain the Continuing Obligations and Responsibilities as provided in this Section and the following terms:

1. Agree to indemnify the City;

2. Carry insurance in the amounts and of the types that are acceptable to the City Manager;

3. Name the City as an additional insured;

4. Agree to defend at its sole expense, any action against the City, its agents, officers, and employees because of the issues of such approval;

5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

D. Continuing Obligations and Responsibilities. No persons shall engage in, conduct, or be permitted to engage in or conduct a MCCC unless each of the following requirements is continually met:

1. The MCCC shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the State Guidelines.

2. The MCCC shall only be open between the hours of 9:00 a.m. and 7:00 p.m.

3. Physician's referrals shall be verified by the MCCC prior to inclusion into the MCCC and at least every six months thereafter.

4. Each member of the MCCC shall be a patient or a qualified primary caregiver. The cooperative shall maintain patient records in a secure location within the City of Palm Springs, available to the City Manager to review upon demand. Such records shall include without limitation a copy of the physician's referral and, if using a primary caregiver, a notarized written authorization from the patient to be represented by such primary caregiver.

5. Cannabis shall be kept in a secured manner during business and nonbusiness hours.

6. Each MCCC that prepares, dispenses, or in any manner distributes Edible Cannabis-Infused Product must comply with the provisions of all relevant State and local laws regarding the preparation, distribution, and sale of product.

7. Each MCCC must pay any applicable sales tax pursuant to federal, state, and local law.

8. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited on the premises of the MCCC. The term "premises" as used in this Subsection includes the actual building, as well as any accessory structures and parking areas. The building entrance to a MCCC shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming marijuana on the premises or in the vicinity of the MCCC is prohibited.

9. Signage for the MCCC shall be limited to name of business and its status as a permitted MCCC pursuant to this Section only and no advertising of the goods and/or services shall be permitted. Each MCCC shall post a sign or notice conspicuously at each point of public access into the MCCC stating that the MCCC is a permitted MCCC under the provisions of this Chapter.

10. Alcoholic beverages shall not be sold, stored, distributed, or consumed on the premises. A MCCC shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cooperative or collective.

11. Except as provided in Subsection G-4, windows and/or entrances shall not be obstructed and must maintain a clear view into the premises during business hours.

12. No one under eighteen (18) years of age shall be a member of a MCCC without written authorization of a parent or legal guardian.

13. Issuance of physician recommendations or prescriptions for cannabis or marijuana use shall not be performed or provided on the premises.

14. The building in which the MCCC is located as well as the operations as conducted therein shall fully comply with all applicable rules, regulations, and laws

including, but not limited to, zoning and building codes, the City's business license ordinances, the Revenue and Taxation Code, the Americans with Disabilities Act, and the Compassionate Use Act.

15. The MCCC shall not distribute, sell, dispense, or administer cannabis to anyone other than qualified patient members of the MCCC and their primary caregivers.

16. A MCCC shall distribute only cannabis cultivated on the premises or by a member of the MCCC or the member's primary caregiver. The MCCC shall do an inventory on the first business day of each month and shall record the total quantity of each form of cannabis on the premises. These records shall be maintained for two (2) years from the date created.

17. Provide the City Manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom one can provide notice if there are operating problems associated with the MCCC. The MCCC shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police or planning departments.

18. Nothing in this Section prohibits a Permittee from refusing to sell Medical Cannabis or Cannabis-Infused Product to a patient.

19. A MCCC shall not display Medical Cannabis and Cannabis-Infused Product in a manner in which Medical Cannabis or Cannabis-Infused Product can be seen from outside the Location. Storage of Medical Cannabis and Cannabis-Infused Product shall otherwise be maintained in restricted access areas.

20. An MCCC shall not sell any expired Cannabis-Infused Product.

21. Each Permittee shall consent and allow the City Manager to cause medical cannabis and cannabis-infused product at the Location to be tested and examined as provided in this Chapter.

22. Fully comply with and meet all operating criteria required pursuant to the Compassionate Use Act, state law, the State General Guidelines, the provisions of the Palm Springs Municipal Code, including without limitation, this Section, and any specific, additional operating procedures and measures as may be imposed as conditions of approval of the regulatory permit, and all requirements set forth in the covenant as described in Subsection J, in order to ensure that the operation of the MCCC is consistent with the protection of the health, safety, and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.

5.35.220 Process for Renewing a MCCC Permit.

A. General Process for Permit Renewal

1. A Permittee may apply for the renewal of an existing permit no less than 30 days prior to the permit's expiration date. If the Permittee files a renewal application within 30 days prior to expiration, the Permittee must provide a written explanation detailing the circumstances surrounding the late filing. If the City Manager accepts the application, then the City Manager may elect to administratively continue the permit beyond the expiration date while the City Manager completes the renewal permitting process.

2. An application for renewal will only be accepted if it is accompanied by the requisite permitting fees.

3. Each application for renewal shall fully comply with the requirements of Section 5.35.200.

4. Operator must be fingerprinted each year at renewal.

B. If Permit Not Renewed Before Expiration. A permit is immediately invalid upon expiration if the Permittee has not filed a timely renewal application and remitted all of the required fees. In the event the permit is not renewed prior to expiration, the affected MCCC shall not operate.

5.35.230 Changes in Governance of Permitted Entities.

A. General Requirements

1. All applications for Changes in Governance of a permitted MCCC authorized pursuant to this Chapter, shall be made upon current forms prescribed by the City Manager and shall fully comply with the provisions of Section 5.35.200.

2. All applications for Changes in Governance of permitted MCCC must include application fees and be complete in every material detail.

3. Each application for a Change in Governance shall provide suitable evidence of a Person's proof of lawful presence and/or residence and good character and reputation that the City Manager may request. Each application shall also provide all requested information concerning financial and management associations and interests of other Persons in the business, tax payment information, proof of good and sufficient surety bond, and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the Location. Nothing in this section is intended to limit the City Manager's ability to request additional information the City Manager deems necessary or relevant to determining suitability for approval of a Change in Governance.

4. Failure to provide such additional evidence by the requested deadline may result in denial of the application.

B. Approval Required. It shall be considered a permit violation affecting public safety if a Permittee engages in any transfer of ownership without prior approval from the City Manager.

5.35.240 Complete Applications Required for Certain Individuals.

A. General Requirements

1. All applications for individual permits as provided in this Section shall be made upon current forms prescribed by the City Manager. Applications submitted to the City Manager may include, but not be limited to, Management Permits.

2. An individual permit issued pursuant to this Chapter constitutes a revocable privilege. The burden of proving an Applicant's qualifications for an individual permit rests at all times with the Applicant.

3. Applicants must submit a complete current application to the City Manager before it will be accepted or considered.

a. All applications must be complete in every material detail.

b. All applications must include all attachments or supplemental information required by the forms supplied by the City Manager.

c. All applications must be accompanied by a full remittance for the whole amount of the application, permit, or other relevant fees.

4.The City Manager may refuse to accept an incomplete application.

B. Additional Information May Be Required

1. Each Applicant shall provide any additional information required that the City Manager may request to process and fully investigate the application.

2. An Applicant's failure to provide the requested evidence or information by the City Manager deadline may be grounds for denial. The additional information must be provided to the City Manager no later than seven days of the request unless otherwise specified by the City Manager. Each Applicant shall provide any additional information required that the City Manager may request to process and fully investigate the application.

C. Application Forms Accessible. All application forms supplied by the City Manager and filed by an Applicant for a permit, including attachments and any other documents associated with the investigation, shall be accessible by the City Manager, local permitting authorities, and any state or local law enforcement agency, for a purpose authorized by this Chapter or for any other state or local law enforcement purpose.

