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CANNABIS ACTIVITY ZONING ORDINANCE OF ENCINITAS

WHEREAS, in 1996 the voters of the State of California, including voters in the City of Encinitas, passed Proposition 215, the Compassionate Use Act, that allows the use of cannabis for medical purposes when recommended by a physician and excludes from criminal prosecution the patient and the primary caregiver, as defined; and

WHEREAS, in 2003 the State of California enacted Senate Bill 420, the Medical Marijuana Program Act (MMPA), which established requirements for the issuance of voluntary identification cards; provided a defense to criminal charges related to the cultivation, possession, sale, or storage of medical cannabis; prohibited the distribution of cannabis for profit; exempted from prosecution qualified patients and designated primary caregivers who associate to collectively or cooperatively cultivate cannabis for medical purposes; required the Attorney General to issue guidelines for the security and non-diversion of medical cannabis; and allowed cities to adopt and enforce laws consistent with the MMPA; and

WHEREAS, in 2015 the State of California enacted Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, comprising the Medical Cannabis Regulation and Safety Act and establishing a comprehensive regulatory framework for the production, transportation, and sale of medical cannabis; and

WHEREAS, in 2016 the voters of the State of California, including voters in the City of Encinitas, passed Proposition 64, the Adult Use of Marijuana Act, allowing for the adult use of cannabis and further clarifying state regulatory requirements; and

WHEREAS, all powers not delegated by the United States Constitution to the United States nor prohibited by it to the states are reserved to the states or the people, pursuant to the Tenth Amendment of the United States Constitution; and

WHEREAS, in the State of California, zoning is a local matter exercised by the cities pursuant to the police powers set forth in Article XI, Section 7 of the California Constitution; and

WHEREAS, the voters of Encinitas now desire that the City exercise its police powers solely to provide for the zoning of retailers, cultivation, product manufacturing, and distribution in such a manner as to limit the impact on the City generally and residential neighborhoods in particular; NOW, THEREFORE,

BE IT ORDAINED, by a vote of the people of the City of Encinitas as follows:

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Section 1. Definitions

"*Applicant*" means a person or organization who has registered with the City of Encinitas, per the process outlined by this ordinance and developed by staff, in order to obtain a Business License for a Cannabis Business.

"*Commercial Cannabis Activity*" means the commercial cultivation, possession, manufacture, distribution, processing, storing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products.

"*Cannabis Business*" means any Person lawfully engaged in a Commercial Cannabis Activity as set forth by the California Business and Professions Code, Division 10, and state rules and regulations implementing those laws.

"*Cannabis Business Type*" means the classification of "*Cannabis Business*" that a Person is pursuing in the City of Encinitas. For the purposes of this ordinance, the *Cannabis Business Types* are: *Retail, Cultivation, Product Manufacturing, Cannabis Kitchen* and *Distribution*.

"*Cannabis Concentrate*" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency, as defined by Section 26001 of the California Business and Professions Code.

"*Cannabis Kitchen*" means a premise where *edible cannabis products* are produced by a *manufacturer*.

"*Cultivation*" as defined by Section 26001 of the California Business and Professions Code.

"*Cultivation License Type*" is defined to mean a California state commercial marijuana license classification for cultivation in California Business and Professions Code section 26050, subdivision (a).

"*Cultivation Site*" as defined by Section 26001 of the California Business and Professions Code.

"*Cultivator*" is the organization or entity holding the Business License for *cultivation*.

"*Cannabis Products*" as defined by Section 11018.1 of the California Health and Safety Code.

"Day Care Center" as defined by Section 1596.76 of the California Health and Safety Code, properly licensed and zoned in the City of Encinitas, and actively operating and providing childcare to children under the age of 18.

"Delivery" as defined by Section 26001 of the California Business and Professions Code.

"*Distributor*" is the organization or entity engaging in wholesale distribution of cannabis in compliance with the regulations for a State Cultivation License Type 11 (Distributor), defined in

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California Business and Professions Code section 26050, subdivision (a)(19).

"*Distribution Site*" is defined to mean a physical *premise* where cannabis and *cannabis products* are distributed by a *distributor.*

"*Edible Cannabis Product*" means cannabis product that is intended to be used, in whole or in part, for human consumption, as defined by Section 26001 of the California Business and Professions Code.

"*Edible Production*" means the production of *edible cannabis products* by a *Manufacturer*.

"Industrial hemp" means a fiber or oilseed crop, or both, that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of one percent (0.3%) tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.

