

ORDINANCE NO. 17-1636

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, ADDING CHAPTER 15 (COMMERCIAL CANNABIS USES AND ACTIVITIES PROHIBITED) TO PROHIBIT ALL COMMERCIAL CANNABIS OPERATIONS IN THE CITY, AND ADDING CHAPTER 17 (PERSONAL CANNABIS CULTIVATION) TO REGULATE STRICTER THAN STATE REQUIREMENTS PERSONAL CANNABIS CULTIVATION, TO ARTICLE VI (TAXES AND LICENSES) OF THE CARSON MUNICIPAL CODE, AND FINDING AN EXEMPTION FROM CEQA

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

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

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

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

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

WHEREAS, the MAUCRSA provides that the State of California will begin issuing licenses in 2018 for both medical and recreational cannabis businesses in 20 different categories, which are found in Section 26050 of the Business & Professions Code, and which categories include cannabis cultivation, manufacturer, testing, retailer, distributor, and microbusiness; and

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

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

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WHEREAS, the AUMA, Health & Safety Code § 11362.1(a)(3), makes it lawful for any person 21 years of age or older to “[p]ossess, plant, cultivate, harvest, dry, or process not more than six living cannabis plants and possess the cannabis produced by the plants”; and

WHEREAS, the AUMA, Health & Safety Code § 11362.2(b)(3), explicitly allows a city to “completely prohibit persons from engaging in [the personal cultivation of cannabis] outdoors upon the grounds of a private residence”; and

WHEREAS, the AUMA, Health & Safety Code § 11362.2(b), explicitly allows a city to “enact and enforce reasonable regulations to reasonably regulate” the cultivation of cannabis permitted under Health & Safety Code § 11362.1(a)(3), so long as the city does not completely prohibit the cultivation of up to six plants “inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure”; and

WHEREAS, the AUMA, Health & Safety Code § 11362.2(a)(2), further restricts such personal cannabis cultivation so that “[t]he living plants and any cannabis produced by the plants in excess of 28.5 grams are kept within the person’s private residence, or upon the grounds of that private residence, are in a locked space, and are not visible by normal unaided vision from a public place”; and

WHEREAS, several California cities have reported negative impacts of cannabis cultivation and related activities, including but not limited to offensive odors, criminal activity, (such as trespassing, theft, violent robberies and robbery attempts, and the illegal sale and distribution of cannabis), and public health and safety concerns (such as fire hazards and problems associated with mold, fungus, and pests); and

WHEREAS, cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors or if grown indoors without proper ventilation, odor control, and other regulations; and

WHEREAS, due to the value of cannabis plants and their strong smell (which alerts others to their location), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety; and

WHEREAS, the indoor cultivation of cannabis has potential adverse effects on the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire, which presents a clear and present danger to the buildings, its occupants, and neighboring buildings and residents; and

WHEREAS, unregulated indoor cultivation of cannabis can be harmful to the public health, safety and welfare, because electrical modifications risk fires, poor irrigation can cause mold, overloaded circuits can leave entire neighborhoods in the dark, plant chemicals can cause illness and can contaminate soil and water, improper carbon dioxide mixed with insufficient ventilation can cause injury or death, and structural changes put first responders in danger if they rush into the unknown; and

WHEREAS, the Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognize that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering and/or crime; and

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WHEREAS, unregulated cannabis cultivation is likely to generate these negative effects on the public health, safety, and welfare in the city, based on the experiences of other cities; and

WHEREAS, absent clear regulation, cannabis cultivation in the city poses a potential threat to the public peace, health, and safety, and, unless the city takes action to regulate it, the secondary impacts described above are likely to occur; and