D. General Requirements.

1. All Applicants shall submit information to the City Manager in a full, faithful, truthful, and fair manner. The City Manager may recommend denial of an application where the Applicant made intentional misstatements, purposeful omissions, misrepresentations, or untruths in the application or in connection with the Applicant's background investigation. This type of conduct may be considered as the basis of additional administrative action against the Applicant and it may also be the basis for criminal charges against the Applicant.

2. The City Manager may deny the application of an Applicant who fails to provide the requested evidence or information by the City Manager's deadline.

E. Fingerprints Required

1. All Applicants for initial individual permits shall be fingerprinted for a fingerprint-based criminal history record check.

2. A renewal Applicant shall be fingerprinted at the City Manager's discretion.

3. An Applicant shall also be fingerprinted if the City Manager has required the Applicant to submit a new application. The City Manager may require a new application for the following non-exhaustive list of reasons:

a. An Applicant is re-applying after more than one year since the expiration of his or her most recent permit;

b. If an Applicant's previous permit was denied or revoked by the City Manager; or

c. When the City Manager needs additional information in order to proceed with a background investigation.

F. Other Documents May Be Required. Any Applicant may be required to establish his or her identity and age by any document required for a determination of lawful presence.

G. Maintaining Ongoing Suitability For Permit: Duty to Report Offenses. An Applicant or Permittee shall notify the City Manager in writing of any felony criminal charge and felony conviction against such person within ten days of such person's arrest, felony summons, and within ten days of the disposition of any arrest or summons. Failure to make proper notification to the City Manager may be grounds for disciplinary action. Permittees shall cooperate in any investigation conducted by the City Manager. This duty to report includes, but is not limited to, deferred sentences or judgments that are not sealed. If the City Manager lawfully finds a disqualifying event and an Applicant asserts that the record was sealed, the City Manager may require the Applicant to provide proof from a court evidencing the sealing of the case.

H. Application Forms Accessible to Law Enforcement and Licensing Authorities. All completed application forms supplied by the City Manager and filed by an Applicant for

permit shall be accessible by the City Manager and any state or local law enforcement agent.

I. Management Permits/Operators. An Operator Applicant for a Management Permit must meet the following criteria before receiving a permit:

1. The Applicant must pay the annual application and permitting fees;

2. The Applicant's criminal history must indicate that he or she is of Good Moral Character;

3. The Applicant is not employing, or financed in whole or in party by any other Person whose criminal history indicates that he or she is not of Good Moral Character;

4. The Applicant is at least 21 years of age;

5. The Applicant has paid all taxes, interest, or penalties due the City Manager relating to a MCCC;

6. The Applicant can prove that he or she has not discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date;

7. The Applicant can prove that he or she has not discharged a sentence in the five years immediately preceding the application date for a conviction of a felony not related to possession, distribution, manufacturing, cultivation, or use of an illegal substance;

8. The Applicant can prove that he or she has not been convicted at any time of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of an illegal substance;

9. The Applicant can establish that he or she is not a sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the City Manager or a local permitting authority;

10. The Applicant can establish that the premises proposed to be permitted is not currently permitted as a retail food establishment or wholesale food registrant.

5.35.250 Permittee Required to Keep Mailing Address Current with the City Manager.

A. Timing of Notification. A Permittee shall inform the City Manager in writing of any change to its mailing address within 30 days of the change. The City Manager will not change a Permittee's information without explicit written notification provided by the Permittee or its authorized agent.

B. City Manager Communications. City Manager communications are sent to the last mailing address furnished by an Applicant or a Permittee to the City Manager.

C. Failure to Change Address Does Not Relieve Permittee's or Applicant's Obligation. Failure to notify the City Manager of a change of mailing address does not relieve a Permittee or Applicant of the obligation to respond to a City Manager communication.

D. Application and Disciplinary Communications. The City Manager will send any application, disciplinary or sanction communication, as well as any notice of hearing, to the last mailing address furnished to the City Manager by the Permittee or Applicant.

5.35.260 Length of Permit.

A. MCCC Permit. All MCCC Permits and Individual Permits are valid for one year.

B. Permit May Be Valid for Less Than Full Term. A Permit may be valid for less than the applicable permit term if revoked, suspended, voluntarily surrendered, or otherwise disciplined.

5.35.270 Possession of Location.

A. Evidence of Lawful Possession. Persons permitted pursuant to the provisions of this Chapter or those making application for such permits, must demonstrate proof of lawful possession of the Location. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to the City Manager.

B. Relocation Prohibited. The Location shall only be the geographical area that is specifically and accurately described in executed documents verifying lawful possession. Permittees are not authorized to relocate to other areas or units within a building structure without first filing a change of location application and obtaining approval from the City Manager. Permittees shall not add additional contiguous units or areas, thereby altering the initially-approved premises, without filing an Application to modify the Location on current forms prepared by the City Manager, including any applicable processing fee as provided in Section 5.35.280.

C. Subletting Not Authorized. Permittees are not authorized to sublet any portion of a Location for any purpose, unless all necessary applications to modify the existing Location to accomplish any subletting have been approved by the City Manager.

5.35.280 Changing, Altering, or Modifying Location.

A. Application Required to Alter or Modify Premises. After issuance of a permit, the Permittee shall not make any physical change, alteration, or modification of the Location that materially or substantially alters the Location or the usage of the Location from the plans originally approved, without the prior written approval of the City Manager. The Permittee whose premises are to be materially or substantially changed is responsible for filing an application for approval on current forms provided by the City Manager.

B. What Constitutes a Material Change. Material or substantial changes, alterations, or modifications requiring approval include, but are not limited to, the following:

1. Any increase or decrease in the total physical size or capacity of the Location;

2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes limited access areas, such as the cultivation, harvesting, manufacturing, or sale of Medical Cannabis or Cannabis-Infused Product within the Location;

3. Within a Location, the permanent addition of a separate sales counter that creates an additional point-of-sale location, and the permanent addition of a display case, all of which would require the installation of additional video surveillance cameras;

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

C. Attachments to Application. The City Manager may grant approval for the types of changes, alterations, or modifications described herein upon the filing of an application by the Permittee, and payment of any applicable fee. The Permittee must submit all information requested by the City Manager including but not limited to, documents that verify the following:

1. The Permittee will continue to have possession of the premises, as changed, by ownership, lease, or rental agreement; and

2. The proposed change conforms to any and all City restrictions related to the time, manner, and place of MCCC regulation.

5.35.300 Security Plan.

A. General Security Requirements

1. Security cameras shall be installed and maintained in good working condition, and used in an on-going manner with at least 240 continuous hours of digitally recorded documentation in a format approved by the City Manager. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, cultivation areas, all doors and windows, and any other areas as determined by the City Manager.

2. The lease/business space shall be alarmed with a reliable, commercial alarm system that is operated and monitored by a security company or alarm business that is operating in full compliance with Chapter 5.02 of this Code.

3. Entrance to the dispensing area and any storage areas shall be locked at all times, and under the control of MCCC staff.

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

5. All windows on the building that houses the MCCC shall be appropriately secured and all marijuana securely stored.

B. Security Alarm Systems – Minimum Requirements

1. Each Location shall have a Security Alarm System, installed by an Alarm Installation Company, on all perimeter entry points and perimeter windows.

2. Each Permittee must ensure that its Location is continuously monitored. Permittees may engage the services of a Monitoring Company to fulfill this requirement.