"*Manufacturer*" as defined by Section 26001 of the California Business and Professions Code.

"*Product Manufacturing*" means the manufacturing of a non-edible *Cannabis Product*, such as a *cannabis concentrate*, by a *Manufacturer*.

"Product Manufacturing Site is defined to mean a physical *premise* where *Product Manufacturing* occurs.

"Owner" means a Person with an aggregate ownership interest, direct or indirect, of twenty percent (20%) or more in a Commercial Cannabis Business, whether a partner, shareholder, member, or the like, including any security, lien, or encumbrance in an ownership interest that, upon default, could become an ownership interest of 20% or more in a Commercial Cannabis Business.

"*Plant Canopy*" is the designated area at a *indoor or mixed-light cultivation site* that will contain mature plants, defined as cannabis plants that are flowering. For *nursery cultivation*, *plant canopy* shall mean the designated area that will contain seeds, clones, and immature plants, defined as plants that are not flowering.

"Playground" means any outdoor grounds, owned or operated by the City, that contains any play or athletic equipment primarily used, or primarily intended to be used by, any person less than eighteen (18) years old.

"Preference" means that if there exists multiple conflicting *applicant*s who register to obtain a *Cannabis Businesses* of the same type, during the registration period, where the granting of a

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Business License to one *applicant* would preclude another *applicant* from being granted a Business License, the *applicant* who meets the criteria for *Preference* who has submitted their initial application shall be considered for a Business License prior to other applicants to whom granting a Business License would conflict with their ability to obtain a Business License. In a scenario where there are of multiple conflicting *applicants*, the *applicant* who meets the largest number of criteria for *Preference* shall receive *Preference*.

"Premise" is defined to mean the legal parcel(s) of land and the improvements on it, including building(s), store(s), shop(s), apartment(s), or other designated structure. In the case of a parcel in an agricultural zone, premise is defined as the area inside of a building or other structure or the area surrounded by a fence that is dedicated to *Commercial Cannabis Activity*. For a *playground*, premise is defined as the area containing the play or athletic equipment primarily used, or primarily intended to be used by, any person less than eighteen (18) years old. For a *playground*, measurements will be from the boundary of this area containing equipment.

"*Primary Caregiver*" as defined in Section 11362.7 of the Health and Safety Code.

"*Qualified Patient*" as defined in Section 11362.7 of the Health and Safety Code.

"Retailer" is the organization or entity engaging in retail sale and delivery of cannabis or cannabis products to customers, in compliance with the regulations for a State Retail License Type 10 (Retail), as specified in the California Business and Professions Code section 26050, subdivision (a)(18).

"*Responsible Person*" is defined as the person who is responsible for the operation, management, direction, or policy of a marijuana *retailer*, *cultivator*, *manufacturer*, or *distributor*.

A "*Skilled and Trained Workforce*" is defined as a workforce that meets all of the following conditions:

(1) All of the workers are either *skilled journeypersons* or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations;

(2) At least 60% of the *skilled journeypersons* by each contractor employed to perform work on the project are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

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(3) For an *apprenticeable occupation* in which no apprenticeship program had been approved by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations before January 1, 1995, up to one half of the graduation percentage requirements of (2) above may be satisfied by *skilled journeypersons* who commenced working in the *apprenticeable occupation* before the approval of an apprenticeship program for that occupation in the county in which the project is located by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations.

An "*apprenticeable occupation*" means an occupation for which the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations has approved an apprenticeship program pursuant to Section 3075 of the Labor Code before January 1, 2014.

"*Skilled journeyperson*" means a worker who either:

(1) Graduated from an apprenticeship program for the applicable occupation that was approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor; or

(2) Has at least as many hours of on-the-job experience in an applicable occupation as would be required to graduate from an apprenticeship program for the applicable occupation that is approved by the Chief of the Division of Apprenticeship Standards of the California Department of Industrial Relations.

"*Sensitive Use*" is defined as a *day care center*, *playground,* other *retailer,* or school. For purposes of this section, school means any public, or private, accredited institution of learning providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

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Section 2. Retailers

Retailers shall be allowed in the commercial land use zones: Commercial (ER-C), General Commercial (GC), Commercial Mixed Use (N-CM-3), Commercial Mixed Use (N-CM-2), Commercial Mixed Use (N-CM-1), Commercial Mixed Use (D-CM-2), Commercial Mixed Use (D-CM-1), General Commercial (C-GC2), General Commercial (C-GC1), and in the Mixed Use Land Use Zones ER-MU1 and ER-MU2, subject to the following restrictions and regulations.

a) At least four licenses shall be granted to *retailers*. The City Council may choose to increase the number of licenses granted at their discretion.

b) *Retailers* shall maintain a 1,000 foot separation from *sensitive uses*, as measured by a straight line from the closest property lines of the *premises* to the closest property line of the sensitive use. The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways, flood control channels, or railroad tracks without pedestrian or automobile crossings that would impede direct physical access between the uses. In such cases, the separation distance shall be measured as the most direct route around the barrier in a manner that establishes direct access.

c) A *Retailer* may engage in off-site *Delivery* from the location of the *Retailer* to a customer. The offsite *Delivery* must be made by an authorized employee in an authorized vehicle owned, or leased, by the *Retailer*. Offsite *Deliveries* may only be made during the hours of operation. The *Retailer* must adhere to any state rules and regulations regarding *Delivery*.

d) Consultations by medical professionals shall not be permitted at a *retailer*.

e) Lighting shall be provided to illuminate the interior of the *retailer*, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

f) Security shall be provided at the *retailer* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premises twenty-four (24) hours per day*.

g) *Signs* shall be posted on the outside of the *retailer* and shall only contain the name of the business, limited to two colors.

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h) The emergency contact phone number of an operator or manager shall be posted in a location visible from outside of the *retailer* in character size at least two inches in height.

i) The *retailer* shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

a) Rules, regulations and local permitting requirements imposed on a *retailer* by the City shall conform to the State licensing requirements for a *retailer*, as set forth by the California Business and Professions Code, Division 10, and state rules and regulations implementing those laws.

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Section 3. *Cultivation*

Commercial *Cultivation Sites* shall be allowed in agricultural (AG) zones, subject to the following restrictions and regulations.

a) All *cultivation* must occur within the interior of a building or greenhouse. If the cultivation takes place within a greenhouse, the greenhouse construction must meet any greenhouse building standards within the City code, and obtain any building permits required for greenhouse construction or expansion.

b) An *applicant* for a *cultivation site* must specify for which *Cultivation License Types* the *applicant* will apply. Any *cultivation* must conform to the *plant canopy* and other limits set forth by the applicable *Cultivation License Types*.

c) Plants cultivated shall be tracked utilizing the State's track-and-trace system for cannabis.

d) Records of *cultivation*, both internal and as part of the state's track-and-trace system, must be made available to City inspectors upon request.

e) Security shall be provided at the commercial *cultivation site*, which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premise*.

f) From a public right of way, there shall be no visual evidence of *cultivation* either within or outside the facility. Adverse impacts of *cultivation* shall be mitigated so that a "public nuisance" as defined by California Civil Code section 3480 does not exist, including but not limited to, adverse impacts of dust, glare, heat, noise, noxious gases, significant odor, or the use or storage of hazardous materials, processes, products or wastes. If an adverse impact occurs, a licensee shall have a reasonable opportunity and time to cure the complaint, adverse impact, or possible non-compliance as defined in this section before being subject to penalty, suspension, or revocation of the Business License for *cultivation*.

g) No external signage shall be allowed, other than the address of the premise.

h) No public access or sales shall be allowed on the *premise*. Only directors, officers, managers, employees, agents, and contractors of the *cultivator* shall be present on the premises. Transporters and representatives of retailers, distributors, manufacturers, testing labs, and other licensees under the Medical Cannabis Regulation and Safety Act

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shall be allowed on the *premise* with prior notice to and permission by the *cultivator* to conduct business as required and appropriate.

i) The City encourages *cultivators* to operate in an environmentally sustainable manner. Preference will be given to *applicants* for *cultivation* who show their commitment to environmentally sustainable practices including building LEED certification, organic growing practices, and adoption of EPA WaterSense identified water saving technologies.

j) Rules, regulations and local permitting requirements imposed on a *cultivator* and their affiliated *cultivation site* by the City shall conform to the State licensing requirements for a *cultivator* as set forth by the California Business and Professions Code, Division 10.

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Section 4. Product Manufacturing

Product Manufacturing Sites shall be allowed in Business Parks (BP), Light Industrial (LI), and Agricultural (AG) zones, subject to the following restrictions and regulations.

a) The use of volatile solvents for *Product Manufacturing* is prohibited.

b) The production of *edible cannabis products* is prohibited at a Product Manufacturing site.

c) All *Product Manufacturing* must conform to rules and requirements set forth by the California Department of Public Health for cannabis manufacturing, including those for testing, labeling and quality assurance.

d) Security shall be provided at the *Product Manufacturing site* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premise*.

e) No external signage shall be allowed, other than the address of the *premise*.

f) No public access or sales shall be allowed on the *premise*. Only directors, officers, managers, employees, agents, and contractors of the *manufacturer* shall be present on the premises. Transporters and representatives of retailers, distributors, cultivators, testing labs, and other licensees under the Medical Cannabis Regulation and Safety Act shall be allowed on the *premise* with prior notice to and permission by the *manufacturer* to conduct business as required and appropriate.

g) Rules, regulations and local permitting requirements imposed on a *Manufacturer* and its associated *Product Manufacturing Site* by the City shall conform to the State licensing requirements for *Manufacturers*, as set forth by the California Business and Professions Code, Division 10.

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Section 5. Cannabis Kitchens

Cannabis Kitchens shall be allowed in Business Parks (BP), Light Industrial (LI), and General Commercial (CG) zones, subject to the following restrictions and regulations.

a) No extraction of cannabis concentrates shall be allowed on premise.

b) All *edible cannabis product* production must conform to rules and requirements set forth by the California Department of Public Health for cannabis manufacturing, including those for testing, labeling and quality assurance.

c) Security shall be provided at the *Cannabis Kitchen site* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premise* during business hours.

d) No external signage shall be allowed, other than the address of the *premise*.

e) No public access or sales shall be allowed on the *premise*. Only directors, officers, managers, employees, agents, and contractors of the *manufacturer* shall be present on the premises. Transporters and representatives of retailers, distributors, cultivators, testing labs, and other licensees under the Medical Cannabis Regulation and Safety Act shall be allowed on the *premise* with prior notice to and permission by the *manufacturer* to conduct business as required and appropriate.

f) Any *Cannabis Kitchen* employee who is directly involved in the production, or handling, of *edible cannabis products* as part of their employment must pass a state-approved food safety certification exam.

g) A *Cannabis Kitchen* also must be a California-licensed commercial kitchen or a cottage kitchen with a class B permit.

h) Rules, regulations and local permitting requirements imposed on a *Manufacturer* and its associated *Cannabis Kitchen* by the City shall conform to the State licensing requirements for *Manufacturers*, as set forth by the California Business and Professions Code, Division 10.

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Section 6. Distribution

Distribution Sites shall be allowed in Business Parks (BP) as well as in Light Industrial (LI) zones subject to the following restrictions and regulations.

a) Security shall be provided at the *distribution site* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the *premise*.

b) No external signage shall be allowed, other than the address of the *premise*.

c) No public access or sales shall be allowed on the *premise*. Only directors, officers, managers, employees, agents, and contractors of the *distributor* shall be present on the premises. Transporters and representatives of retailers, other distributors, cultivators, manufacturers, testing labs, and other licensees under the Medical Cannabis Regulation and Safety Act shall be allowed on the *premise* with prior notice to and permission by the *distributor* to conduct business as required and appropriate.

d) Rules, regulations and local permitting requirements imposed on a *distributor* and their affiliated *Distribution Site* by the City shall conform to the State licensing requirements for *Distributors*, as set forth by the California Business and Professions Code, Division 10.

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Section 7. Marijuana Business Registration

Any *Cannabis Business* shall register with the City of Encinitas and shall show compliance with the below regulations prior to being issued a business license and beginning operations. The City Manager or designee of same will administer marijuana business registration.

a) The *responsible person* and *owners* of a *Cannabis Business* shall be subject to a background check. Any person who has been convicted of a serious or violent felony may not operate, manage, control, or own a *Cannabis Business.*

b) An *Applicant* for a Business License for a *Cannabis Business* must provide written proof that the building owner or management condones a *Cannabis Business* on the *premise*.

c) *Preference* will be given to *applicant*s where an *owner* of the applying organization for a *Cannabis Business* has at least one of the following types of experience:

   a. a minimum of twelve (12) consecutive months as an *Owner* or *Responsible Person* of a *Cannabis Business*, within the previous five (5) years, in a jurisdiction permitting such *Commercial Cannabis Activity*. The twelve (12) consecutive months of lawful *Cannabis Business* ownership demonstrated must be of a type substantially similar to that allowed by the City License for which the *Applicant* is applying; or

   b. a minimum of thirty-six (36) consecutive months as an owner with an aggregate ownership of thirty percent (30%) or more in a lawful pharmaceutical business licensed and regulated by a state or the federal government. The thirty-six (36) months of experience demonstrated must be of a type substantially similar to that allowed by the City License for which the *applicant* is applying;

   c. a minimum of eighteen (18) consecutive months as an owner with an aggregate ownership interest of twenty percent (20%) or more in a lawful, properly licensed business with an average of four (4) or more employees located within the City, thereby demonstrating a record of experience, familiarity and compliance with City rules and regulations.

   A *Cannabis Business* owner who meets multiple criteria will receive greater preference based on the number of criteria they meet.

d) No *Cannabis Business* shall be allowed to operate where a owner, or responsible person, has been cited or fined by any California jurisdiction for operating a non-permitted cannabis business after October of 2015, when the state passed the Medical Cannabis Regulation and

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Safety Act, that first defined operating rules for *Cannabis Businesses* in the state of California.

e) The City may charge a reasonable registration fee for a *Cannabis Business* and a reasonable annual fee for regulating the *Cannabis Business*. Such fees shall be established by the City.

f) A Business License for a *Cannabis Business* may be revoked or suspended due to legitimate loitering, significant smell, or noise complaints, upon City confirmation of the significant smell, noise, or loitering; non-compliance with the regulations specified in this ordinance, following City confirmation of the non-compliance; or non-compliance with other applicable state or local regulation following City or state confirmation of the non-compliance. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance as defined in this section before being subject to suspension, penalty, or revocation of the Business License.

g) A *Cannabis Business* shall be subject to any relevant city municipal codes including the Design Review process as defined by Chapter 23.08 of the Encinitas City Code, as well as the Special Purpose Overlay Zone regulations as defined by Chapter 30.34 of the Encinitas City Code.

h) For any *Cannabis Business Type* where this ordinance explicitly specifies a numeric limit on the number of business licenses that shall be granted, the city shall conduct a lottery of eligible potential business operators of the *Cannabis Business Type* who have registered with the City and have been determined to be in compliance with all of the rules and regulations outlined in this ordinance, in order to determine which shall receive a business license. The lottery shall be designed in the following manner.

    a. The lottery shall be tiered, with the first lottery drawing among the *applicants* who meet the maximum number of criteria for *preference*. The subsequent lottery drawings shall take place among the *applicants* who meet the second largest number of criteria, and so on, until all licenses are granted.

    b. In the case where a lottery is conducted, the city shall have a registration period of one month to accept registrations from potential *Cannabis Businesses* of the *Cannabis Business Type* wishing to operate in the City.

    c. The City shall then determine which *applicants* comply with the below criteria, in order to qualify for the lottery. The lottery shall be conducted after verifying which *applicants* who registered during the registration period, meet the requirements outlined below. A *applicant* who is unable to meet the requirements shown below shall be ineligible to

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compete in the lottery.

i. The address selected complies with all relevant zoning and sensitive use requirements.

ii. The *applicant* has submitted written proof that the building owner or management condone a *Cannabis Business* on the *premise* in the form requested by the city.

iii. The *applicant* has submitted proof that they meet the *preference criteria* for any *preference* they claim.

1. If the documentation of a preference criteria qualification submitted is deemed inadequate, the *applicant* shall be given a reasonable opportunity to provide further documentation prior to the lottery. However, if such documentation is not provided, the *preference* based on this criteria shall not be granted.

iv. A background check has been conducted verifying that the *owners* of a *Cannabis Business* have not been convicted of a serious or violent felony.

d. An *applicant* that is selected in the lottery must demonstrate compliance with all regulations outlined in this ordinance prior to obtaining their Business License and beginning operations.

i. If an *applicant* selected in the lottery is unable to comply with the regulations and requirements outlined in this ordinance in order to obtain a business license from the City within eighteen (18) months of being selected, their selection shall be retracted, and a subsequent registration period shall occur and lottery shall be held for the opportunity to obtain the forfeited business license.

1. If the majority of the delays in the licensing of a *Cannabis Business* are determined to be due to processing, scheduling, or other delays on the part of the city or other relevant authority, beyond the control of the *applicant*, the period for compliance shall be extended for the *applicant*, proportional to the delays.

ii. If a *Cannabis Business* for a *Cannabis Business Type* subject to a lottery were to have their business license revoked, a subsequent registration period shall occur and an additional lottery shall be held to determine who will be eligible to obtain the business license made available following the revocation.