WHEREAS, the City has a compelling interest in protecting the public health, safety, and welfare of its residents, visitors, and businesses, and in preserving the peace and quiet of the neighborhoods within the city, by regulating personal cannabis cultivation; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City now desires to add a new Chapter 17 (Personal Cannabis Cultivation) to Article VI of the Carson Municipal Code, to prohibit outdoor cannabis cultivation, and to enact reasonable regulations for the indoor personal cultivation of up to six cannabis plants, so as to protect the public health, safety and welfare;

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City now desires to add a new Chapter 15 (Commercial Cannabis Uses and Activities Prohibited) to Article VI of the Carson Municipal Code, to completely prohibit all commercial cannabis activities which may be licensed by the State of California from operating in the City; and

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

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

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

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

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA FINDS AND ORDAINS AS FOLLOWS:

SECTION 1. THE CITY COUNCIL OF THE CITY OF CARSON HEREBY MAKES THE FOLLOWING FINDINGS:

- A. The recitals set forth above are all true and correct and are incorporated herein.
- B. The prohibitions on commercial cannabis activities established by this Ordinance are necessary to protect the public health, safety and welfare, and are enacted pursuant to the authority granted to the City by state law.

- C. The prohibition on outdoor personal cultivation of cannabis, and the regulations of indoor personal cultivation of cannabis, established by this Ordinance are reasonable and necessary to protect the public health, safety and welfare, and are enacted pursuant to the authority granted to the City by state law.

SECTION 2. CHAPTER 15 (COMMERCIAL CANNABIS USES AND ACTIVITIES PROHIBITED) IS HEREBY ADDED TO ARTICLE VI OF THE CARSON MUNICIPAL CODE AS FOLLOWS:

“CHAPTER 15 - COMMERCIAL CANNABIS USES AND ACTIVITIES PROHIBITED

Sec. 15.010 - Purpose and intent.

Sec. 15.020 - Definitions.

Sec. 15.030 - Prohibition of commercial cannabis activities.

Sec. 15.040 - Violations and penalties; public nuisance.

Sec. 15.010 - Purpose and intent.

- A. In order to preserve the public health, safety, and welfare of the residents and businesses of the city, all cannabis-related businesses, activities and uses are prohibited, unless local control is otherwise preempted by state law, and except as provided for by Chapter 17 (Personal Cannabis Cultivation) of Article VI of the Carson Municipal Code.
- B. This chapter is not intended to interfere with a patient’s right to medical cannabis as provided for in Section 11362.5 of the Health & Safety Code.

Sec. 15.020 - Definitions.

The following words and phrases shall, for the purposes of this chapter, be defined as follows:

- A. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ‘Cannabis’ also means the separated resin, whether crude or purified, obtained from cannabis. ‘Cannabis’ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- B. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- C. “Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale (including retail and wholesale) of cannabis and cannabis products; except, as applicable, as set forth in Chapter 17 (“Personal Cultivation of Cannabis”) of this Code or

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as preempted by state law.

- D. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- E. “Delivery” means the commercial transfer of cannabis or cannabis products to a customer, and includes the use of any technology platform owned and controlled by the same person making such use.
- F. “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed for and/or engaged in commercial cannabis activities.
- G. “Distributor” means a person engaged in distribution.
- H. “Manufacture” or “manufacturing” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product; includes the activities of a manufacturer.
- I. “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container; includes the activity of manufacturing.
- J. “Marijuana” has the same definition as provided for “cannabis” in this chapter.
- K. “Medical cannabis” or “medical cannabis product” means cannabis or a cannabis product used in compliance with state law for medical purposes, pursuant to the Compassionate Use Act (Health and Safety Code § 11362.5), the Medical Marijuana Program Act (Health and Safety Code §§ 11362.7, *et seq.*), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code §§ 26000, *et seq.*).
- L. “Microbusiness” shall have the same definition as provided for in Section 26070 of the Business and Professions Code, and as may be amended from time to time.
- M. “Nursery” means a person that produces indoors (not mixed-light or outdoors) only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- N. “Person” means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- O. “Retailer” means a person engaged in the retail sale or delivery of cannabis or cannabis products to a customer.
- P. “Testing laboratory” or “testing” refers to a laboratory, facility, or entity that offers or performs tests on cannabis or cannabis products; includes the activity of laboratory testing.