3. The Permittees shall maintain up to date and current records and existing contracts on the Location that describe the location and operation of each Security Alarm System, a schematic of security zones, the name of the Alarm Installation Company, and the name of any Monitoring Company.

4. Upon request, Permittees shall make available to the City Manager or any state or local law enforcement agency, for a purpose authorized by this Chapter or any state or local law enforcement purpose, all information related to Security Alarm Systems, Monitoring, and alarm activity.

C. Lock Standards – Minimum Requirement. At all points of ingress and egress, the Permittee shall ensure the use of a commercial-grade, nonresidential door locks.

5.35.310 Video Surveillance.

A. Minimum Requirements The following video surveillance requirements shall apply to all MCCC:

1. Prior to exercising the privileges of a MCCC, an Applicant must install fully operational video surveillance and camera recording system. The recording system must record in digital format and meet the requirements outlined in this Section.

2. All video surveillance records and recordings must be stored in a secure area that is only accessible to a Permittee's management staff.

3. Video surveillance records and recordings must be made available upon request to the City Manager or any other state or local law enforcement agency for a purpose authorized by this Chapter or for any other state or local law enforcement purpose.

4. Video surveillance records and recordings of point-of-sale areas shall be held in confidence by all employees and representatives of the City Manager, except that the City Manager may provide such records and recordings to any other state or local law enforcement agency for a purpose authorized by this Chapter or for any other state or local law enforcement purpose.

5. 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" or "These Premises Are Being Digitally Recorded" or otherwise advising all persons entering the MCCC that a video surveillance and camera recording system is in operation at the MCCC and recording all activity as provided in this Section.

B. Video Surveillance Equipment

1. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, cameras capable of meeting the recording requirements described in this rule, video monitors, digital archiving devices, and a color printer capable of delivering still photos.

2. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Permittee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

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

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

C. Placement of Cameras and Required Camera Coverage

1. Camera coverage is required for all Limited Access Areas, point-of-sale areas, security rooms, all points of ingress and egress to Limited Access Areas, all areas where Medical Cannabis or Cannabis-Infused Product is displayed for sale, and all points of ingress/egress to the exterior of the Location.

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

3. At each point-of-sale location, camera coverage must enable recording of the patients, caregiver or customer(s) and employee(s) facial features with sufficient clarity to determine identity.

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

5. The system shall be capable of recording all pre-determined surveillance areas in any lighting conditions. If the Location has a Medical Cannabis cultivation area, a rotating schedule of lighted conditions and zero-illumination can occur as long as ingress and egress points to Flowering areas remain constantly illuminated for recording purposes.

6. Areas where Medical Cannabis is grown, tested, cured, manufactured, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

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

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

9. All outdoor cultivation areas must meet the same video surveillance requirements applicable to any other indoor Limited Access Areas.

D. Location and Maintenance of Surveillance Equipment

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

2. Permittees must keep a current list of all authorized employees and service Personnel who have access to the surveillance system and/or room on the Location. Permittees must keep a surveillance equipment maintenance activity log on the Location to record all service activity including the identity of the individual(s) performing the service, the service date and time and the reason for service to the surveillance system.

3. Off-site Monitoring and video recording storage of the Location by the Permittee or an independent third-party is authorized as long as standards exercised at the remote location meets or exceeds all standards for on-site Monitoring.

4. Each Medical Cannabis Location located in a common or shared building must have a separate surveillance room/area that is dedicated to that specific Location. Commonly-owned MCCC located in the same local jurisdiction may have one central surveillance room located at one of the commonly owned Location which simultaneously serves all of the commonly-owned MCCC. The facility that does not house the central surveillance room is required to have a review station, printer, and map of camera placement on the premises. All minimum requirements for equipment and security standards as set forth in the section apply to the review station.

E. Video Recording and Retention Requirements

1. All camera views of all Limited Access Areas must be continuously recorded 24 hours a day.

2. All surveillance recordings must be kept for a minimum of 10 days and be in a format that can be easily accessed for viewing. Video recordings must be archived in a format that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.

3. The Permittee's surveillance system or equipment must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the Location.

4. The date and time must be embedded on all surveillance recordings without significantly obscuring the picture. The date and time must be synchronized with any point-of-sale system.

5. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at: http://www.time.gov/timezone.cgi?Mountain/d/-7/java.

6. After the 10 day surveillance video retention schedule has lapsed, surveillance video recordings must be erased or destroyed prior to being discarded or disposed of for any other purpose. Surveillance video recordings may not be destroyed if the Permittee knows or should have known of a pending criminal, civil, or administrative investigation or any other proceeding for which the recording may contain relevant information.

F. Other Records

1. All records applicable to the surveillance system shall be maintained on the Location. At a minimum, Permittees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list and operating instructions for the surveillance equipment.

2. A chronological point-of-sale transaction log must be made available to be used in conjunction with recorded video of those transactions.

5.35.320 Waste Disposal.

A. All Applicable Laws Apply. Medical Cannabis and Cannabis-Infused Product waste must be stored, secured, and managed in accordance with all applicable state and local statutes, regulations, ordinances or other requirements.

B. Liquid Waste. Liquid waste from MCCC shall be disposed of in compliance the applicable Water Quality Control statutes and regulations.

C. Hazardous Waste. Disposal of hazardous and chemical waste must be conducted in a manner consistent with federal, state and local laws.

D. Waste Must Be Made Unusable and Unrecognizable. Medical Cannabis and Cannabis-Infused Product waste must be made unusable and unrecognizable prior to leaving the Location.

5.35.330 Health and Safety Regulations.

A. Local Safety Inspections. Permittees may be subject to inspection of the MCCC by the Fire Marshall, Building Official, or any code enforcement officer to confirm that no health or safety concerns are present. Inspection may result in the City Manager's formulation, adoption, and implementation of additional specific standards related to the cultivation, packaging, storage, display, or dispensing of Medical Cannabis. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. Sanitary Conditions. The Permittee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Cannabis and Cannabis-Infused Product shall be excluded from any operations which may be expected to result in contamination until the condition is corrected;

2. That hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Location and where good sanitary practices require employees to wash or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;

3. That all persons working in direct contact with Medical Cannabis and Cannabis-Infused Product shall conform to hygienic practices while on duty, including but not limited to:

a. Maintaining adequate personal cleanliness;

b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated; and

c. Refraining from having direct contact with Medical Cannabis and Cannabis-Infused Product if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

4. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Cannabis and Cannabis-Infused Product are exposed;

5. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and each is kept clean and in good repair;

6. That there is adequate lighting in all areas where Medical Cannabis and Cannabis-Infused Product are stored or sold, and where equipment or utensils are cleaned;

7. That the Permittee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

8. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

9. That toxic cleaning compounds, sanitizing agents, and other potentially harmful chemicals are identified, held, and stored in a manner that protects against contamination of Medical Cannabis and Cannabis-Infused Product and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation or ordinance;

10. That each Medical Cannabis Center provides its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

11. That Medical Cannabis and Cannabis-Infused Product that can support the rapid growth of undesirable microorganisms are held in a manner that prevents the growth of these microorganisms.

5.35.340 Cultivation Operation: Health and Safety Regulations.

A. Local Safety Inspections. A MCCC may engage in cultivation operations at its Location and shall be subject to inspection of its Location by the City Manager or Code Enforcement Officer to confirm that no health or safety concerns are present. The inspection could result in additional specific standards to meet local permitting authority restrictions related to Medical Cannabis or other local businesses. An annual fire safety inspection may result in the required installation of fire suppression devices, or other means necessary for adequate fire safety.