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i) For any *Cannabis Business Type* where this ordinance does not specify a numeric limit on the business licenses that shall granted, the city should allow applicants for Cannabis Businesses to register with the city and apply for business licenses on an ongoing basis, without a fixed registration period for application.

j) A Cannabis Business that has obtained a Business License in the City may subsequently transfer their business license to a another premise in the City, provided that the new premise meets all of the requirements outlined in this ordinance for their *Cannabis Business Type*.

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Section 8. Industrial Hemp

Industrial hemp shall be allowed in agricultural zones, subject to the following restrictions and regulations. *Industrial Hemp* shall be cultivated in compliance with the California Food and Agricultural Code, Division 24, as well as all relevant regulations for agriculture and agricultural products in the Encinitas City Code. Business licenses in the City of Encinitas for Industrial Hemp will be made available sixty (60) days after the State of California develops final regulations for industrial hemp production and licensing.

A Business License for an *Industrial Hemp* agricultural activity may be revoked or suspended due to legitimate loitering, significant odor, or noise complaints, upon City confirmation of the smell, noise, or loitering; non-compliance with the regulations specified in this ordinance, following City confirmation of the non-compliance; or non-compliance with other applicable state or local regulation following City or state confirmation of the non-compliance. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance as defined in this section before being subject to suspension, penalty, or revocation of the Business License.

Section 9. Personal Use *Cultivation*

A *qualified patient* may cultivate up to 100 square feet indoors for personal use. A *primary caregiver* may cultivate up to 100 square feet indoors for the personal medical use of a single *qualified patient*, and may cultivate for no more than five (5) maximum individual *qualified patients*. Personal use cultivation may also be further restricted, or disallowed, by a building's owner, management or governing housing association as allowable by state law.

Personal use *cultivation*, for medical and adult use, must conform to state law and local codes, including, but not limited to, nuisance codes, building codes, electrical codes and waste disposal codes. No additional city permission, clearance or registration shall be necessary or imposed by the City for personal use cultivation.

Section 10. Skilled and Trained Workforce

For all property or building construction or engineering activities required to obtain permits from the city of Encinitas necessary to operate a *retail site, cultivation site, Product Manufacturing site or distribution site*, a *skilled and trained workforce* shall be required for all contractors engaged

in the property or building construction activities.

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Section 12. Amendment of this Measure.

This measure, except as specified herein, shall only be amended by a subsequent vote of the People. Notwithstanding any other law or provision in this measure, the City Council shall have the right and the ability to amend or modify this measure under the following circumstances:

a. After this measure has been in effect in the City of Encinitas for a period of three years, the City Council, in its sole and exclusive discretion, determines that regulations, or zoning, outlined in the measure warrant adjustment due to inflation, unreasonable cost burdens to the City or *Cannabis Businesses*, unreasonable regulatory burdens to the City or Cannabis *Businesses*, or that a zoning or regulatory restriction contained in the measure has created any other unnecessary or unanticipated burden to the City or *Cannabis Businesses*, the City Council shall be granted the power to modify the ordinance to relax the zoning or regulatory burdens on the *City* and/or *Cannabis Businesses.*

b. If the City Attorney determines that the regulations or zoning established in this measure no longer conform to the California State regulations for marijuana activity or that the regulations established in this measure fail to conform to the local licensing requirements for *Cannabis Businesses*, the City Council shall be granted the power to make the changes necessary to bring the City's regulation of *Cannabis Businesses* into compliance with current state law.

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Section 13. Effective Date

That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 14. Severability

If any section, sub-section, sentence, clause, phrase, part, or other portion of this measure, or application thereof, is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the remaining portions or provisions of this measure. It is hereby declared by the people voting for this measure that this measure, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, sentences, clauses, phrases, parts or portions, or the application thereof, are declared invalid or unconstitutional.

Section 15. Consistency with Other Ballot Measures

This measure is inconsistent with and intended as an alternative to any other initiative or measure placed on the same ballot that addresses the same subject matter as this measure. In the event that this measure and another initiative or measure addressing the same subject matter as this measure, or any part thereof, is approved by a majority of voters as the same election, and this measure receives a greater number of affirmative votes than any other such initiative or measure, then this measure shall prevail and control in its entirety and said other initiative or measure shall be rendered void and without any legal effect.

Section 16. California Environmental Quality Review

The city shall determine whether land uses outlined in this ordinance are subject to review under the California Environmental Quality Act (CEQA) or whether they wish to grant categorical exemption(s). The City shall use the same criteria for CEQA exemption and review as is applied to other land uses and land use projects.

Section 16. Special Election

The undersigned voters of the City do hereby request that this ordinance be put to a vote of the people in a special election.