Sec. 15.030 – Prohibition of commercial cannabis activities.

- A. All commercial cannabis activities, whether medical or recreational (adult use), and including non-profit operations, are expressly prohibited in all zones. No person shall

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establish, operate, conduct, or allow commercial cannabis activities anywhere within the city.

B. The city shall not issue any permit, license, or entitlement for any commercial cannabis activity, including, but not limited to, any activity covered by the state license classifications listed below as provided for in Section 26050 of the Business & Professions Code:

1. Type 1 = Cultivation; Specialty outdoor; Small.
2. Type 1A = Cultivation; Specialty indoor; Small.
3. Type 1B = Cultivation; Specialty mixed-light; Small.
4. Type 1C = Cultivation; Specialty cottage; Small.
5. Type 2 = Cultivation; Outdoor; Small.
6. Type 2A = Cultivation; Indoor; Small.
7. Type 2B = Cultivation; Mixed-light; Small.
8. Type 3 = Cultivation; Outdoor; Medium.
9. Type 3A = Cultivation; Indoor; Medium.
10. Type 3B = Cultivation; Mixed-light; Medium.
11. Type 4 = Cultivation; Nursery.
12. Type 5 = Cultivation; Outdoor; Large.
13. Type 5A = Cultivation; Indoor; Large.
14. Type 5B = Cultivation; Mixed-light; Large.
15. Type 6 = Manufacturer 1.
16. Type 7 = Manufacturer 2.
17. Type 8 = Testing laboratory.
18. Type 10 = Retailer.
19. Type 11 = Distributer.
20. Type 12 = Microbusiness.

C. This prohibition includes any activities authorized under new or revised state licenses, or any other state authorization, to allow any type, category or classification of medical or recreational (adult use) cannabis commercial activities, or similar operations, including non-profit, collective or cooperative operations.

D. The prohibition provided by this section includes medical cannabis collectives and

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cooperatives that operate pursuant to Section 11362.775 of the Health & Safety Code, the Compassionate Use Act, or otherwise.

Sec. 15.040 – Violations and penalties; public nuisance.

- A. Any violation of the provisions of this chapter is punishable as a misdemeanor or an infraction, at the discretion of the city prosecutor, pursuant to Chapter 2 of Article I of the Carson City Code, except for as preempted by state law; and, any violation of the provisions of this chapter is subject to administrative citation, at the discretion of the City, pursuant to Chapter 2.5 of Article I of the Carson City Code.
- B. Public nuisance abatement.
 - 1. Any commercial cannabis operation that is conducted in violation of any provision of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 7 of Article 5 of the Carson City Code.
 - 2. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance, including the commercial cannabis operation permittee and the property owner where the nuisance is occurring.
- C. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude city from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.
- D. Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued."

SECTION 3. CHAPTER 17 (PERSONAL CANNABIS CULTIVATION) IS HEREBY ADDED TO ARTICLE VI OF THE CARSON CITY CODE AS FOLLOWS:

"Chapter 17 - PERSONAL CANNABIS CULTIVATION.

Sec. 17.010 - Purpose and intent.

Sec. 17.020 - Definitions.

Sec. 17.030 - Personal cannabis cultivation.

Sec. 17.040 - Personal cannabis cultivation permit.

Sec. 17.050 - Violations and penalties; public nuisance.

Sec. 17.010 - Purpose and intent.

The purpose and intent of this chapter is to establish reasonable regulations, consistent with the meaning of Section 11362.2 of the Health & Safety Code, and as may be amended, for the cultivation of up to six (6) cannabis plants at a private residence.

Sec. 17.020 - Definitions.