B. General Sanitary Requirements. An Optional Premises Cultivation Operation shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or

infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Cannabis shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected;

2. That all persons working in direct contact with Medical Cannabis shall conform to hygienic practices while on duty, including but not limited to:

a. Maintaining adequate personal cleanliness;

b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated;

c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the Location and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices; and

d. Refraining from having direct contact with Medical Cannabis if the person has or may have an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination, until such condition is corrected.

3. That litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where Medical Cannabis is exposed;

4. That floors, walls, and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and kept in good repair;

5. That there is adequate lighting in all areas where Medical Cannabis is stored and where equipment or utensils are cleaned;

6. That the Permittee provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage, or breeding place for pests;

7. That any buildings, fixtures, and other facilities are maintained in a sanitary condition;

8. That toxic cleaning compounds, sanitizing agents, solvents used in the production of Medical Cannabis concentrates, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of Medical

Cannabis, and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance;

9. That all contact surfaces, including utensils and equipment used for the preparation of Retail Cannabis or Retail Cannabis Product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizing agents registered with the Environmental Protection Agency shall be used in Retail Cannabis Products Manufacturing Facilities and used in accordance with labeled instructions;

10. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable, and adequate supply of water to meet the facility's needs;

11. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant and that shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines;

12. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of Retail Cannabis or Retail Cannabis Product shall be conducted in accordance with adequate sanitation principles;

13. That each Optional Premises Cultivation Operation shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair; and

14. That Medical Cannabis that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

5.35.500 Mobile Marijuana Dispensaries.

A. Mobile Marijuana Dispensaries Prohibited. Mobile Marijuana Dispensaries are prohibited in the City. No person shall locate, operate, own, suffer, allow to be operated, or aide, abet, or assist in the operation of any Mobile Marijuana Dispensary within the City.

B. Marijuana Delivery Prohibited.

1. No Person shall deliver marijuana or medical cannabis to any location within the City from a Mobile Marijuana Dispensary, regardless of where the Mobile Marijuana Dispensary is located, or engage in any Operation for this purpose.

2. No Person shall deliver any Cannabis-Infused Product or marijuana-infused product to any location within the City from a Mobile Marijuana Dispensary,

regardless of where the Mobile Marijuana Dispensary is located, or engage in any Mobile Operation for this purpose.

C. Public Nuisance Declared. Operation of any Mobile Marijuana Dispensary within the City in violation of the provisions of this chapter is hereby declared a public nuisance and shall be abated pursuant to all available remedies.

E. Exceptions. The provisions of this Section shall not apply to any MCCC that has a permit from the City pursuant to, and is operating in full compliance with, this Chapter and Section 93.23.15 of this Code, subject to the restrictions contained in this Subsection.

1. The transport of Medical Cannabis and Cannabis-Infused Product shall be conducted by a motor vehicle that is properly registered in the state of California pursuant to motor vehicle laws, but need not be registered in the name of the Permittee.

2. Transport of Medical Cannabis or Cannabis-Infused Product shall be accompanied by documents identifying the originating MCCC, the driver's valid motor vehicle operator's permit, and all required vehicle registration information.

5.35.600 Maintenance of Business Records.

A. General Requirements.

1. A MCCC must maintain the information required in this Section in a format that is readily understood by a reasonably prudent business person.

2. Each MCCC shall retain all books and records necessary to fully account for each transaction conducted under its permit for the current year and three preceding calendar years. The MCCC's books and records (or complete copies of such records) must be maintained on its Location at all times.

3. The books and records must fully account for all transactions of the MCCC and must include, but shall not be limited to:

a. Current Employee List – This list must provide the full name and relevant identification information of each employee and all non-employee Operators, who work at a MCCC.

b. Secure Facility Information – For its Location, a MCCC must maintain the business contact information for vendors that maintain video surveillance systems and Security Alarm Systems.

c. Location – Diagram of the entire premises.

d. Visitor Log – List of all visitors entering Limited Access Areas or Restricted Access Areas.

e. All records normally retained for tax purposes.

B. Loss of Records and Data. Any loss of electronically-maintained records shall not be considered a mitigating factor for violations of this rule. Permittees are required to exercise due diligence in preserving and maintaining all required records.

C. Violation Affecting Public Safety. Violation of this rule may constitute a permit violation affecting public safety.

D. Records Related to Inventory Tracking. A MCCC must maintain accurate and comprehensive inventory tracking records that account for, reconcile, and evidence all inventory activity for Medical Cannabis from either seed or Immature Plant stage until the Medical Cannabis or Cannabis-Infused Product is destroyed or sold to another MCCC or a patient.

E. Records Related to Transport. A MCCC must maintain adequate records for the transport of all activities related to Medical Cannabis and Cannabis-Infused Product. *See* Rule M 801 – Transport of Medical Cannabis or Cannabis-Infused Product.

F. Provision of Requested Records to the City Manager . A Permittee must provide on-demand access to on-premises records following a request from the City Manager during normal business hours or hours of apparent operation, and must provide access to off-premises records within three business days following a request from the City Manager.

G. Obligations Concurrent with Obligations Under Chapter 3.35. Nothing in this Section shall relieve the MCCC and the Operator from any requirement under Chapter 3.35 of this Code.

5.35.610 Independent Audit May Be Required.

A. City Manager May Require Independent Audit

1. When the City Manager deems it necessary, the City Manager may require a MCCC to undergo an audit by an independent accountant. The scope of the audit may include, but need not be limited to, financial transactions and inventory control measures.

2. In such instances, the City Manager may attempt to mutually agree upon the selection of the independent accountant with a MCCC. However, the City Manager always retains the right to select the independent accountant regardless of whether a mutual agreement can be reached. The independent accountant shall be a certified public accountant licensed by, and in good standing with, the State of California State Board of Accountancy.

3. The MCCC will be responsible for all direct costs associated with the independent audit.

B. When Independent Audit Is Necessary. The City Manager has discretion to determine when an audit by an independent accountant is necessary. The following is a non-exhaustive list of examples that may justify an independent audit:

1. A MCCC does not provide requested records to the City Manager;

2. The City Manager has reason to believe that the MCCC does not properly maintain its business records;

3. A MCCC has a prior violation related to recordkeeping or inventory control;

4. A MCCC has a prior violation related to diversion.

5. As determined by the City Manager, the scope of an audit conducted by the City Manager would be so extensive as to jeopardize the regular duties and responsibilities of the City's Department of Finance.

6. To ensure compliance with any provision of this Code, including without limitation, the provisions of this Chapter and Chapter 3.35.

C. Compliance Required. A MCCC must pay for and timely cooperate with the City Manager's requirement that it undergo and audit in accordance with this Section.

D. Violation Affecting Public Safety. Failure to comply with this rule may constitute a permit violation affecting public safety.

5.35.620 Manager Change Must Be Reported.

A. When Required. A MCCC shall provide the City Manager a written report within seven days after any change in Manager of the MCCC occurs.

B. Permittee Must Maintain Record of Reported Change. A MCCC must also maintain a copy of this written report with its business records.

C. Consequence of Failure to Report. Failure to report a change in a timely manner may result in discipline pursuant to this Chapter.

5.35.700 Labeling, Packaging, and Product Safety.

A. General Requirements. The dispensing or sale of Medical Cannabis to a patient or a patient's caregiver is prohibited unless previously placed within a Container by a MCCC. The Container must be designed to ensure that the contents are secure and are Child-Resistant.

B. Labeling Required. All Medical Cannabis and Cannabis-Infused Product dispensed, sold, transferred, or otherwise provided to a patient or a patient's caregiver must be in a Container that is labeled in a manner consistent with the provisions of this Section.

1. Labeling text on a Container may not make any false or misleading statements regarding health or physical benefits to the patient

2. Labeling text on a Container must be no smaller than 1/16 of an inch.

3. Labeling text on a Container must be clearly written or printed and in the English language.

4. Labeling text on a Container must be unobstructed and conspicuous. A Permittee may affix multiple labels to a Container, provided that none of the information required by these rules is completely obstructed.

5. No Permittee shall dispense, sell, transfer, or give away any Medical Cannabis that does not contain a Label with a list of all ingredients, including all chemical additives, including but not limited to nonorganic pesticides, herbicides, and fertilizers that were used in its cultivation and production. The label must also list a complete list of solvents and chemicals used in the creation of any Medical Cannabis concentrate.

D. Cannabis-Infused Product – Child-Resistant Packaging. The sale of a Cannabis-Infused Product is prohibited unless:

1. The Cannabis-Infused Product has previously been placed within a Container by Cannabis-Infused Products Manufacturer. The Container must be designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly and that does not allow the product to be seen without opening the packaging material; or

2. The Cannabis-Infused Product has previously been placed in packaging that is labeled "Medicinal product - keep out of reach of children."

E. Cannabis-Infused Product Container Labeling Must Include the Following Information:

1. The following statement: "This product is contains medical Cannabis and was produced without regulatory oversight for health, safety or efficacy and there may be health risks associated with the consumption of the product."

2. For Cannabis-Infused Product, the product identity and net weight statements must appear on the portion of the label displayed to the patient.

3. When a Cannabis-Infused Product is made specifically for a designated patient, the label of that product shall state the patient's Medical Cannabis Registry number.

4. A list of all ingredients used to manufacture the Edible Cannabis-Infused Product; which may include a list of any potential allergens contained within, or used in

the manufacture of, the Cannabis-Infused Product, and company name statements must be conspicuously listed on the Cannabis-Infused Product package.

5. A nutrition facts panel may be required if nutritional claims are made on the label of any Cannabis-Infused Product.

6. A statement that the Cannabis-Infused Product, if perishable, must be refrigerated.

7. A product expiration date, for perishable Cannabis-Infused Product, upon which the product will no longer be fit for consumption, or a use-by-date, upon which the product will no longer be optimally fresh. Once a label with a use-by or expiration date has been affixed to a Container of a Cannabis-Infused Product, a Permittee shall not alter that date or affix a new label with a later use-by or expiration date.

8. Minimum print size. The minimum print size for each of the required statements for non-infused products and for each of the required statements for Cannabis-Infused Product is 1/16 inch. The size of the characters in the net weight statement is determined by the area of the principal display panel and may be greater than 1/16 inch.

5.35.710 Testing.

A. Testing Rules and Regulations. The City Manager is authorized to formulate, adopt, and amend from time to time, rules and regulations regarding the safety and potency of medical cannabis distributed, dispensed, or sold at any MCCC and any marijuana dispensary operating in the City. The purpose of such rules and regulations is safe for treatment and free of pesticides, fungicides, and microbiological organisms such as mold, bacteria, and fungus, and to verify the potency of such Medical Cannabis.

B. Testing Centers. The City Manager is authorized on behalf of the City to contract with one or more independent testing laboratories to assist the City Manager in the formulation of the rules and regulations required under this Section and to perform periodic and random testing of Medical Cannabis at each MCCC or any marijuana dispensary operating in the City.

C. Samples on Demand. Each MCCC shall, upon request of the City Manager, submit a sufficient quantity of Medical Cannabis and Cannabis-Infused Product to a to a Cannabis Testing Facility retained by the City Manager to enable laboratory or chemical analysis thereof. The Cannabis Testing Facility shall maintain the testing results as part of its business books and records. The City Manager will notify the Permittee of the results of the analysis and the Permittee shall immediately take whatever action is required or directed by the City Manager.

5.35.720 False and Misleading Statements. No MCCC shall display upon or in proximity to, or referring to the Location, use, publish or exhibit, or permit to be used, or

published, any sign, advertisement, display, notice, symbol or other device which uses misleading, deceptive, or false advertising.

5.35.800 Violation. Operation of an MCCC in non-compliance with any conditions of approval or standards of this Chapter shall constitute a violation of the Municipal Code and may be enforced pursuant to the provisions of this Chapter or any other provision of the Code.

5.35.810 Authority and Responsibility Under this Chapter.

A. General Authority of City Manager

1. The City Manager may delegate an act required to be performed pursuant to this Section to any Code Enforcement Officer or Official of the City, including without limitation the Chief of Police, the Fire Chief, the Building Official, the Finance Director, the City Attorney, or any designee of such officers or officials, including day-to-day operations.

2. The City Manager or the City Manager's designees as provided in Subsection A1 above shall have all the powers of any peace officer to:

a. Investigate violations or suspected violations of this Chapter, Chapter 3.35, and Section 93.23.15, and any other laws or regulations pertaining to Medical Cannabis in this City, and any resolutions or regulations promulgated pursuant to such provisions, and make arrests, with or without warrant, for any violation thereof, if, during an officer's exercise of powers or performance of duties pursuant to such laws, probable cause exists that a crime related to such laws has been or is being committed;

b. Recordings made by the security cameras shall be made available to the City Manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

c. The City Manager shall have the right to enter the MCCC from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Section and all laws of the City and State of California.

d. Serve all warrants, summonses, subpoenas, administrative citations, notices or other processes relating to the enforcement of laws regulating Medical Cannabis and Cannabis-Infused Product;

e. Assist or aid any law enforcement officer in the performance of his or her duties upon such law enforcement officer's request or the request of other local officials having jurisdiction;

f. Inspect, examine, or investigate any Location where Medical Cannabis or Cannabis-Infused Product are grown, stored, cultivated, manufactured, tested,

distributed, or sold, and any books and records in any way connected with any permitted activity;

g. Require any Permittee, upon demand, to permit an inspection of Location during business hours or at any time of apparent operation, Cannabis equipment, and Cannabis accessories, or books and records; and, to permit the testing of or examination of Medical Cannabis or Cannabis-Infused Product;

h. Require Applicants to submit complete and current applications and fees and other information the City Manager deems necessary to make permitting decisions and approve material changes made by the Applicant or Permittee;

i. Conduct investigations into the character, criminal history, and all other relevant factors related to suitability of all Permittees and Applicants for Medical Cannabis permits and such other Persons with a direct or indirect interest in an Applicant or Permittee, as the City Manager may require; and

j. Exercise any other power or duty authorized by law.

B. Applicants and Permittees Shall Cooperate with City Manager Employees

1. Applicants and Permittees must cooperate with employees and investigators of the City Manager who are conducting inspections or investigations relevant to the enforcement of laws and regulations related to this Chapter.

2. No Applicant or Permittee shall by any means interfere with, obstruct or impede the City Manager or employee or investigator of the City Manager from exercising their duties under the provisions of this Chapter and all rules promulgated pursuant to it. This would include, but is not limited to:

a. Threatening force or violence against an employee or investigator of the City Manager, or otherwise endeavoring to intimidate, obstruct, or impede employees or investigators of the City Manager, their supervisors, or any peace officers from exercising their duties. The term "threatening force" includes the threat of bodily harm to such individual or to a member of his or her family;

b. Denying employees or investigators of the City Manager access to a Location during business hours or times of apparent activity;

c. Providing false or misleading statements;

d. Providing false or misleading documents and records;

e. Failing to timely produce requested books and records required to be maintained by the Permittee; or

f. Failing to timely respond to any other request for information made by the City Manager in connection with an investigation of the qualifications, conduct or compliance of an Applicant or Permittee.