As used in this chapter, the following words and phrases shall have the following meanings:

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- A. “Accessory structure” means a subordinate building located on the same lot as a private residence, the use of which is customarily part of, incidental and secondary to that of the private residence, and which does not change the character of the residential use of the private residence.
- B. “Applicant” means a person who files an application for a permit under this chapter.
- C. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ‘Cannabis’ also means the separated resin, whether crude or purified, obtained from cannabis. ‘Cannabis’ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- D. “City Manager” means the City Manager of the City of Carson, and includes his/her designees.
- E. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of one or more cannabis plants or any part thereof.
- F. “Cultivation site” means the real property on which cannabis cultivation occurs.
- G. “Director” means the Director of Community Development for the City of Carson, and includes his/her designees.
- H. “Marijuana” has the same definition as provided for “cannabis” in this chapter.
- I. “Permit” means an indoor personal cannabis cultivation permit issued pursuant to this chapter.
- J. “Person” means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- K. “Private residence” has the same meaning as the term is defined in Section 11362.2(b)(5) of the Health & Safety Code, and as may be amended, which provides that private residence “means a house, an apartment unit, a mobile home, or other similar dwelling.”

Sec. 17.030 - Personal cannabis cultivation.

- A. Prohibition. Personal cannabis cultivation is prohibited in all zones of the city. No person shall engage in the personal cultivation of cannabis in the city for any purpose.
- B. Limited Exemption. The general prohibition on personal cannabis cultivation in above subsection (a) does not apply to the indoor cultivation of cannabis at a private residence conducted both pursuant to a valid and current permit as provided for in this chapter, as well as with complete adherence to the following regulations:

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1. Six plants total. Total cultivation is limited to no more than six (6) living cannabis plants at any one time.
2. Indoor cultivation only. Cultivation shall occur entirely within a private residence or within an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.
3. No access to minors; locked space. Cultivation shall occur within a locked space inaccessible to minors (including minors residing at the private residence) and trespassers.
4. Visibility. The six (6) living plants (whether grown indoors or outdoors) and any cannabis produced by the plants in excess of 28.5 grams shall not be visible from any public right of way, or in any manner be visible by normal unaided vision from a place regularly accessible to the general public.
5. Odor.
 - a. The odor resulting from all cannabis cultivation shall not be detectable by human senses from any neighboring property or public right of way.
 - b. As necessary (which final determination shall be made by the Director), to ensure that no odor resulting from cannabis cultivation shall be detectable by human senses from any neighboring property or public right of way, a cannabis cultivation site shall install and continuously operate a functioning ventilation and filtration system which complies with all applicable building code regulations, including obtaining all required permits and approvals.
6. Inspections. Cultivation sites shall be inspected before issuance of a personal cannabis cultivation permit by the code enforcement division of the city. Applicants seeking renewal of a personal cannabis cultivation permit are subject to an inspection before issuance of a renewed permit. Inspections shall be for the purpose of determining whether the cultivation site meets the requirements of this chapter, as well as other applicable chapters of the Carson City Code.
7. Nuisance Activity. Cultivation shall not result in a nuisance or adversely affect the health, welfare, or safety of the resident or nearby residents by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or waste.
8. Fire Extinguisher. A working portable fire extinguisher, which complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the same room as indoor cannabis cultivation.
9. Electricity.
 - a. The collective draw from all electrical appliances at the cannabis cultivation site shall not exceed the maximum rating of the approved electrical panel for the private residence where the cannabis is being cultivated.
 - b. The maximum rating shall be as established in the manufacturer specifications for the approved electrical panel.
10. Lighting. Any lighting fixture or combination of lighting fixtures used for cannabis

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cultivation shall:

- a. not exceed the rated wattage and capacity of the circuit breaker; and
- b. shall be shielded so as to completely confine light and glare to the interior of the private residence or fully enclosed accessory structure.

11. Private Residence. Any private residence used for cultivation shall:

- a. include a fully functional and usable kitchen, as well as bathroom and bedroom areas, for use by the permit holder; and
- b. shall not be used primarily or exclusively for cannabis cultivation.

12. Garage. Cultivation shall not displace required parking in a garage.

C. Additional Regulations. Further rules, regulations, procedures, and standards for the administration and implementation of this chapter may be adopted from time to time either by resolution or ordinance of the City Council, or by the Director (upon authorization by resolution of the City Council).

Sec. 17.040 - Personal cannabis cultivation permit.

A. Permit Application. An applicant shall submit an application to the Director, in a form provided by the city, and the application shall contain the following information:

1. The address of the property where cannabis cultivation is to occur.
2. The name of the applicant and a statement as to whether the applicant is an owner or tenant of the property where cannabis cultivation is to occur.
3. If the applicant is not the owner of the property, property owner acknowledgement, in a form provided by the city, that the property owner consents to the cultivation of cannabis at the cannabis cultivation site.
4. Proof, in a form acceptable to the city, that the cultivation site has been inspected and approved by the code enforcement division of the city. Such inspections shall be for the purpose of determining whether the proposed cultivation site meets the requirements of this chapter, as well as other applicable chapters of the Carson City Code.
5. A scaled property site plan and a scaled diagram of the floor plan of the residence, or the fully enclosed and secure accessory structure, to be used for cultivation at the cannabis cultivation site, and an itemized list of measures taken to comply with the provisions of this chapter, including identification and description of lighting and equipment to be used for the cannabis cultivation at the residence.
6. Any other information the Director deems necessary to efficiently administer applications and permits so as to further the purposes of this chapter.

B. Action on Applications.

1. Upon receipt of a completed application and payment of the application and permit fees, the Director shall review the information contained in the application to determine whether the applicant shall be issued the permit.
 2. If the Director determines that the applicant has completed the application improperly, the Director shall notify the applicant within thirty (30) days of receipt of the application. Applicant will then have thirty (30) days to complete the application. If the application is not submitted within that time frame, or is resubmitted incomplete, the Director shall deem the application abandoned, and the applicant may then resubmit a new application for review.
 3. Within sixty (60) days of receipt of a completed application, the Director shall complete the review, approve or deny the application, and so notify the applicant by United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
 4. The Director shall grant the application upon affirmative findings for all of the following requirements:
 - a. The applicant, and the cannabis cultivation site, are both in compliance with state law governing cannabis cultivation; and
 - b. The applicant, and the cannabis cultivation site, are both in compliance with all of the provisions of this chapter, including any regulations promulgated under this chapter; and
 - c. The cannabis cultivation site complies with the building code, fire code, plumbing code, and any other such applicable code adopted by the city.
 5. At the Director's sole discretion, the time limits in this Section 17.040(B) may be extended upon written notification from the Director to the applicant.
- C. Permits valid for one year. A permit issued under this section shall automatically expire one year after issuance.
- D. Permit not transferable. A permit issued pursuant to this chapter is non-transferable and is specific to both the permit holder and the private residence for which it was issued.
- E. Permit renewals.
1. A permit holder shall request renewal of a permit at least 60 days, but not sooner than 90 days, prior to expiration of the permit. Permit holders shall pay a permit renewal fee and submit to the Director, in a form provided by the city, a renewal application. The Director shall determine what information is required to be presented with a renewal application. The renewal application shall include, but not be limited to, determination whether any information provided with any prior application (whether an initial application or a renewal application) has changed since such prior submission.
 2. The Director in his/her discretion may require proof, in a form acceptable to the city, that the cultivation site has been inspected (since the last inspection) and approved by the code enforcement division of the city. Such inspections shall be for the purpose of determining whether the cultivation site, in regards to processing a renewal

application, continues to meet the requirements of this chapter, as well as other applicable chapters of the Carson City Code.

3. Procedures for processing an initial application shall be followed for processing a renewal application except as provided herein. The Director shall make a determination on a permit renewal application within sixty (60) days of receipt of a complete renewal application. If the renewal application is denied, and the applicant properly appeals the decision of the Director, the existing permit shall remain valid until a final determination on the appeal is reached pursuant to the appeals process described in this chapter.
 4. At the Director's sole discretion, the time limits in this Section 17.040(E) may be extended upon written notification from the Director to the applicant.
- F. Permit revocation. Permits issued under this section may be revoked by the Director upon making any of the following findings:
1. The permit was issued in error or the application contained materially incorrect or false information.
 2. The cannabis cultivated at the cultivation site has been sold or used for any commercial use, or any other use or activity prohibited by city or state law, including but not limited to Sections 11362.1, 11362.2, and 11352.3 of the Health & Safety Code, and as they may be amended.
 3. The cannabis cultivation site has become a public nuisance or has been operated in a manner constituting a public nuisance.
 4. The cannabis cultivation is not in compliance with the provisions of this chapter.
- G. Cure period. Prior to suspension or revocation of a Permit issued under this section, the permittee shall be provided with a written notice which details the violation(s). The permittee shall have seven (7) days to cure the violation to the satisfaction of the Director. The seven (7) day cure period may be extended by the Director or the City Council for reasonable cause.
- H. Appeals. Any decision regarding an application for, a renewal of, suspension of, or the revocation of, a personal cannabis cultivation permit may be appealed to the City Manager by an applicant or (former) permit holder as follows:
1. Appellant must file a written appeal with the Carson City Clerk within 10 calendar days of the decision. The written appeal shall specify the person making the appeal, identify the decision appealed from, state the reasons for the appeal, and include any evidence in support of the appeal.
 2. Notice of the time and place of an appeal hearing shall be provided to the appellant within thirty (30) days of receipt of the written appeal by the Carson City Clerk.
 3. The appeal hearing shall be held within sixty (60) days of the filing of the written appeal with the Carson City Clerk, unless the 60-day time limit is waived by the appellant, or unless the City Manager continues the appeal hearing date for good cause and upon written notification to the appellant.

4. The City Manager shall review the facts of the matter, written documents submitted for review, the basis for making the decision which is under appeal, and then determine whether the Director's decision should be reversed or affirmed. The determination made shall be in writing, shall set forth the reasons for the determination, and shall be final.
5. The provisions of Sections 1094.5 and 1094.6 of the Code of Civil Procedure set forth the procedure for judicial review of any final determination.
- I. Fees. An application fee set by resolution of the City Council may be required for formal processing of every application and appeal made under this chapter. The City Council is authorized to pass resolutions to recover any and all fees and costs incurred by the administration and implementation of this chapter through an appropriate fee recovery mechanism to be imposed upon indoor cannabis cultivators and their operations.

Sec. 17.050 - Violations and penalties; public nuisance.

- A. Any violation of the provisions of this chapter is punishable pursuant to Chapter 2 of Article I of this Code as a misdemeanor with a set penalty of one thousand dollars (\$1,000).
- B. Public nuisance abatement.
 1. Cannabis cultivation that is conducted in violation of any provisions of this chapter is deemed a public nuisance, which may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 7 of Article 5 of the Carson City Code as applicable to this chapter.
 2. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance and the property owner where the nuisance is occurring.
- C. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude city from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.
- D. Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued."

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional.

SECTION 5. CEQA. The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to both the exemption provided by Section 26055(h) of the Business and Professions Code as well as Sections 15060(c)(3) and 15061(b)(3) of the CEQA Guidelines.

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SECTION 6. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days after its passage.

SECTION 7. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

PASSED AND ADOPTED on the ____ day of _____, 2017, by the following vote:

AYES:
NOES:
ABSENT:

ALBERT ROBLES, Mayor

ATTEST:

DONESIA GAUSE, City Clerk

APPROVED AS TO FORM:

SUNNY K. SOLTANI, City Attorney