C. Administrative Hold. To prevent destruction of evidence, diversion or other threats to public safety, while permitting a Permittee to retain its inventory pending further investigation, a City Manager investigator may order an administrative hold of Medical Cannabis or Cannabis-Infused Product pursuant to the following procedure:

1. If during an investigation or inspection of a Permittee, the City Manager develops reasonable grounds to believe certain Medical Cannabis or Cannabis-Infused Product constitute evidence of acts in violation of this Chapter or rules promulgated pursuant to it, or otherwise constitute a threat to the public safety, the City Manager may issue a notice of administrative hold of any such Medical Cannabis or Cannabis-Infused Product. The notice of administrative hold shall provide a documented description of the Medical Cannabis or Cannabis-Infused Product to be subject to the administrative hold.

2. The Permittee shall completely and physically segregate the Medical Cannabis or Cannabis-Infused Product subject to the administrative hold in a separate area of the Location under investigation, where it shall be safeguarded by the Permittee. Pending the outcome of the investigation and any related disciplinary proceeding, the Permittee is prohibited from selling, giving away, transferring, transporting, or destroying the Medical Cannabis or Cannabis-Infused Product subject to the administrative hold.

3. Following an investigation, the City Manager may lift the administrative hold, order the continuation of the administrative hold, or seek a Final Agency Order for the destruction of the Cannabis.

D. Voluntary surrender of Medical Cannabis or Cannabis-Infused Product. A Permittee, prior to a Final Order and upon mutual agreement with the City Manager, may elect to waive a right to a hearing and any associated rights, and voluntarily surrender any Medical Cannabis or Cannabis-Infused Product to the City Manager. Such voluntary surrender may require destruction of any Medical Cannabis or Cannabis-Infused Product in the presence of a City Manager.

5.35.820 Appeals. Any decision regarding the approval, conditional approval, denial, or revocation of a regulatory permit may be appealed to the City Council. Said appeal shall be made by a notice of appeal from the person appealing within thirty (30) days from the date of the decision. The appeal shall be accompanied by a fee, which shall be established by resolution of the City Council amended from time to time, and a written, verified declaration setting forth the basis for the claim that the permit was improperly approved, denied, conditioned or revoked. Filing of an appeal shall suspend the issuance of all regulatory permits until action is taken on the appeal.

5.35.830 Specific Enforcement Alternatives.

A. Revocation. The City Manager may revoke a medical cannabis regulatory permit if any of the following, singularly or in combination, occur:

1. The City Manager determines that the MCCC has failed to comply with any provision of this Code, any condition or approval, or any agreement or covenant as required pursuant to this Section; or

2. Operations cease for more than 90 calendar days, including during change of ownership proceedings; or

3. Operatorship is changed without securing a regulatory permit; or

4. The MCCC fails to maintain 240 continuous hours of security recordings; or

5. The MCCC fails to allow inspection of the security recordings, the activity logs, or of the premise by authorized City officials.

B. Abatement Orders and Civil Penalties.

1. Any person, partnership, association, corporation, fiduciary, or other entity that owns, leases, occupies, controls, or manages any building, property, or occupancy and causes, permits, or maintains a violation of the provisions of this Chapter, or that falsely claims in any advertising of any kind, including without limitation, signs or handbills, that such person, association, corporation, fiduciary, or other entity is permitted as a MCCC in the City, shall be subject to an abatement order issued pursuant to the provisions of this Subsection and shall be liable for administrative penalties as follows:

a. Each party subject to an abatement order pursuant to this Subsection, as determined by the City Manager, shall pay an administrative penalty of one thousand ($1,000.00) dollars.

b. In the event that a violation of this Section addressed by an abatement order has not been abated, cured, remedied, and/or eliminated to the reasonable satisfaction the City Manager by the tenth (10th) day after the issuance of the abatement order, each party subject to said abatement order shall pay a supplemental administrative penalty of two thousand five hundred ($2,500.00) dollars.

c. In the event that a violation of this Section addressed by an abatement order has not been abated, cured, remedied and/or eliminated to the reasonable satisfaction of the City Manager by the thirtieth (30th) day after the issuance of an abatement order, each party subject to said abatement order shall pay a second supplemental administrative penalty of five thousand ($5,000.00) dollars for each calendar week, or portion thereof, the building and/or occupancy thereof is in violation of the provisions of this Section.

2. The City Manager may issue an Abatement Order for violations of the provisions of this Section. The Abatement Order shall contain:

a. The street address and assessor's parcel number of the premises on which the building or structure is located, sufficient for identification;

b. Reference to all code sections violated with a brief and concise description of the conditions found;

c. A statement of the required action to permanently correct outstanding violations;

d. A statement enumerating the action that can be taken by the City should the responsible party or parties fail to comply with the terms and deadlines as prescribed in the Abatement Order.

e. A statement advising that any person having any record title or interest in the building may appeal Abatement Order served, provided the appeal is made in writing, pursuant to and within the time frames provided in this Subsection. Failure to file an appeal in accordance with this Subsection shall constitute a waiver of the right to an administrative hearing and adjudication of the Abatement Order or any portion thereof.

3. The Abatement Order, or any amended Abatement Order, shall be served on the following parties:

a. The record owner of the property; and,

b. The holder of a mortgage, deed of trust, or other lien on the property, if recorded or otherwise actually known to the City Manager at the time the Abatement Order is served.

c. If different than a. or b. above, the tenant of any building or structure or the operator of any marijuana or cannabis dispensary activity within such building or structure.

4. Service shall be completed in the following manner:

a. Posting of the Abatement Order conspicuously on or in front of the property and at each point of public access into the building or structure. It is a misdemeanor to remove or deface any Abatement Order posted on the property.

b. Simultaneously, the same notice shall be sent by regular mail and certified mail (return receipt requested). If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned. Service by certified or regular mail in the manner described above shall be effective on the date of mailing; or

c. Personal service;

d. If the City Manager is unable to effectively serve the Abatement Order as provided in this Subsection, the City Manager may publish the Abatement Order in a newspaper of general circulation (as defined in Govt. Code § 6000), published in this jurisdiction. Publication of the Abatement Order pursuant to this Subsection shall be for five (5) days. The period of notice commences upon the first day of publication and terminates at the end of the fifth day,

including therein the first day. Publication shall be made on each day on which the newspaper is published during the period. Service is deemed complete on the last day of publication.

5. The failure of any person with an interest in the property to receive any notice served in accordance with this Subsection shall not affect the validity of any proceedings taken under this Section.

6. Proof of service of the Notice and Order shall be documented at the time of service by a declaration under penalty of perjury, executed by the person effecting service, declaring the time and manner in which service was made. If service is effectuated by certified mail, the declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the Notice and Order retained by the Building Official.

7. Upon receipt of an Abatement Order, each responsible party must take one of the following actions to avoid additional penalties:

a. Correct the violation, pay the corresponding fine(s), if any, and contact the City Manager to request a re-inspection, prior to the compliance date specified in the abatement order; or

b. Request a hearing to appeal the Abatement Order pursuant to Paragraph 8 of this Section 5.35.830B.

8. A responsible party receiving an Abatement Order may appeal such order within seven (7) calendar days from the date the Abatement Order is deemed served.

a. The appeal must be in writing and must indicate the appellant's full name and mailing address. It must be accompanied by the penalty amount and appeal fee which shall be set by resolution of the City Council, must specify the basis for the appeal in detail, and must be filed with the City Clerk's Office. If the appeal deadline falls on a day City Hall is closed, then the deadline shall be extended until the next regular business day.

b. As soon as practicable after receiving the written notice of appeal, the City Manager shall fix a date, time, and place for the hearing before a hearing officer pursuant to the provisions of Section 1.06.060 of this Code. Written notice of the time and place for the hearing may be served by first class mail, at the mailing address indicated on the written appeal. Service of the appeal notice must be made at least seven (7) calendar days prior to the date of the hearing to the party appealing the administrative citation.

c. The failure of any person with an interest in the property, or other responsible party, to receive such properly addressed notice of the hearing shall not affect the validity of any proceedings under this Section. Service by first class mail, postage prepaid shall be effective on the date of mailing.

d. Failure of any responsible party to file an appeal in accordance with the provisions of this Section shall constitute a waiver of that responsible party's

rights to administrative determination of the merits of the Abatement Order and the amount of the penalty. If no appeal is filed, the Abatement Order shall be deemed a final administrative order and a failure to exhaust the responsible party's administrative remedies.

9. At any time after the Abatement Order becomes final, the City Council may cause the Abatement Order and a notice of lien to be recorded with the County Recorder. The final Abatement Order and lien shall, at a minimum, identify the record owner and/or possessor of the property and set forth the last known address of the record owner and/or possessor, the date on which the penalty was imposed, a description of the real property subject to the lien, and the amount of the penalty.

10. This Section provides a civil penalty remedy that is in addition to all other legal remedies, criminal or civil, which may be pursued by the City Manager or the City Attorney to address any violation of this Section. The civil penalty imposed pursuant to the provisions of this section shall be in lieu of the administrative citation penalties imposed pursuant to the provisions of Section 1.06.040 of this Code.

SECTION 8. Section 6.08.150 of the Palm Springs Municipal Code is repealed.

SECTION 9. Paragraph A.20 of Section 92.15.01of the Palm Springs Municipal Code is amended to read:

20. The MCCC, subject to the property development standards contained in Section 93.23.15 of this Code and compliance with the provisions of Chapter 5.35 of this Code.

SECTION 10. Paragraph A.6 of Section 92.17.01 of the Palm Springs Municipal Code is amended to read:

6. The MCCC, subject to the property development standards contained in Section 93.23.15 of this Code and compliance with the provisions of Chapter 5.35 of this Code.

SECTION 11. Paragraph A.5 of Section 92.17.1.01 of the Palm Springs Municipal Code is amended to read:

5. Medical Cannabis Cooperative or Collective, subject to the property development standards contained in Section 93.23.15 of this Code and compliance with the provisions of Chapter 5.35 of this Code.

SECTION 12. Section 93.23.15 of the Palm Springs Municipal Code is amended to read:

93.23.15 Medical Cannabis Cooperative or Collective Special Standards.

A. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a MCCC shall be granted or permitted except in conformance with this Section.

B. The MCCC shall be permitted only upon application and approval of a regulatory permit in accordance with the criteria and process set forth in Chapter 5.35 of this Code. Prior to initiating operations and as a continuing requisite to conducting operations, the legal representative of the persons wishing to operate a MCCC shall obtain a regulatory permit from the City Manager under the terms and conditions set forth in Chapter 5.35 of this Code and shall otherwise fully comply with the provisions of this Section.

C. No MCCC shall be established, developed, or operated within five hundred (500) feet of a school, public playground or park, or any residential zone property, child care or day care facility, youth center, or church, or within one thousand (1,000) feet of any other MCCC, and shall not be located on any property that is occupied with a commercial retail use where such use is the primary use on such property. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest property line of the property on which the MCCC is, or will be located, to the nearest property line of those uses described in this Subsection. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.

D. A MCCC is not and shall not be approved as an accessory use to any other use permitted by this Zoning Code.

E. A MCCC shall be parked at a rate of one (1) space for every two hundred fifty (250) gross square feet of office space, and one (1) space for every eight hundred (800) square feet of warehouse/cultivation space. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.

SECTION 13. Sections 3 through 19, inclusive, of Council Resolution No.23476 have been have been reenacted and adopted as Sections 2 through 6 of this Ordinance and have been included as part of Chapter 3.35 of the Palm Springs Municipal Code.

SECTION 14. Each MCCC approved prior to the effective date of this Ordinance and each Operator of each such MCCC shall apply for and complete the application process for a MCCC permit and a Management Permit as required pursuant to the provisions of this Ordinance by July 1, 2014. Failure to do so may result in revocation or termination of any existing permit approved by the City Council for such MCCC.

SECTION 15. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED AND READOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 2TH DAY OF APRIL, 2014.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

ORDINANCE NO. 1846

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING PLANNED DEVELOPMENT DISTRICT PDD 365 IN LIEU OF A CHANGE OF ZONE FOR A ROUGHLY 6.37 ACRE PARCEL ON THE WEST SIDE OF SOUTH BELARDO ROAD, APPROXIMATELY 500 FEET SOUTH OF THE MORONGO ROAD INTERSECTION.

WHEREAS, Wessman Development ("the Applicant") filed an application pursuant to Zoning Section 94.07.00 (*Zone Map Change / Change of Zone)* and Section 94.03.00 (*Planned Development District)* for a Planned Development District (PDD) in lieu of zone change to construct 39 two-story, detached single family residences on approximately 6.37 acres located on the west side of Belardo Road, approximately 500 feet south of the Morongo Road intersection, currently identified as APN 513-300-057; and

WHEREAS, the applicant submitted an application pursuant to Title 9 of the Palm Springs Municipal Code and Section 66474 of the California Subdivision Map Act for Tentative Tract Map 36548; and

WHEREAS, notice of a public hearing of the Planning Commission of the City of Palm Springs to consider Case Nos. 5.1310 PD 365 and TTM 36548, was given in accordance with applicable law; and

WHEREAS, on January 22, 2014, a public hearing on the applications was held by the Planning Commission in accordance with applicable law, and the Commission adopted Resolution No. 6379; unanimously approving and recommending approval of Case Nos. 5.1310 PD 365 and TTM 36548; and

WHEREAS, notice of public hearing of the City Council of the City of Palm Springs to consider Case Nos. 5.1310 PD 365 and TTM 36548, was given in accordance with applicable law; and

WHEREAS, on February 19, 2014, a public hearing on the application for the project was held by the City Council in accordance with applicable law; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) Guidelines, the project has been determined to be a project subject to environmental analysis under the California Environmental Quality Act (CEQA); and

WHEREAS, pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162, the subject applications were evaluated in an initial study to determine whether further environmental review would be required beyond those assessed in the MND adopted on April 18, 2007; and

WHEREAS, the initial study concluded that although the new project would result in changes to the previously approved project, the resulting environmental effects will be mitigated to a less than significant level with the incorporation of mitigation measures, and it was therefore determined that a Subsequent Mitigated Negative Declaration and Mitigation Monitoring Program would adequately address any potential impacts pursuant to CEQA Guidelines Section 15162(b); and

WHEREAS, a Planned Development District in lieu of a Change of Zone is adopted by ordinance and includes two readings and a thirty-day period before it is effective; and

WHEREAS, an ordinance was prepared for two readings before Council for the approval of Case Nos. 5.1310 PDD 365 and TTM 36548; and

WHEREAS, the City Council has carefully reviewed and considered all of the evidence presented in connection with the meetings on the project, including but not limited to the staff report, and all written and oral testimony presented.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The project has been reviewed under the provisions of the California Environmental Quality Act (CEQA). The Planning Commission and City Council independently reviewed and considered the information contained in the Subsequent Mitigated Negative Declaration prior to its review of the proposed project, and the Subsequent Mitigated Negative Declaration reflects the City's independent judgment and analysis. The City Council finds, on the basis of the whole record before it, including the initial study and comments received, that there is no substantial evidence that this project will have a significant effect on the environment. The City Council adopts the Subsequent Mitigated Negative Declaration and approves the Mitigation Monitoring Program. The City Council finds that no further environmental review is required. (Public Resources Code § 21166; CEQA Guidelines § 15162) The record of proceedings on which the City Council decision is based, including, but not limited to, the General Plan EIR, the original Negative Declaration, and the Subsequent Mitigated Negative Declaration, is located at the City of Palm Springs, 3200 E. Tahquitz Canyon Way, Palm Springs, California. The custodian of record of proceedings is the Director of Planning Services.

SECTION 2. Pursuant to Section 94.07.00 (Change of Zone), *"the council in reviewing a proposed change of zone shall consider whether the following conditions exist in reference to the proposed zoning of the subject property":*

1. The proposed change of zone is in conformity with the general plan map and report. Any amendment of the general plan necessitated by the proposed change of zone should be made according to the procedure set forth in the State Planning Law either prior to the zone change, or notice

may be given and hearings held on such general plan amendment concurrently with notice and hearings on the proposed change of zone.

The General Plan land use designation of the subject site is HDR (High Density Residential). This designation allows residential uses with densities of 0 to 30 dwelling units per acre. The proposed project includes single family residences at a density of 6.37 dwelling units per acre, which is consistent with the type and range of residential dwelling units permitted within the HDR land use designation. Thus, the proposed change of zone is in conformity with the General Plan map and report.

2. The subject property is suitable for the uses permitted in the proposed planned development district, in terms of access, size of parcel, relationship to similar or related uses, and other relevant considerations.

The density of the proposed project is much less than the R-3 zone permits. The proposed site plan incorporates private streets that conform to the minimum widths required. The project includes adequate means of emergency access. The project proposes lot sizes that are adequate to provide usable outdoor space, including small pools and spas. Thus, the project is deemed consistent with this finding.

c. The proposed establishment of the planned development district is necessary and proper, and is not likely to be detrimental to adjacent property or residents.

The applicant proposes two-story single family dwelling units on small, individual lots in a gated community. San Jacinto Mountains are located to the west and south of the project site; multi-family residential exists to the north; and vacant land and a shopping complex exist to the east. Although the high density residential land use designation would also permit development of greater densities than that proposed, there is demand in the new home market at this time to support this type of development. The use would not be detrimental to adjacent property or residents in this area due to a less intense project and zoning.

SECTION 3. The City Council adopts an ordinance to approve the zone map change which changes the land use classification / zoning designation from R-3 to PD 365 for a roughly 6.37-acre area on the west side of Belardo Road, approximately 500 feet south of the Morongo Road intersection, in conjunction with Case Nos. 5.1310 PDD 365 and TTM 36548, subject to those conditions of approval attached as Exhibit "A" to Resolution 23507.

SECTION 4. Effective Date: This Ordinance shall be in full force and effect thirty (30) days after passage.

SECTION 5. Publication: The City Clerk is hereby ordered to and directed to certify to the passage of this Ordinance, and to cause the same or summary thereof or a

display advertisement, duly prepared according to law, to be published in accordance with law.

PASSED, APPROVED AND READOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 2TH DAY OF APRIL, 2014.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, City Clerk

ORDINANCE NO. 1847

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTION 12.12.050 OF, AND ADDING SECTION 12.12.055 TO, THE PALM SPRINGS MUNICIPAL CODE PERTAINING TO SITTING OR LYING ON SIDEWALKS IN DOWNTOWN PALM SPRINGS.

City Attorney Summary

The current Palm Springs Municipal Code has a general prohibition against loitering. This Ordinance amends these provisions and includes a prohibition against specific conduct that can obstruct or interfere with pedestrian access, including sitting or lying down on a public sidewalk.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, FINDS:

A. The types of businesses concentrated in downtown Palm Springs on Palm Canyon Drive and Indian Canyon Drive, and the side streets between Palm Canyon Drive and Indian Canyon Drive, from Ramon Road to Vista Chino, including numerous restaurants, clothing stores, and specialty shops, tend to draw significant pedestrian traffic.

B. The sidewalks in downtown Palm Springs become unusually congested, particularly between the hours of 7:00 a.m. and 11:00 p.m.

C. Individuals sitting or lying down on the public sidewalks in this unusually busy area create a potential tripping hazard for pedestrians and distract pedestrians from their need to be alert for other tripping or slipping hazards on the sidewalk, to avoid other pedestrians and sidewalk utility poles, fire hydrants, street furniture, street trees and tree planter wells, news racks, and other such obstacles and to be prepared to move along the sidewalk and across the street at intersections without interruption.

D. Individuals sitting or lying down on the public sidewalks of this unusually busy area results in the delay and obstruction of the public's free flow of travel, and results in congestion and blockage of the sidewalks when pedestrians are required to constrict and redirect their passage, often into the street, in order to avoid persons sitting or lying down on the sidewalk.

E. Distracted pedestrians are more prone to be involved in accidents, which prevent the orderly flow of pedestrian traffic and create an unsafe situation not only for the person sitting or lying down on the sidewalk, but also for pedestrian traffic sharing the same limited sidewalk space; and

F. The cumulative impact of this type of activity on the public sidewalks in downtown Palm Springs on a daily basis has created a potential safety hazard and

poses a significant and substantial risk to the interest of the public in the free flow of travel in the City.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. Section 12.12.050 of the Palm Springs Municipal Code is amended to read:

12.12.050 Loitering – Obstructing traffic.

It is unlawful for any person to stand upon any street, sidewalk or other public way open for pedestrian travel, or otherwise occupy any portion thereof in such a manner as to annoy or molest any pedestrian thereon, or so as to obstruct or unreasonably interfere with the free passage of pedestrians, motor vehicles, or other modes of travel.

SECTION 2. Section 12.12.055 is added to the Palm Springs Municipal Code to read:

12.12.055 Sitting or Lying on Public Sidewalks Downtown – Prohibited.

(a) No person shall sit or lie down upon the public sidewalk, or upon a blanket, chair, stool, or any other object placed upon the public sidewalk, on Palm Canyon Drive or Indian Canyon Drive or the side streets between, from Ramon Road to Vista Chino during the hours from 7:00 a.m. to 11:00 p.m.

(b) The prohibition set forth in section (a) above shall not apply to:

(1) Any person sitting or lying down on the sidewalk due to a medical emergency;

(2) Any person who, as the result of a disability, utilizes a wheelchair or similar device to move about the public sidewalk;

(3) Any child accompanied by an adult who is seated in and using a stroller or similar device to move about the public sidewalk;

(4) Any person sitting or lying down upon a chair, bench or planter box wall located on the public sidewalk which is placed there by a public agency;

(5) Any person sitting or lying down upon a chair or bench located upon the public sidewalk which was placed there by an abutting private property owner or tenant pursuant to a commercial sidewalk encroachment permit, temporary lease, or temporary street closure permit;

(6) Any person sitting or lying down while conducting, attending or participating in an activity or event which is authorized by a lawfully issued temporary street closure permit or other permit issued by the city which permits use of the public sidewalk;

(7) Any person sitting on a public sidewalk within a bus zone while waiting for public or private transportation.

(c) No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that he or she is in violation of the prohibition of this section."

SECTION 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED AND READOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 2TH DAY OF APRIL, 2014.

STEPHEN P. POUGNET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK