



**CITY OF LEMON GROVE
PLANNING COMMISSION REGULAR MEETING**

Monday, September 24, 2018, 6:00 p.m.

Lemon Grove Community Center
3146 School Lane, Lemon Grove, CA

Any person who wishes to address the Planning Commission regarding any of the items on this agenda must fill out a speaker's form (available at the entrance) and give it to the Planning Commission Clerk. When called, please come to the podium and state your name.

Call to Order

Roll Call

Pledge of Allegiance

Approval of the Minutes

1. June 25, 2018 Regular Meeting

Changes to the Agenda:

Public Comment: *(Speakers will have three (3) minutes to discuss items on the agenda. Note: In accordance with State Law, the general public may bring forward an item not scheduled on the agenda; however, the Planning Commission may not take any action at this meeting. If appropriate, the item will be referred to staff or placed on a future agenda.)*

Consent Item(s): None.

Public Hearing(s): *(Note to Speakers: The Chair will ask each speaker to remain at the podium until the Commissioners have had the opportunity to ask questions about his or her testimony. APPEALS TO THE CITY COUNCIL MAY BE FILED ON FORMS AVAILABLE IN THE OFFICE OF THE DEVELOPMENT SERVICES DEPARTMENT. APPEALS OF DECISIONS MUST BE FILED WITHIN TEN (10) DAYS.)*

2. Continuation of Public Hearing (AA1-800-0004, Administrative Appeal of the Development Services Director Determination Regarding the Expiration of the Land Use Authorization for a Nonconforming 15-Bed Boarding House/Independent Living Facility Located at 2555, 2561, and 2571 Crestline Drive in the Residential Low/Medium Zone.

Reference: Mike Viglione, Assistant Planner

Recommendation: Consideration of Administrative Appeal AA1-800-0004 from September 24, 2018, to October 22, 2018.

3. Public Hearing to Consider Conditional Use Permit No. CUP-180-0003; a Request to Establish a 6,400 SF Veterinary Clinic with Retail Sales, Indoor Kennel, and Outdoor Activities at 7770 Broadway in the Transit Mixed-Use (TMU) Zone of the Downtown Village Specific Plan.

Reference: Arturo Ortuño, Assistant Planner

Recommendation: (1) Conduct the Public Hearing, and (2) Adopt a Resolution conditionally approving Conditional Use Permit No. CUP-180-0003, a request to establish a veterinary clinic at 7770 Broadway in the Transit Mixed-Use (TMU) Zone of the Downtown Village Specific Plan.

4. Separation Findings for Discretionary Permits

Reference: Mike Viglione, Assistant Planner

Recommendation: Review Proposed Amendments to Zoning Code Application Procedures to Include Early Separation Findings for Discretionary Permits, and Provide a Recommendation to the City Council.

Business from the City Attorney:

Business from the Development Services Director: (Non-Action Items)

Business from the Planning Commission: (Non-Action Items)

Planning Commission Oral Comments and Reports on Meeting Attended at the Expense of the City:

(Government Code Section 53232.3 (d) states that members of a Legislative Body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the Legislative Body.)

Adjournment:

In compliance with the Americans with Disabilities Act (ADA), the City of Lemon Grove will provide special accommodations for persons who require assistance to access, attend and/or participate in meetings of the City Council. If you require such assistance, please contact the City Clerk at (619) 825-3800 or email schapel@lemongrove.ca.gov. A full agenda packet is available for public review at City Hall.

AFFIDAVIT OF NOTIFICATION AND POSTING

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) SS
CITY OF LEMON GROVE)

I, Shelley Chapel, MMC, Planning Commission Clerk for the City of Lemon Grove, hereby declare under penalty of perjury that a copy of the above Agenda of the Regular Meeting of the City Council of the City of Lemon Grove, California, was delivered and/or notice by email not less than 72 hours before the hour of 5:30 p.m. on September 20, 2018, to the members of the governing agency, and caused the agenda to be posted on the City's website at www.lemongrove.ca.gov and at Lemon Grove City Hall, 3232 Main Street Lemon Grove, CA 91945.

/s/ Shelley Chapel
Shelley Chapel, MMC,
Planning Commission Clerk

**MINUTES OF A MEETING OF
THE LEMON GROVE PLANNING COMMISSION
MONDAY, JUNE 26, 2018**

1. Call To Order:

Chair Bailey called the Regular Meeting to order at 6:00 p.m.

Present: Chair Bailey, Commissioner Browne (arrived 6:18 p.m.), Commissioner LeBaron, Commissioner Relucio, and Commissioner Smith.

Absent: None.

Staff Members Present:

Lydia Romero, City Manager, Kristen Steinke, Assistant City Attorney, David De Vries, Development Services Director, Mike Viglione, Assistant Planner, and Arturo Ortuño, Assistant Planner.

2. Pledge of Allegiance:

Pledge of Allegiance to the Flag was led by Chair Bailey.

3. Oath of Office:

City Manager Romero gave the Oath of Office to the Commissioners as a group.

4. Consent Calendar:

Approval of Minutes – None.

5. Changes to the Agenda: None.

6. Public Comments: None.

Reports:

7. Discussion on Planning Commission Policy Rules and Conduct of Public Meetings Procedures.

David De Vries, Development Services Director gave the report. Correction from staff proposed to change meeting time from 6:30 p.m. to 6:00 p.m. on the fourth Monday of the month.

City Manager Romero provided the reminder to the Commissioners that a requirement of the position is to file a Form 700 filing with the City Clerk. In addition, AB1234 Ethics training and Sexual Harassment Training are required by the Human Resources Department.

Commissioners discussed the guidelines of the Commission as presented by staff.

Action: No action taken. Point of Clarification by Director De Vries staff will move forward to make the change of meeting start time from 6:30 p.m. to 6:00 p.m. on the fourth Monday of the month. This information will be provided as Resolution adopting the formal meeting time and date. All Commissioners present concurred.

Chair Bailey pulled Item 9 to be heard at this time as they were awaiting the arrival of one Commissioner prior to opening the Public Hearing.

9. Business from the Development Services Director: (Non-Action Items)

Director DeVries provided the Commissioners a copy of the City Hall Business Hours and Holiday Schedule. Noting that certain times and dates staff would not be responsive to emails or phone calls. Potential conflicts with the fourth Monday of the month for meetings may arise, and can be discussed as needed. The first such conflict is December 24, 2018, Christmas Eve. Director DeVries suggests that the Commission may want to consider Monday, December 10, 2018 as a possible alternative. May 27, 2019 would be another possible conflict and suggest May 13, 2019 as a possible alternative.

Director DeVries provided a 500' radius map of each Commissioner's personal residence to provide them a visual of the distance and area where a potential conflict may arise. Therefore, as a Commissioner may be required to recuse themselves from a vote. Director DeVries provided the process in which to recuse and then remove themselves from the Meeting Room. Assistant City Attorney Kristen Steinke provided a point of clarification that once a Commissioner has identified themselves as having a conflict, the Commissioner must state why they are recusing themselves from the meeting.

Assistant City Attorney Kristen Steinke provided direction to the Commissioners regarding conflict of interest besides location of residence. If unsure raise the issue and the City Attorney can provide direction. Provided the Commissioners precaution and that a conflict not disclosed could nullify a project.

Director DeVries provided the cancellation of meeting procedure.

Commissioner Browne arrived at the meeting at 6:18 p.m. and was given the Oath of Office by City Manager Romero.

Public Hearing:

8. Administrative Appeal No. AA1-800-0003 (Jason McNeil). A request to consider overturning the Development Services Director decision to require roof materials of an Accessory Rental Dwelling Unit (ARDU) to be compatible with the existing single-family residence onsite.

Chair Bailey confirmed that all legal notices had been provided and Director DeVries confirmed they had.

David De Vries, Development Services Director provided a reminder that the General Plan is the City's overarching document with the vision of the City and from that the Lemon Grove Municipal Code is developed.

Arturo Ortuño, Assistant Planner presented the staff report and PowerPoint presentation.

Chair Bailey opened the Public Hearing at 6:33 p.m.

Appeared to comment were: Jason McNeil (appellant) provided photos, Kelly McNeil, and Tim O'Leary.

During the discussion Commissioners expressed concern about roofing materials meeting current building code.

Adoption of the resolution would approve the Administrative Appeal AA1-800-0003, overturning overturn the Development Director's Decision to uphold the required roof material for Building Permit No. B17-000-0064 at 2593 Nida Place, Lemon Grove, California.

Action: The public hearing was closed at 7:10 p.m., and to adopt Resolution No. 2018-01 including amendment to "Whereas, there are unique circumstances because the Accessory Rental Dwelling Unit (ARDU) was hidden from views from adjacent public rights way", on a motion by Commissioner LeBaron, and seconded by Commissioner Browne. The motion passed by the following vote:

Ayes: Bailey, Browne, LeBaron, Relucio, Smith

Noes: None

Business from the Planning Commission: None.

Planning Commission Oral Comments & Reports on Meetings Attended At City Expense: (G.C. 53232.3(d)): None.

Adjournment:

There being no further business to come before the Commission, the meeting was adjourned at 7:13 p.m.

Shelley Chapel, MMC
City Clerk

**LEMON GROVE PLANNING COMMISSION
AGENDA ITEM SUMMARY**

Item No. 2
Mtg. Date September 24, 2018
Dept. Development Services Department

Item Title: **Continuation of Public Hearing (AA1-800-0004, Administrative Appeal of the Development Services Director Determination Regarding the Expiration of the Land Use Authorization for a Nonconforming 15-Bed Boarding House/Independent Living Facility Located at 2555, 2561, and 2571 Crestline Drive in the Residential Low/Medium Zone.)**

Staff Contact: Mike Viglione, Assistant Planner

Recommendation:

- 1) Continue the public hearing for consideration of Administrative Appeal AA1-800-0004 from September 24, 2018 to October 22, 2018.

Item Summary:

At the request of the appellant, staff recommends that the Planning Commission continue the public hearing for consideration of Administrative Appeal AA1-800-0004 from September 24, 2018, to the next regular Planning Commission meeting on October 22, 2018, in accordance with Section 17.28.020(G) of the Municipal Code. Administrative Appeal AA1-800-0004 appeals the Development Services Director's determination that the Land Use Authorization for a nonconforming 15 bed Boarding House/Independent Living Facility in the Residential Low Medium Zone at 2555, 2561, and 2571 Crestline Drive (APN: 480-591-14-00) is expired.

Fiscal Impact:

[No fiscal impact.]

Environmental Review:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorically Exempt, Section 15301 | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|--|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input checked="" type="checkbox"/> Notice to property owners within 500 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

**LEMON GROVE PLANNING COMMISSION
AGENDA ITEM SUMMARY**

Item No. 3
Mtg. Date September 24, 2018
Dept. Development Services Department

Item Title: **Public Hearing to Consider Conditional Use Permit No. CUP-180-0003; a Request to Establish a 6,400 SF Veterinary Clinic with Retail Sales, Indoor Kennel, and Outdoor Activities at 7770 Broadway in the Transit Mixed-Use (TMU) Zone of the Downtown Village Specific Plan.**

Staff Contact: Arturo Ortuño, Assistant Planner

Recommendation:

- 1) Conduct the public hearing; and
- 2) Adopt a Resolution (**Attachment B**) conditionally approving Conditional Use Permit No. CUP-180-0003, a request to establish a veterinary clinic at 7770 Broadway in the Transit Mixed-Use (TMU) Zone of the Downtown Village Specific Plan.

Item Summary:

On May 21, 2018, the applicant submitted an application for Conditional Use Permit No. CUP-180-0003. The project is a request to establish a 6,400 sq. ft. veterinary clinic with retail sales, indoor kennel to board animals undergoing medical treatment, and outdoor activities such as a dog training area, private dog run, and a daily vaccination clinic service at 7770 Broadway in the Transit Mixed-Use (TMU) Zone of the Downtown Village Specific Plan on a 0.62-acre parcel, adjacent to the Main Street Promenade. A veterinary clinic is allowed by conditional use permit in the TMU zone. Proposed tenant and site improvements include new landscaping and trees.

Fiscal Impact:

No fiscal impact.

Environmental Review:

- | | |
|---|---|
| <input type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input checked="" type="checkbox"/> Categorically Exempt, Section 15301 | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|---|---|--|
| <input type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input checked="" type="checkbox"/> Notice to property owners within 500 ft. |
| <input checked="" type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Resolution of Conditional Approval
- C. Vicinity Map
- D. Applicant's Letter, dated July 26, 2018
- E. Letter of Support, dated September 18, 2018
- F. Exhibit A – Project Plans

Attachment A

LEMON GROVE PLANNING COMMISSION STAFF REPORT

Item No. 3

Mtg. Date September 24, 2018

Item Title: Public Hearing to Consider Conditional Use Permit No. CUP-180-0003; a Request to Establish a 6,400 SF Veterinary Clinic with Retail Sales, Indoor Kennel, and Outdoor Activities at 7770 Broadway in the Transit Mixed-Use (TMU) Zone of the Downtown Village Specific Plan.

Staff Contact: Arturo Ortuño, Assistant Planner

Application Summary:

APPLICANT:	The Sudeep Dhillon Corporation
PROPERTY LOCATION:	7770 Broadway, APN: 480-043-13-00. The site is located on the north side of Broadway, between Lemon Grove Ave. and Olive St.
PROJECT AREA:	0.62 acres (27,007 square feet)
EXISTING ZONE:	Transit Mixed-Use 5 (TMU5) within the Downtown Village Specific Plan (DVSP).
GENERAL PLAN LAND USE DESIGNATION:	Main Street Promenade District and Transit Mixed-Use 5 within the Downtown Village Specific Plan.
SURROUNDING PROPERTIES:	North: Transit Mixed-Use 5 (TMU5) South: Transit Mixed-Use 3 (TMU3) East: Village Commercial 3 (VC3) West: Transit Mixed-Use 5 (TMU5)
ENVIRONMENTAL IMPACT:	The project is Categorically Exempt from the California Environmental Quality Act Section 15301 (Existing Facilities), Class 1. Mitigation measures are not required and no environmental impact is anticipated.

Attachment A

Background

The property at 7770 Broadway is a 27,007 sq. ft. (0.62 gross acre) rectangular parcel with an existing 6,400 sq. ft. vacant commercial building. Prior to the development of Main Street Promenade, the site was used for retail sales activities (Hollywood Video Store). The subsequent use (Lemon Grove Neighborhood Market) was approved on December 2, 2013. The business license for the grocery store expired on October 1, 2015 and the building has been vacant since July of 2016. The Downtown Village Specific Plan (DVSP) allows “retail sales activities,” generally of a small-scale nature and oriented to the local residents and commuters, as a permitted use.

On May 23, 2018, The Sudeep Dhillon Corporation submitted an application for a Conditional Use Permit (CUP-180-0003), to establish a 6,400 sq. ft. veterinary clinic with retail sales, indoor kennel, and outdoor activities such as a dog training area, private dog run, and a daily vaccination clinic service located at 7770 Broadway in the Transit Mixed-Use Zone of the DVSP. The City of Lemon Grove found the application to be complete on September 6, 2018.

Discussion

Land Use Analysis

The vision of the Main Street Promenade District is to create a grand promenade with wide pedestrian spaces, large trees, attractive landscaping, enhanced paving, and a transit center integrating both the trolley and bus service. Transit-oriented development (TOD), including a mix of land uses and increased intensity of existing development, as well as improved pedestrian linkages, are envisioned to create a vibrant downtown. Redevelopment and revitalization of businesses within the District is intended to enhance the character of the long established businesses located on Main Street.

The purpose of the Transit Mixed-Use Land Use Designation in the DVSP is to provide for a mix of retail commercial, office and residential development that take advantage of the convenient access to the nearby bus and trolley transit services with the intent of creating a lively pedestrian-oriented village near the planned Integrated Transit Station. Retail commercial uses located at ground level will provide goods and services for both residents and commuters.

The retail sales component of the proposed veterinary clinic is allowed as a permitted use per the DVSP because the retail sales activities are generally of a small-scale nature with uses oriented to local residents and commuters (e.g., florists, grocery stores, convenience food stores, baked goods stores, hobby shops, variety stores, candy stores, gift stores, pharmacy). Automobile-related retail activities and building supply sales are excluded. A Conditional Use Permit is required for approval of a veterinary clinic. The Municipal Code defines “veterinary services” as an “establishment that provides medical or surgical care for household pets and small farm animals, as defined in Lemon Grove Municipal Code (LGMC) 18.16 and Business and Professions Code Section 4826. The use may also include grooming or other services including short-term, incidental boarding of animals while undergoing medical treatment.”

The vision of the applicant is to provide a location where customers can get care for their pets while also shopping for supplies, pet food, and have access to a drink and snack while visiting the clinic. The proposed veterinary clinic would include:

Attachment A

- Nine (9) exam rooms, a 702 sq. ft. treatment area, dental service stations, x-ray room, and pharmacy station,
- Indoor dog and cat kennel to board animals undergoing medical treatment,
- A retail component that would include the sale of pet supplies, organic dog food, dog treats and ice cream, and other pet related healthcare products, and
- Outdoor activities such as a dog training area, private dog run, a daily vaccination clinic service, and a food and drink kiosk to sell prepackaged food and drinks to customers, with outdoor seating.

Apart from a traditional veterinary clinic with a retail component, the proposed use will also provide indoor and outdoor accessory uses customarily associated with “animals sales and services” and “veterinary services.” The existing 1,800 sq. ft. open space located on the east side of the property will provide space for the proposed dog training area, vaccination clinic service, and a food and drink kiosk with outdoor seating. The training area will be located on the southeast corner of the property. In order to provide a secured training area, the applicant intends to install a new 42” metal fence with gate that will match the existing fence along the eastern property line. Training sessions will be either on a one-on-one or group setting conducted by local trainers. Announcements of upcoming training sessions will be posted online and require registration to control the number of attendees. The vaccination clinic service will be provided by an appointment and/or walk-in basis. The service will take less than 5 minutes to complete and would require two (2) staff member to manage. The vaccination area will also provide space for a food and drink kiosk with outdoor seating that will allow customers to enjoy prepackaged food and refreshments while waiting for a vaccination appointment or before the start of a training session. Two (2) new shade sails, matching the existing shade sails on-site, are to be installed to provide additional shade cover for customers. The existing gate from the open space leading to the Main Street Promenade will remain to provide synergy with the public park.

In addition to the outdoor activities at the eastern portion of the site, the veterinary clinic intends to convert the existing 425 sq. ft. landscape area at the southwest corner of the site into a private dog run. The removal of two (2) off-street parking spaces will provide an additional 289 sq. ft. of open space to the dog run for ample space for dogs to run. The private dog run will include decomposed granite, a new 24” box tree, bench seating with sleep bars, and a 42” high metal fence that will match the existing fence along Broadway. The dog run will be used by clinic staff only and be used to provide an area for dogs to exercise during long visits. A new exterior door from the kennel will provide easy access for clinic staff to walk dogs, one at a time, from the kennel to the private dog run. “No trespassing” signage will be required to prevent unwanted visitors to all outdoor areas during non-operating hours.

The indoor dog and cat kennel will be located on the southwest corner of the existing building, adjacent to Broadway. Existing windows on the south side of the building along Broadway will allow the kennel to be viewed from the public sidewalk. The dog kennel will provide 28 dog enclosures, including five (5) additional enclosures located in a separate room for animals under quarantine or treatment for a communicable disease. The cat kennel will be in a separate room, adjacent to the dog kennel. In addition, the kennels will be equipped with cameras so owners can view their pets online, and equipped with sound proof walls to prevent noise pollution. The project is surrounded by commercial uses, a public park (Promenade) and a four-lane major corridor (Broadway). The nearest residential development from the proposed kennel is approximately 170

Attachment A

feet north. With the proposed operational hours and surroundings, staff feels the proposed kennel will not impose a significant noise impact to the area.

Off-Street Parking

The required off-street parking requirements in the Transit Mixed-Use zone and the parking provided by the project are as follows:

Use	Size	Parking Ratio	Required Parking
Retail	1,222 sq. ft.	4.3 spaces / 1,000 sq. ft.	5.25 = 5 spaces
Office	5,178 sq. ft.	3.0 spaces / 1,000 sq. ft.	15.53 = 15 spaces
Total Required:			20
Provided:			25

The proposed project will be using the existing parking layout (from the prior land use, Neighborhood Market), with the exception of removing two (2) off-street parking spaces to expand the private dog run, for a total of 25 off-street parking spaces, including two (2) ADA accessible parking spaces. Per the DVSP, “the basic parking rate is based on the size of the building.” The parking spaces provided exceeds the minimum required parking for an existing 6,400 square feet building. Since the building is less than 10,000 square feet, there is no loading space requirement.

Landscape

The required landscape area and the landscape area proposed by the project are as follows:

Landscape Requirements	Required	Provided
Min. 10% Landscape Area	2,700 sq. ft.	± 3,900 sq. ft.
Min. 25% Vegetated Plant Materials	675 sq. ft.	± 2,920 sq. ft.

Conditions for the proposed project will require that all landscaping be well-maintained and adequately watered at all times.

Screening

An existing trash container is currently screened by a solid masonry wall located at the northwest corner of the lot and will remain.

Street Improvements

The project location is on the north side of Broadway, between Olive Street and Lemon Grove Avenue. There is an existing curb, gutter and sidewalk, and a street light along Broadway. All

Attachment A

utilities fronting the property are placed underground. No additional street improvements are required at this time.

Public Information:

The Notice of Public Hearing for this item was published in the September 13, 2018 edition of the East County Californian and mailed to all property owners within 500 feet of the subject property. The City of Lemon Grove received no comments in response to the Notice of Public Hearing and Environmental Analysis at the time this staff report was prepared. At the time of the public hearing, Staff will provide the Planning Commission with any comments received after the date this Staff report is prepared.

Conclusion:

Staff recommends that the City Council conduct the public hearing and adopt a Resolution (**Attachment B**) conditionally approving Conditional Use Permit No. CUP-180-0003, a request to establish a veterinary clinic at 7770 Broadway in the Transit Mixed-Use (TMU) Zone of the Downtown Village Specific Plan.

Attachment B

RESOLUTION NO. 2018-

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LEMON GROVE CONDITIONALLY APPROVING CONDITIONAL USE PERMIT NO. CUP-180-0003, A REQUEST TO ESTABLISH A VETERINARY CLINIC WITH RETAIL SALES, INDOOR KENNEL, AND OUTDOOR ACTIVITIES AT 7770 BROADWAY, LEMON GROVE, CALIFORNIA.

WHEREAS, the applicant, The Sudeep Dhillon Corporation, filed an application for a Conditional Use Permit (CUP-180-0003) on May 23, 2018, a request to establish a 6,400 square foot veterinary clinic with retail sales, indoor kennel, and outdoor activities located at 7770 Broadway, Lemon Grove, California; and

WHEREAS, the proposed land use is allowed as a permitted use for retail sales activities, generally of a small-scale nature and oriented to the local residents and commuters (e.g., florists, grocery stores, convenience food stores, baked goods stores, gift stores, pharmacy); but excluding automobile related retail activities, and building supply sales. For the inclusion of veterinary services, a Conditional Use Permit is required (animal clinic); and

WHEREAS, the proposed use is a multifaceted veterinary clinic, with traditional medical care for animals and an indoor dog and cat kennel to board animals undergoing medical treatment. The retail component will feature pet supplies, organic dog food, dog treats and ice cream, and other pet related healthcare products. The clinic intends to offer for-sale prepackaged food and drinks for customers at an outdoor kiosk, and outdoor seating. The veterinary clinic will also provide outdoor activities such as dog training and daily vaccination clinic services, located at the eastern portion of the site, adjacent to the Promenade and under the existing shade sails. Lastly, the veterinary clinic will provide a fenced in private dog run, located at the western portion of the site, adjacent to the main entrance, and managed by clinic staff to allow dogs to roam free (one at a time) during long visits; and

WHEREAS, the Notice of Public Hearing for this item was published in the September 13, 2018 edition of the East County Californian and mailed to all property owners within 500 feet of the subject property; and

WHEREAS, on September 24, 2018, the Planning Commission held a duly noticed public hearing to consider Conditional Use Permit No. CUP-180-0003; and

WHEREAS, the City has found the proposed Conditional Use Permit to be categorically exempt from the environmental review requirements of the California Environmental Quality Act Guidelines (Section 15301, Existing Facilities); and

WHEREAS, the Planning Commission determined that the following findings of fact as required by section 17.28.050(C) can be made as follows:

1. The use is compatible with the neighborhood or the community; and
 - a. **The proposed land use is located in the Transit Mixed-Use 5 (TMU5) zone which allows animal clinics with approval of a Conditional Use Permit and allows retail sales activities as a permitted use.**
2. The use is not detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity; and
 - a. **The proposed use is categorically exempt from environmental impacts and no impacts are anticipated. The proposed veterinary clinic will be required to meet**

Attachment B

all applicable provisions of the Lemon Grove Municipal Code (LGMC) and conditions of approval.

3. The use complies with performance standards according to Section 17.24.080; and
 - a. **The proposed use complies or will be made to comply with applicable performance standards according to Section 17.24.080 of the LGMC (specifically noise, glare, traffic circulation and parking, waste, and fire hazards).**
4. The use is consistent with applicable provisions of the particular zoning district and with policies and standards of the general plan.
 - a. **The proposed use complies with the applicable provisions of the LGMC requirements and is consistent with the Transit Mixed-Use land use designation of the Lemon Grove Downtown Village Specific Plan (DVSP). The proposed veterinary clinic would provide a mix of uses within the same site, which is compatible with the surrounding neighborhood, and with the intent of providing a special service to serve the local community; and**

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Lemon Grove, California hereby:

SECTION 1. Approves Conditional Use Permit No. CUP-180-0003 and the site and architectural plans dated received August 16, 2018 (incorporated herein by reference as Exhibit A), except noted herein. The approval authorizes the establishment of a veterinary clinic with retail sales, indoor kennels, and outdoor activities at 7770 Broadway in the Transit Mixed-Use of the Downtown Village Specific Plan. Except as amended, the approval of this project shall be subject to the following conditions:

- A. Within five days of approval, the applicant shall comply with the following:
 1. Submit the appropriate payment for the CEQA filing fee and County Clerk Processing Fee (Categorical Exemption).
 2. Pay all outstanding fees for City permits related to this project.
- B. A building permit shall be required and obtained for proposed tenant improvements including electrical, plumbing and mechanical improvements. Structures and access shall meet current building and fire code regulations.
 1. Please clarify whether or not the building is equipped with a fire alarm system and note existing and proposed systems. A licensed contractor (C-10) is required to install or make adjustments to a fire alarm system.
 2. Note that all interior furnishings and decorative material will meet appropriate flame resistant classifications in the 2016 CA Fire Code Chapter 8.
 3. All improvements shall comply with Title 15 including 2016 Building and Fire Codes and ADA accessibility requirements.
- C. Prior to issuance of a building permit for the use authorized by this Conditional Use Permit, the applicant shall comply with the following:
 1. Comply with Conditions A through B of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 16, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director.

Attachment B

3. The applicant shall provide a letter indicating any hazardous materials to be used or stored on site for the veterinary clinic. This does not include normal business cleaning materials however; they must be in a limited quantity.
 4. The applicant shall provide a letter detailing the security provisions for the veterinary clinic and how the applicable Building and Fire Code requirements will be achieved for emergency ingress and egress.
 5. An encroachment permit with appropriate fee shall be required for all work proposed within the right-of-way.
- D. Prior to requesting a final inspection and occupancy of the structure, the applicant shall comply with the following:
1. Comply with Conditions A through C of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 16, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director.
 3. The most recent adopted California Fire Codes and Standards.
 4. A fire inspection is required prior to a certificate of occupancy or business license being issued. The applicant shall ensure the veterinary clinic is set up and ready for operation prior to the fire inspection.
 5. The electrical panel shall be clearly labeled and the panel door kept closed.
 6. Provide a Knox box padlock for all gates on fencing, or provide a Knox Box for the building and put the gate key inside for Fire Department Emergency Access.
 7. Current landscape regulations.
 8. Current standards for parking areas and striping. Damaged paving shall be repaired and maintained in a good condition consistent with LGMC Section 17.24.010. Designated parking spaces are prohibited on-site.
 9. Dumpsters shall be housed within a permitted trash enclosure.
 10. All means of gaining unauthorized access to the roof shall be eliminated.
 11. Roof hatches shall be secured so as to prevent intrusion.
- E. Upon establishment of use in reliance with this Conditional Use Permit, the applicant shall comply with the following:
1. Comply with Conditions A through D of this Resolution.
 2. All physical elements of the proposed project shown on the approved plans dated August 16, 2018, except as noted herein, shall be located, constructed and maintained substantially where they are shown in accordance with applicable Lemon Grove City Codes to the satisfaction of the Development Services Director and City Engineer.
 3. The building façade shall be well maintained at all times.
 4. All graffiti and trash and debris shall be removed daily.
 5. The hours of operation shall be restricted to 7am to 7pm six days week only (Monday through Saturday).



Attachment B

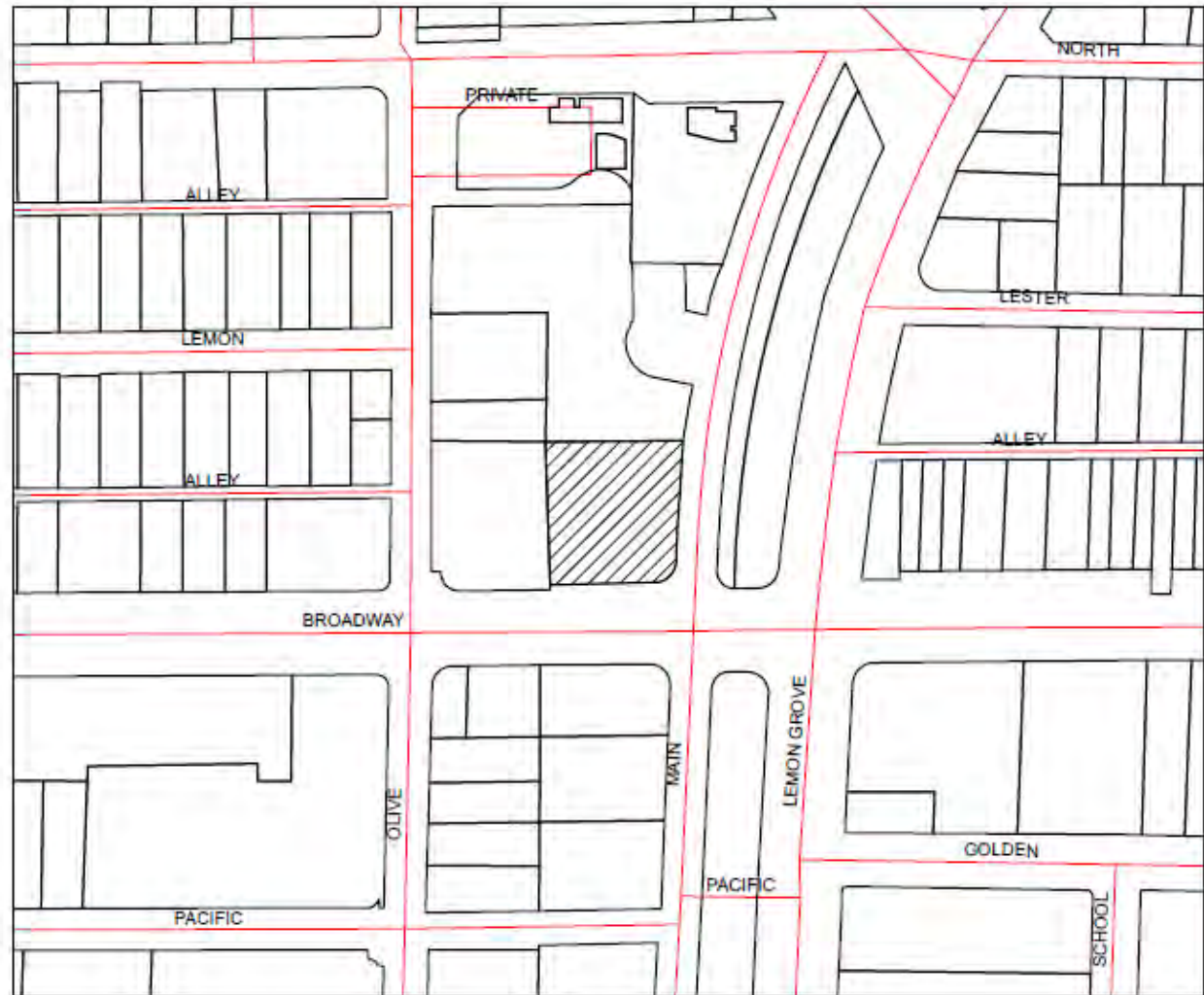
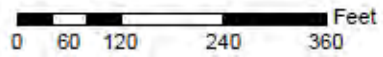
6. Except for designated employees, no persons shall be allowed within the tenant space except during normal business hours.
 7. Sheriff "No Trespass" authorizations to enter and conduct enforcement on the subject property shall be completed and current at all times (renewed every 30 days).
 8. The project shall comply with all applicable regulations in Municipal Code Section 18.16 (Animal Keeping), Title 6 (Animals), and Section 12.20.190 (Pets).
 9. The project shall comply with Municipal Code Section 17.24.080(F)(1) (Animal Sales and Services).
 10. All animals shall be leashed or in appropriate carriers at all times, except as authorized by clinic staff or trainers within fenced areas.
 11. Animal waste stations shall be maintained and cleaned at all times.
 12. Landscape shall be maintained in good condition at all times.
 13. The site plan shows no outdoor storage of equipment, materials or fleet vehicles. As such, all outdoor storage is prohibited (e.g., equipment, materials and fleet vehicles).
 14. This project approval does not include signage, and sign permits shall be obtained prior to installation. All signs shall conform to the Municipal Code Section 18.12.
 15. The project shall conform to all performance standards of Municipal Code Section 17.24.080.
 16. Proper drainage shall be maintained throughout this property so as to prevent ponding and/or storage of surface water.
- F. The terms and conditions of the Conditional Use Permit shall be binding upon the permittee and all persons, firms, and corporations having an interest in the property subject to this Conditional Use Permit and the heirs, executors, administrators, successors, and assigns of each of them, including municipal corporations, public agencies, and districts.
- G. This Conditional Use Permit expires September 24, 2019 (or such longer period as may be approved by the City Council of the City of Lemon Grove prior to said expiration date) unless all requirements of this Conditional Use Permit have been met prior to said expiration date.

CUP-180-0003



Legend

-  7770 Broadway
-  LG Parcels
-  Roads





CITY OF LEMON GROVE

JUL 26 2018

8360-B Paradise Valley Rd.
Spring Valley, CA 91977

DEVELOPMENT SERVICES

To the City of Lemon Grove:

Thank you for the opportunity for us to apply for a Conditional Use Permit with the City of Lemon Grove.

The Sudeep Dhillon, Corporation, was founded by Sudeep Dhillon, D.V.M., who, for over 20 years, worked tirelessly towards his goal of providing high quality affordable veterinary care in the greater San Diego County area. He operated his clinic in Spring Valley with his family under the name "Humane Vet Hospital of San Diego." Dr. Dhillon passed away in 2015. His legacy and the business continue to operate and prosper under the the management by Dr. Dhillon's sons, Suveer Dhillon, Raj Dhillon and their mother Roop Dhillon, all whom have a lifelong involvement in the management and operation of their veterinary business.

The Dhillon family currently operates the clinic in Spring Valley which has always been licensed and in good standing with the Veterinary Medical Board. As a result of their hard work and success the Dhillon's have outgrown their current location and now desire to move the clinic to 7770 Broadway, Lemon Grove, CA 91945, in hopes of opening a multifaceted veterinary clinic, with a kennel and a retail component to serve pet owners of Lemon Grove and the surrounding areas.

Our business is modeled after Dr Dhillon, by way of his work ethic, who, for 28 years, worked tirelessly 7 days a week providing house calls & staying late night during emergency hours to take care of sick dogs, cats and pets whose owners continually looked for his care, guidance and expertise as a veterinarian. The business continues to offer that personal level of care, professionalism and commitment unmatched in San Diego. We intend on operating from 7:00 A.M. to 7:00 P.M. daily with an average of 3 to 4 veterinarians and an average staff of 20 at the facility.

In addition to providing traditional medical care to animals, we plan to use the space for retail sales & dog training. The space at the Lemon Grove location allows for an opportunity to sell pet supplies, organic dog food, dog treats and ice cream, and other pet related healthcare products. We also intend on offering prepackaged food and drinks for our customers. Our vision is a pet retail center with veterinary care, where customers can get care for their sick pet while also shopping for supplies, food, and have a drink and snack while at the clinic. We also will offer outdoor dog training at the eastern part of the property between the existing building and the park. Additionally, on the south side of the building we plan on having a dog/cat kennel. The cat kennel can be viewed from the sidewalk on Broadway. We are working on a design so the kennels will be equipped with cameras so owners can view their pets online. All of these elements should create a unique visual environment for customers, pedestrians and will make this building and surrounding corner come alive.

Attachment D

HUMANE
VETHOSPITAL *of San Diego*

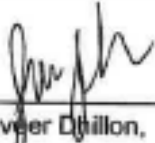
8360-B Paradise Valley Rd
Spring Valley, CA 91977

We are excited to introduce our preliminary design plans to the City. There is no comparable existing veterinary clinic in San Diego. Once completed, Lemon Grove will proudly boast the most state-of-the-art veterinary clinic in San Diego County. With the facility comes over 40,000+ former clients whom will be introduced to Lemon Grove and will help support the other surrounding business and economy.

Historically, we have been involved in many charitable community endeavors and non-profit affiliations that extend from the humane society, to offering low income assistance programs, and discounts to Veterans. We plan to continue our charitable contributions and expand them locally within Lemon Grove.

We are hopeful the City will give us the privilege of doing business in Lemon Grove. We feel we are right fit for this community and the community is the right fit for us.

The Sudeep Dhillon, Corp.



Sudeep Dhillon,
Chairman of the Board

Attachment E

September 18, 2018

Mr. Arturo Ortuno
City of Lemon Grove
3232 Main Street
Lemon Grove, CA 91945

RE: 7770 Broadway, Lemon Grove – Proposed Veterinary Clinic

Mr. Arturo Ortuno,

I am the owner of the property at the southeast corner of Lemon Grove Ave and Broadway. I am writing this letter in support of the proposed veterinarian business at the subject address. I believe getting the subject building occupied will be a great benefit to the community. Additionally, this business offering a service to the Lemon Grove and surrounding residents will be a good way to bring more people to the city. Please consider this letter my full support of the Veterinarian purchasing, renovating, and occupying the subject property.



Norman Greene, Owner: 7801-7825 Broadway, Lemon Grove, CA

Attachment F

EXHIBIT A – PROJECT PLANS

Not Attached

Enclosed in Planning Commission packet or available at City Hall for Review

**LEMON GROVE PLANNING COMMISSION
AGENDA ITEM SUMMARY**

Item No. 4
Mtg. Date September 24, 2018
Dept. Development Services Department

Item Title: Separation Findings for Discretionary Permits

Staff Contact: Mike Viglione, Assistant Planner

Recommendation:

Review proposed amendments to Zoning Code Application Procedures to include early separation findings for discretionary permits, and provide a recommendation to the City Council.

Item Summary:

For discretionary permits for large family daycares, medical marijuana dispensaries (MMDs), beekeeping, alcoholic beverage related businesses requiring a conditional use permit and adult entertainment uses, the land use cannot be established unless it is separated from specifically listed land uses. A separation finding is currently required to be made by the decision body at the time of final decision. At the July 17, 2018 City Council meeting, the City Council considered alternatives proposed by staff, and directed staff to prepare a Zoning Code amendment to allow for early separation findings to be made through a minor use permit (MUP). This may allow an applicant to obtain the required separation finding prior to final decision. Land uses established after this finding is made would not restrict an applicant from obtaining a permit. The staff report (**Attachment A**) provides the background and **Attachment B** is the draft ordinance that includes the proposed revisions for Planning Commission consideration.

Fiscal Impact:

[Unknown at this time.]

Environmental Review:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Not subject to review | <input type="checkbox"/> Negative Declaration |
| <input type="checkbox"/> Categorical Exemption, Section [] | <input type="checkbox"/> Mitigated Negative Declaration |

Public Information:

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> None | <input type="checkbox"/> Newsletter article | <input type="checkbox"/> Notice to property owners within 300 ft. |
| <input type="checkbox"/> Notice published in local newspaper | <input type="checkbox"/> Neighborhood meeting | |

Attachments:

- A. Staff Report
- B. Draft Ordinance
- C. Lemon Grove Municipal Code Excerpts

Attachment A

LEMON GROVE PLANNING COMMISSION STAFF REPORT

Item No. 4

Mtg. Date September 24, 2018

Item Title: Separation Findings for Discretionary Permits

Staff Contact: Mike Viglione, Assistant Planner

Background

At the April 17, 2018 City Council meeting, the City Council directed staff to present alternatives for making separation findings prior to final decision by the Development Services Director, Planning Commission and City Council. The City Council considered the alternatives presented by staff at their July 17, 2018 meeting.

The following background and discussion provides a general overview of applicable separation regulations in the Lemon Grove Municipal Code (LGMC) and a comparison of alternatives for early separation findings. It describes noticing and permit requirements and alternatives for early separation findings. **Attachment B** provides the draft ordinance that makes proposed revisions to LGMC 17.28.020 Application procedures, including the proposed amendments, shown in underlined text. **Attachment C** provides further detailed background on existing separation regulations in the LGMC and is provided for reference.

Regulatory Background

The LGMC requires separation findings to be made for large family daycares, medical marijuana dispensaries (MMDs), beekeeping, alcoholic beverage related businesses requiring a conditional use permit and adult entertainment uses as follows:

1. Large Family Daycares (LGMC Section 17.24.060(D)(3) Accessory buildings and uses - Daycares):
 - a. A facility shall not be established within one thousand feet of another such facility.
 - b. Requires a minor use permit conditionally approved by the Development Services Director with a \$500.00 deposit.
2. Medical Marijuana Dispensaries (LGMC Chapter 17.32 Medical Marijuana Regulations):
 - a. MMDs shall be 1,000 feet from regulated and protected uses inside and outside city limits. Regulated uses include MMDs and protected uses include public parks, playgrounds, licensed day care facilities, schools and alcohol and substance abuse treatment centers. The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels 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.

Attachment A

- b. Requires a zoning clearance and \$1,090.00 fee to review and approve separation requirements and application materials and requires a conditional use permit with City Council conditional approval and \$1,500.00 deposit.
 3. Beekeeping (LGMC Section 18.16.060 Exotic animals and beekeeping):
 - a. Up to four beehives may be permitted. Beehives shall be placed at least twenty-five feet from the exterior line of the traveled way of any public streets, at least twenty-five feet from the exterior line of any private access easement, at least fifteen feet from any side or rear lot line, and at least twenty-five feet from neighboring dwellings.
 - b. For three to four hives, a one-hundred-foot separation from neighboring dwellings is required.
 - c. Beehives shall be placed at least one hundred feet from the border of sensitive areas. Sensitive areas include areas where people, such as the elderly, small children, individuals with medical conditions or confined animals inhabit or frequent that are more at risk if stinging incidents were to occur. Sensitive areas are characterized by a demonstrated need for a greater safety buffer. These areas include, but are not limited to, schools, playgrounds, picnic areas, outdoor sports facilities, daycare centers, senior care facilities, medical facilities, and animal-boarding facilities. Property operators, owners, or residents who have medical reasons may apply to have their locations designated as sensitive sites. Businesses and facilities with employees who have medical reasons or where bees could cause a nuisance during normal work activities may also apply to have their locations designated as sensitive sites. The development services director may approve sites or remove sites previously approved or designated as sensitive sites upon request. Upon appeal, the city council has final discretion to approve designation of locations as sensitive sites upon review of supportive documentation.
 - d. Requires a beekeeping permit with \$35.00 fee similar to a Zoning Clearance approved by the Development Services Director.
 4. Alcoholic Beverage related Businesses Requiring a Conditional Use Permit including Convenience Markets, Bars, Nightclubs and Liquor Stores (LGMC Chapter 18.27 – Alcoholic Beverage Sales):
 - a. Businesses engaged in the sale or distribution of alcoholic beverages for off-site consumption shall maintain a minimum separation of 500 feet from any other business required to have a conditional use permit for the sale of alcoholic beverages. This subdivision shall not apply to incidental alcoholic beverage sales and warehouses, and distribution facilities.
 - b. Businesses engaged in the sale or service of alcoholic beverages for on-site consumption shall maintain a minimum separation of 1,000 feet from another business selling or serving alcoholic beverages requiring a conditional use permit for on-site consumption and a minimum of 500 feet from any other business requiring a conditional use permit for the on-site or off-site sale or service of alcoholic beverages; any church or other place of worship; any public or private preschool, elementary school or high school; any public park or playground; any

Attachment A

hospital, clinic, or other health care facility; any residential unit other than a caretaker's dwelling on a commercial or industrial property; and any property zoned for residential use. Based upon the particular circumstances involved, the city council shall determine the appropriate separation between private clubs and lodges operated by recognized national, state or regional religious or fraternal order and appropriate distances between such clubs and lodges and other types of land use.

- c. Requires a conditional use permit with City Council conditional approval and \$1,500.00 deposit.
5. Adult Entertainment including (LGMC Chapter 18.28 – Adult Entertainment):
 - a. Adult entertainment establishments include adult arcade, adult bookstore, adult cabaret, adult drive-in theater, adult mini-motion picture theater, adult model studio, adult motel, adult motion picture theater, adult theater, body painting studio, sexual encounter establishment and any other business which involves specified sexual activities or the display of specified anatomical areas. No adult entertainment establishment shall be permitted within 1,000 feet of another such business, within five hundred feet of any area zoned for residential use, or within six hundred feet of any church, school, public playground, park or recreational area.
 - b. Adult entertainment establishments are currently prohibited in all zones, but were previously allowed in the General Commercial zone.

Decisions of the Development Services Director can be appealed to the Planning Commission and decisions of the Planning Commission can be appealed to the City Council.

Discussion

The land uses subject to separation requirements cannot be established unless it is separated from specifically listed land uses as described above. Current LGMC regulations require a separation finding to be made by the decision body at the time of final decision. This requires an applicant to prepare all necessary plans and studies with staff approval prior to obtaining a final decision.

The City Council considered the following alternatives presented by staff for making separation findings:

1. At time of initial notice of complete or incomplete and within 30 days of initial application submittal.
2. At time of application being deemed complete which requires all architectural and engineering drawings and required reports and studies to be complete and approved by City staff.
3. At time of conditional approval by the Development Services Director, Planning Commission or City Council.
4. As a part of a separate zoning clearance, minor use permit or conditional use permit for the specific purpose of making an early separation finding. A zoning clearance would include no public noticing with appeal rights by the applicant. A minor use permit would

Attachment A

require a 500 foot radius public notice to property owners with conditional approval by the Development Services Director and appeal rights by the applicant and any member of the public. A conditional use permit would require a 500 foot radius public notice to property owners, a sign posted on the property and conditional approval by the Planning Commission and appeal rights by the applicant and any member of the public.

An important factor to consider is public noticing. For MMDs, the daycare lists are only requested once per year due to the approximate \$500 request cost charged by the State daycare licensing division. Small family daycares which are protected uses in accordance with LGMC Chapter 17.32 (Measure V) do not require any permit or business license from the City and their location will not be known unless the list is requested by the City at the requested cost. The LGMC requires a 500 foot public notice to property owners, not renters, radius notice for public notifications associated with minor use permits, conditional uses permits, planned development permits, tentative maps and tentative subdivision maps. Measure V requires that a MMD shall not be established within 1,000 feet of protected uses like daycares. If an early finding option could be made, the City Council could require public noticing to reflect the same distance as the separation requirement to give all affected properties an opportunity to appeal the decision or attend the public hearing. Also, a sign could be required to be posted on the property for a specific duration (e.g., 30 days) prior to the early finding being made. A public notice in the East County Californian could also be required.

Staff's primary concern with any alternative is public noticing. To ensure appropriate noticing, staff recommends that the minor use permit be required which will allow for a notice to property owners at an appropriate distance from the project site. Staff also recommends that the "sign posted on property" requirement be codified for all discretionary permits including minor use permits, conditional uses permits, planned development permits, tentative maps and tentative subdivision maps. This will ensure appropriate public noticing is provided for early findings and allows members of the public to appeal to the Planning Commission and further to the City Council. Staff notes that these recommendations are included in the proposed ordinance.

The City Council considered the alternatives presented and directed staff to prepare revisions to the Zoning Code that would allow for an early finding option (Alternative #4). This would entail an application for a MUP for a Director's determination that the separation distance shall equal the separation equivalent to the maximum distance of the applicable separation requirement. The MUP would expire after a period of one year. Noticing would include a sign posted on the property, and noticing of property owners at an appropriate distance from the project site.

Conclusion:

Staff recommends that the Planning Commission discuss the proposed amendments to the LGMC 17.28.020 Application procedures (**Attachment B**), provide comments to staff, and provide a recommendation to City Council for adoption of the ordinance.

Attachment B

Draft ordinance Separation Findings

17.28.020 Application procedures.

A. Purpose. This section establishes procedures for submitting and processing applications for proposed uses, structures, and/or improvements of real property, and related matters subject to this title; authorize the city to establish, modify, and collect fees, and set time limits for processing.

1. Definitions. Italicized words and terms found in this chapter are defined in Chapter 17.08.

2. Interpretation. In interpreting and applying the provisions of this title, uses, structures, and/or improvements shall be held to be the minimum requirements adopted for the promotion of the public health, safety, and general welfare.

3. Conflicts. Except as specifically provided, this title is not intended to impair or interfere with any previously issued permits or approvals relating to matters subject to this title. This title is not intended to interfere with, abrogate, or annul any easement, covenant, or other agreement between parties, provided that in cases in which this title imposes a greater restriction than is imposed or required by existing provisions of law or ordinance or by such easements, covenants, or agreements, the provisions of this title shall control.

B. Initiation. A proposed action may be initiated by application of the property owner, owner's agent, or another interested party, by the city council.

C. Pre-Application Conference. Prior to submission of an application package for a complicated or multi-faceted project, an applicant may request an unofficial conference with city staff to review the proposed project. Staff will evaluate the project in light of applicable city regulations, indicate possible concerns, identify required information, and note probable environmental impacts and possible mitigation requirements. Nothing in this conference shall be construed as actual or implied approval of any aspect of the proposed project.

D. Application Submittal. Prior to submitting application packages for permits or other approvals, the applicant shall obtain a zoning clearance according to Section 17.28.070. Thereafter, application packages shall be submitted to the development services department upon a prescribed form, accompanied by applicable fees according to subsection (D)(1), and related materials necessary to show that the proposed use, structures, and/or improvements of the property comply with applicable provisions of this code, state law, federal law and the requirements and conditions of any associated permit. Each application filed by, or on behalf of, one or more property owners shall be verified by at least one such owner or the owner's authorized agent attesting to the truth and correctness of all facts, statements, and information presented.

1. Fees. The city council shall establish and modify, by resolution, a schedule of fees and deposits for matters subject to this title. All applicable fees and deposits shall be paid in full prior to processing any application, appeal, or other matter for which a fee is required.

Applicable fees and/or deposits may be waived for charitable, youth or nonprofit organization activities upon approval by the city manager.

No fee shall be refundable except in any case where the development services director determines and certifies any such fee or portion thereof has been received in error, in which case the amount of money received in error shall be refunded to the proper party. Refunds will be processed in the same manner as other demands against the city.

2. Concurrent Processing. Applicants with more than one application related to the same project may have all applications processed simultaneously.

E. Time Limits.

1. Staff Review. Upon initial submittal, application packages shall be distributed to applicable departments for review. No more than thirty days following the date of initial submittal, application packages shall be deemed complete or incomplete with a request for more information. Once the requested information is received, the thirty day staff review cycle restarts. No action shall be taken on applications not yet deemed complete.

2. Deemed Complete Applications. Once deemed complete, applications then progress, in accordance with specific permit regulations in this title, to notices according to subsection F, to public hearing according to subsection G, then to decisions according to subsection H.

Attachment B

F. Notices. The notice shall state the purpose of the notice, a project description, and an explanation of the permit process, and be given by a date certain to affected parties according to subsections (F)(1), (2) and (3), as appropriate.

1. Public Hearings. Notices for public hearings shall also state the time, place, and purpose of the public hearing and shall be given by publication at least ten days prior to the public hearing. Notices to affected property owners shall be given at least ten days prior to the public hearing according to subsection (F)(2).

2. Affected Property Owners. The notice shall be mailed to all real property owners ~~within five hundred feet at an appropriate distance from~~ all exterior boundaries of the subject property at least ten days prior to the decision. Notices shall be mailed using the names and addresses of the owners as shown on the latest equalized assessment roll in the office of the county assessor. Where the address of such owner is not shown on such assessment roll, failure to send notice by mail to such property owner shall not invalidate any proceedings in connection with such action. In the event that the number of owners to whom notice would be sent according to this subsection is greater than one thousand, then notices may, instead, be given by placing a display advertisement of at least one-eighth page in a newspaper having general circulation within the affected area.

In addition, temporary on-site sign(s) along the properties' street frontage(s) and legible from across the street on pedestrian pathways shall be posted on the property at least ten days prior to the public hearing and until certificate of occupancy is granted for the proposed land use, but not to exceed a period of one year. The signs shall be a minimum of six feet high, six feet wide, and not to exceed 64 72 square feet total for two sides or 32 36 square feet for one side. Such sign shall include the permit numbers, property location and APN number, a site plan and description of the project, project name, and the applicant's name, address and telephone number to the satisfaction of the development services director. Signs shall be maintained in good condition at all times.

3. California Environmental Quality Act (CEQA) and State Law. Notices shall be made according to Government Code Sections 65090 through 65091, as amended. Processing time frames will apply unless extended environmental review is required by state law or this code.

G. Public Hearings. A public hearing is the opportunity for the advisory body, the hearing body, or the appellate body to obtain public testimony or comments prior to making a decision. The public hearing shall be conducted in accordance with this chapter and Section 2.14.090 of this code. Public hearings may be continued to another time without requiring further public notice, so long as the future time and place are announced before adjournment of the hearing.

1. Scheduling. Public hearings of the city council shall be subject to the rules regarding the placing of matters on its agenda, respectively. Subject to state planning and environmental laws, public hearings shall not be held earlier than ten or later than sixty days following submission of an appeal application or a deemed complete application according to subsection (E)(2). The time limit specified in this subsection may be extended by mutual consent of the applicant and the development services director; however, in no case shall this time period exceed one hundred eighty days.

2. Notice. Notices of public hearings shall be given according to subsection (F)(1).

3. Outcome. At the close of the public hearing, the advisory body may recommend approval, conditions, limitations, or denial; while the hearing body or the appellate body may make a decision. The hearing body may impose such conditions or limitations as it deems necessary to serve the general purpose and intent of this title. The matter may also be referred back to the lower body for further consideration or action. The appellate body may sustain, modify, deny or reverse, wholly or in part, any decision by a lower body. The decision may also be referred back to the lower body for further consideration or action.

H. Decisions and Effective Date of Decisions. Development services director decisions are made within thirty days of applications being deemed complete. City council and city council decisions are made within twenty days of the close of the public hearing. Decisions shall become effective ten days following the decision date, unless an appeal has been filed according to subsection K.

Attachment B

Unless otherwise stated in the approval or permit, or in the conditions of approval, approvals and permits shall run with the land and shall continue to be valid upon a change of ownership of the site or structure.

1. Conditions of Approval. The development services director, the city council may attach such conditions as deemed necessary to ensure compliance with this code.

2. Response to Referral. Where an application, appeal or other matter is referred to a lower body for further consideration, a response to that referral shall be submitted to the applicant and the referring body within forty days following said referral.

I. Appeals. Any applicant or other interested person who is dissatisfied with the denial, approval, conditional approval, or other application decision made in the administration of this title may appeal the decision. Decisions made by the development services director are appealed to the city council. Decisions made by the city council are final.

Appeal applications, accompanied by the filing fee, shall be filed within ten days following the date a decision is made, on forms provided by the development services department. Appeals of development services director decisions shall be submitted to the city clerk. Appeals will be heard at a public hearing that has been noticed according to subsection F and conducted according to subsection G. Failure of the appellate body to make a decision according to subsection H shall be deemed in agreement with the previous decision.

All rights of appeal are exhausted when the proceedings set forth herein have been completed. An applicant shall not apply for the same or similar use affecting all or part of the property within twelve months of the effective date of the decision of denial, or as otherwise specified at the time of the decision of denial.

J. Expirations. Applications, approvals and permits issued according to this title will expire in accordance with the following:

1. Application Expiration. Unless there has been substantial activity toward submitting a deemed complete application package according to subsection D, such application package shall expire after a continuous twelve-month period of inactivity. Thereafter, the applicant may submit a new application package according to subsection D.

2. Approval and Permit Expiration.

a. Any temporary use permit expires at the conclusion of the permitted use.

b. Other approvals or permits subject to this title shall expire:

i. Twelve months from the effective date of the decision, unless construction and/or use in reliance has commenced or as otherwise stated in the conditions of approval; or

ii. If the use for which it was issued is discontinued for a continuous period of twelve months.

K. Time Extensions. At any time prior to the expiration of approvals or permits subject to this title, the permittee for such approval or permit may file a written request for an extension of time. The development services director may grant an initial extension of the term of the permit. The city council shall consider all subsequent requests for time extensions, according to subsection (F)(2), and if:

1. The form and intensity of the project for which the approval or permit was issued have not been significantly altered, and

2. The conditions or circumstances which supported the findings of fact required for the original approval or permit have not changed and appear unlikely to change within the period of the proposed extension of time.

L. Substantial Conformance Review. Any project submittal made subsequent to obtaining a use permit authorized by this title shall be in substantial conformance with that use permit. At the request of the owner, or in the event that submittals or field conditions are found to not be in conformance, a substantial conformance review application, accompanied by the filing fee, shall be filed and processed according to subsection D. If the project is found to not be in substantial conformance, the applicant may request a modification of the use permit according to subsection M.

M. Permit Modifications. Permit modification applications, accompanied by the filing fee, may be filed at any time prior to the initial expiration date of the project's use permit. Applications shall be processed according to subsection D.

Attachment B

N. Revocation of Approvals and Permits. Any structures and/or improvements constructed, erected, altered, moved, or maintained contrary to a use permit and/or other provisions of this title, and any use of any land or structure established, conducted, or maintained contrary to an approval, permit and/or other provisions of this title, shall be declared to be unlawful and a public nuisance.

1. Procedure. The development services director shall immediately commence action or proceedings for the abatement of a violation of this title, according to Chapter 1.24. If the owner, operator or other responsible entity fails or refuses to abate any public nuisance according to subsection N, the development services director may schedule a public hearing, according to subsection G, to consider the following actions:

- a. Requiring whatever assurance deemed appropriate to guarantee that such violation will be corrected in a timely manner and will not occur again;
- b. Imposing additional conditions or limitations affecting the physical design of the property or its use;
- c. Revoking any approvals or permits subject to this title, according to the appeals provisions of subsection K.

In the event the development services director refers an enforcement matter to the city council, the city attorney shall, upon order of the city council, immediately apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure and restrain and enjoin any person from erecting, maintaining, or using any property contrary to the provisions of this title.

O. Early Separation Findings. Separation findings required as a part of any permit described in this Chapter may be made early, prior to application materials being submitted and prior to a decision by the Development Services Director, Planning Commission and/or City Council as a part of a Minor Use Permit application for the sole purpose of finding that the application meets or does not meet the required separation requirements. No other approval may be granted as a part of this permit. This finding that the application meets separation requirements shall be valid for up to one year before the early finding expires.

OP. The remedies provided for in this title shall be cumulative and not exclusive. Nothing herein is intended to conflict with applicable state laws or federal laws. (Ord. 434 § 5, 2015; Ord. 386 § 3, 2009)

Attachment C

LGMC Section 17.24.060(D)(3) - Accessory Buildings and Uses

3. Day Care. A facility licensed and equipped as required by law, which provides nonmedical care or supervision for periods of less than twenty-four hours, is allowed as follows:
 - a. Small family day care is permitted in single-family dwellings in all residential zones according to the following standards:
 - i. Day care is provided in a single-family dwelling for one to eight people, depending on ages, including children under the age of ten residing in the home.
 - ii. The day care provider shall reside in the home.
 - b. Large family day care is permitted in single-family dwellings in the RL, RL/M and RM zones according to the following standards:
 - i. Day care is provided in a single-family dwelling for up to fourteen people, depending on ages, including children under the age of ten residing in the home.
 - ii. The day care provider shall reside in the home.
 - iii. Obtain a minor use permit according to Section 17.28.050.
 - iv. Play areas shall be situated in such a manner as to minimize the impact of noise on surrounding properties. The development services director may require the installation of six-foot high masonry walls, landscaping, and/or other noise attenuating devices.
 - v. Adequate street capacity and an area sufficient for dropping off and picking up persons shall be provided to the satisfaction of the development services director and the public works director in a manner consistent with traffic safety requirements.
 - vi. A facility shall not be established within one thousand feet of another such facility. The distance between any two large family day cares shall be measured in a straight line, without regard to intervening properties or structures, from the closest exterior wall of each dwelling.
 - vii. Additional conditions shall be limited to reasonable traffic, parking, and noise control and compliance with the development standards of the zoning district.

LGMC Chapter 17.32 – Medical Marijuana Regulations

17.32.010. Purpose.

This Chapter establishes the regulations for the use of *medical marijuana*, to the extent allowed by State

Law, in a way that will minimize the impacts on the community and help pay for costs associated with the usage of a controlled substance. This Ordinance does not authorize or permit any conduct not allowed by state law.

17.32.020. Applicability.

A. The intent of this section is to regulate the cultivation, processing and dispensing of *medical marijuana* in a manner that protects the health, safety and welfare of the community. This section is not intended to interfere with a *qualified patient* or *Primary caregiver's* right to *Medical marijuana*, as provided for in California Health & Safety Code Section 11362, nor criminalize the same.

B. *Medical marijuana* for personal use shall be in conformance with the standards set forth in this Title.

17.32.030. Release of Liability and Hold Harmless. The owner and permittee of a *Medical Marijuana Dispensary* or cultivation facility shall release the City of Lemon Grove, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of cooperative or collective or cultivation owners, operators, employees, *Primary caregiver* or *Qualified patients* for violation of state or federal laws in a form satisfactory to the Director of Development Services. In addition, the business owner and permittee of each *Medical marijuana* cooperative, collective or cultivation facility shall

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indemnify and hold harmless the City of Lemon Grove and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the cooperative, collective or cultivation facility, and for any claims brought by any of their *Qualified patients* for problems, injuries, damages, or liabilities of any kind that may arise from the distribution, cultivation and/or on- or off-site use of *Medical marijuana* provided at the cooperative, collective or cultivation facility in a form satisfactory to the Director of Development Services.

17.32.040. Application. *Medical marijuana Dispensary* which dispense, process and cultivate medicinal marijuana shall be required to obtain a Conditional Use Permit consistent with 17.28.050 prior to operation. The fact that an applicant possesses other types of state or City permits or Licenses does not exempt the applicant from the requirement of obtaining a Conditional Use Permit to operate a *Medical marijuana Dispensary*.

17.32.050. Definitions. The following words and phrases are italicized throughout this title and shall have the meanings found in this section.

"Director" means a corporate officer, corporate board member, or employee with supervisory responsibilities of an authorized *Dispensary* business that dispenses *medical marijuana*.

"Licensed Physician" means a person educated, clinically experienced, and licensed by the Medical Board of California, or the Osteopathic Medical Board of California to practice medicine.

"Medical Marijuana" means marijuana product used for the treatment of pain and suffering caused by diseases and ailments. *Medical marijuana* does not include recreational use.

"Medical Marijuana Dispensary" (*Dispensary*) means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, as defined by Section 19300.5 of the California Business and Professions Code.

"Medical Marijuana Identification Card" (*MMIC*) A document provided by the San Diego County *Medical Marijuana Identification Card (MMIC)* Program pursuant to the State Department of Health Services that identifies a *Qualified patient* authorized to engage in the medical use of marijuana and the person's designated *Primary caregiver*, if any as per California Health and Safety Code §11362.7, and as may be amended.

"Operations Manual" a manual that each *Dispensary* shall develop, implement and maintain on the *Premises* which contains requirements outlined in Section 17.32.090.C.6.

"Person with an Identification Card" means an individual who is a *Qualified patient* who has applied for and received a valid identification card pursuant to this article and the California Health and Safety Code §11362.7, and as may be amended.

"Premises" means a lot, parcel, tract or plot of land, together with the buildings, structures and appurtenances thereon.

"Primary caregiver" means the individual or individuals designated by a *qualified patient* who has consistently assumed responsibility for the housing, health or safety of that *qualified patient*. As used herein, a *Primary caregiver* may only grow, administer, transport, or engage in the activities regulated hereunder on behalf of the *qualified patient* for whom they have consistently assumed responsibility for the housing, health or safety of that *qualified patient*. A *primary caregiver* may engage in other activities as specifically enumerated herein.

"Protected Uses" are for purposes of computing distance separations from any public or private preschools and schools, licensed daycare facilities, any park or playground, alcohol and substance abuse treatment centers.

"Qualified patient" means a person who has obtained a written recommendation or approval from a *licensed physician* to use marijuana for personal medical purposes.

"Regulated uses" are for purposes of computing distance separations for *medical marijuana* Cooperative or Collective businesses (with or without accessory cultivation uses) but excluding individual residential cultivation sites operated by *qualified patients* or *primary caregiver* and located solely in Single Family Residential Zones.

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17.32.060. General Provisions

The following information must be submitted with an application to request *medical marijuana* use in conformance to this section and the City of Lemon Grove. All documents which relate to the general provisions and the requirements listed in the submittal requirements must be included in the *Operations Manual*.

A. Physician/Patient Confidentiality.

All processes and reviews conducted pursuant to this Ordinance shall preserve to the maximum extent possible all legal protection and privileges. Disclosure of any member information shall not be deemed a waiver of confidentiality of those records under any provision of state law.

B. Medical marijuana Cultivation Permitted by Compassionate Use Act.

All cultivation of marijuana for medical purposes shall not be declared unlawful by the City of Lemon Grove when said cultivation is conducted solely for the personal medical purposes of *qualified patients*, in accordance with the Compassionate Use Act of 1996. Such cultivation may include the cultivation and possession of both male and female plants in all stages of growth, clones, seedlings and seeds and related cultivation equipment and supplies. *Qualified patients* and/or their *primary caregivers* may cultivate individually and/or collectively as permitted by the State of California and as outlined in the following sections.

17.32.080. Findings

In addition to the findings required for the granting of a Conditional Use Permit by Section 17.28.050 of this Title, the decision making authority shall consider the following:

- A. Whether the approval of the proposed use will violate the minimum requirements set forth in this chapter for distance separations between establishments which dispense, process or cultivate *Medical marijuana*; and separations between establishments which dispense, process or cultivate *Medical marijuana* and other specific regulated or protected land uses as set forth in this chapter.
- B. Whether the proposed use complies with Title 17 of the Lemon Grove Municipal Code.

17.32.090. Medical marijuana Dispensary Regulations

A. Zones:

Dispensaries may be established by Conditional Use Permit in the Heavy Commercial (HC), Limited Commercial (LC), General Commercial (GC) and Light Industrial (LI) Zones and subject to the distance requirements. *Dispensaries* are prohibited in Mixed-Use Zones (Downtown Village Specific Plan and Central Commercial) and all residential zones (RLM, RL, RM, RMH).

B. Distance Requirements

An application may be submitted provided the proposed facility meets the required distance measurements. For purposes of measurements, all *Dispensaries* are considered *Regulated uses* and public parks as defined at Section 12.20.030 of Lemon Grove Municipal Code, playgrounds as defined at Section 18.28.020, subdivision (v), of the Lemon Grove Municipal Code, licensed day care facilities as defined at Section 17.08.030 of Lemon Grove Municipal Code, schools as defined at California Health and Safety Code section 11362.768, subdivision (h), and alcohol and substance abuse treatment centers are considered *Protected Uses*. Measurement is made between the closest property lines of the *Premises* in which the *Regulated uses* and *Protected Uses* are located. A regulated use must not be:

1. Within 1000 feet of any other regulated use which is located either inside or outside the jurisdiction of the City,
2. Within 1000 feet from any protected use which is located either inside or outside the jurisdiction of the City.

The measurement of distance between uses will take into account natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct

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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. Standards

1. **Background Check Required for *Directors* and Employees.** The *Director* and employees of a *Dispensary* must obtain a Live Scan background check through the California Department of Justice or the San Diego County Sheriff's Department prior to employment. *Directors* convicted of a serious felony, as defined in California Penal Code section 1192.7, subdivision (c), and Health & Safety Code Section 11359 (Possession for sale) within the previous ten years shall not be eligible for a license. Other potential collective employees and volunteers convicted of the crimes identified in this section in the previous five years are ineligible for employment or participation. If during employment with the *Dispensary*, a *Director* or employee is convicted of a crime identified in this section shall be immediately dismissed from employment or required to resign as a corporate board member or officer. For purposes of this section, a conviction in another state that would have been a conviction equivalent under California law to those convictions specified in this section will disqualify the person from employment or volunteering at the *Dispensary*.
2. **Security Personnel Required.** *Dispensaries* shall have at least one uniformed security guard on duty during operating hours that possess a valid Department of Consumer Affairs "Security Guard Card."
3. **Community Relations Liaison Required.** *Dispensaries* shall designate a community relations liaison (liaison) who shall be at least 18 years of age. The liaison may also be the *Director* of the *Dispensary*. To address community complaints or operational problems with the *Dispensaries*, the individual designated as the community relations liaison shall provide his or her name, phone number and email address to the following:
 - a. Lemon Grove City Manager,
 - b. San Diego County Sheriff's Department personnel supervising law enforcement activity in Lemon Grove
 - c. All neighbors within one hundred feet of the *Dispensary*.
4. **Inspection of Premises.** City Code Enforcement Officers, San Diego Sheriff's Department staff, and any other employee of the City requesting admission for the purpose of determining compliance with the standards set forth in this section shall be given access to the premise. City and Sheriff Staff shall not retain information pertaining to individual patient records viewed during an inspection, and information related to individual patients shall not be made public. Inspectors will give reasonable notice of a scheduled inspection. Unannounced inspections of a *Dispensary* may occur if City or Sherriff Department staff have probable cause that the collective is violating the law.
5. **Inspection Requirements.** In order to facilitate verification that a *Dispensary* operates pursuant to State and local laws, the following records must be maintained at the *Premises* at all times and available for inspection by City Code Enforcement Officers, San Diego Sheriff's Department staff, and any other employee of the City:
 - a. Client Records - The *Dispensary* shall keep a record of its clients. The record shall include the following and shall be maintained for a two-year period:
 - i. *Qualified patient* member's name, name of *primary caregiver* when appropriate, and name of *Licensed Physician* recommending use of *medical marijuana* for the member.
 - b. *Medical Marijuana* Records - *Dispensary* shall keep a record of its *medical marijuana* transactions. The following records shall be maintained for a two-year period and labeling shall occur as specified:

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- i. A record identifying the source or sources of all *Medical marijuana* currently on the *Premises* or that has been on the *Premises* during the two-year period preceding the current date. The record shall include the name of the cultivator or manufacturer and the address of the cultivation or manufacturing location.
 - ii. All *Medical marijuana* at the *Premises* must at all times be physically labeled with information that will allow for identification of the source of the *Medical marijuana*.
 - iii. All *Medical marijuana* at the *Premises* shall be physically labeled with the monetary amount to be charged.
 - c. Financial Records - *Dispensary* shall maintain records of all transactions involving money and/or *Medical marijuana* occurring at the *Premises*. Records shall be maintained for a two-year period preceding the current date.
 - d. Employee Records - *Dispensary* shall maintain a record of each employee/volunteer and *Director*. The record shall include name and background check verification. Records shall be maintained for a two- year period following the end of an employee's employment or *Director's* relationship with the *Dispensary*.
6. **Operations Manual.** The application for a Conditional Use Permit shall include a detailed *Operations Manual* including but not necessarily limited to the following information:
- a. Authorization for the City, its agents and employees, to seek verification of the information contained within the application;
 - b. A description of the staff screening process including appropriate background checks;
 - c. The hours and days of the week the *Dispensary* will be open;
 - d. Text and graphic materials showing the site, floor plan and facilities of the *Dispensary*. The material shall also show adjacent structures and land use;
 - e. A description of the security measures located on the *Premises*, including but not limited to, lighting, alarms, and automatic law enforcement notification;
 - f. A description of the screening, registration and validation process for *qualified patients*;
 - g. A description of *qualified patient* records acquisition and retention procedures;
 - h. The process for tracking *Medical marijuana* quantities and inventory controls employed, including the source of *Medical marijuana* (on-site cultivation, processing, or plant material, or processed products, received from outside sources);
 - i. Procedures to ensure accurate record keeping, including protocols to ensure that quantities purchased do not suggest re-distribution;
 - j. Other information required by the Development Services Director.
7. **Operating Standards.** *Dispensaries* shall comply with all of the following operating standards. In addition to these standards, the *Dispensaries* shall comply at all times with conditions outlined in the approved Conditional Use Permit and the Operational Manual.
- a. Dispensing *Medical marijuana* to an individual *qualified patient* or *primary caregiver* more than once a day is prohibited;
 - b. *Dispensaries* shall only dispense *Medical marijuana* to an individual *qualified patient* or *primary caregiver* who has a valid, verified *Licensed Physician's* recommendation, and if appropriate, a valid *Primary caregiver* designation. The *Dispensary* shall verify that the *Licensed Physician's* recommendation is current and valid;
 - c. On-site evaluation by a *Licensed Physician* for the purposes of obtaining a qualified status is prohibited;
 - d. *Dispensaries* shall display the client rules and/or regulations in a conspicuous place that

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is readily seen by all persons entering the *Dispensary*. The client rules and/or regulations shall include, but are not limited to:

- i. Each building entrance to a *Dispensary* shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming *Medical marijuana* on the *Premises* or in the vicinity of the *Dispensary* is prohibited unless specifically authorized within the governing Conditional Use Permit.
- ii. The building entrance to a *Dispensary* shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the *Premises*.
- iii. The hours of operation for an authorized *Dispensary* shall be limited to between 8:00 a.m. to 8:00 p.m. or as specified within the Conditional Use Permit.
- iv. *Dispensaries* shall not permit the use or consumption of *medical marijuana* on-site unless specifically authorized under the Conditional Use Permit.
- v. *Dispensaries* shall not permit the on-site display of unprocessed marijuana plants or representations of marijuana plants in any areas visible to the public;
- vi. All signage for *Dispensaries* shall require a sign permit from the City prior to installation. Signage shall not include any terminology (including slang) or symbols for marijuana.
- vii. *Dispensaries* shall only permit the distribution of *medical marijuana* plant material and *medical marijuana* manufactured products from licensed sources as allowed by the approved Conditional Use Permit. Such distribution shall be limited to *qualified patients* or *primary caregiver*;
- e. *Dispensaries* shall maintain on the *Premises* an on-site training curriculum capable of meeting employee, agents and volunteer training needs. The minimum training curriculum shall include professional conduct, ethics, and state and federal laws regarding patient confidentiality; specific procedural instructions for responding to an emergency, including robbery or violent incident.
- f. *Dispensaries* shall maintain all necessary permits, and pay all appropriate taxes. *Dispensaries* shall also provide invoices to cultivators and manufacturers to ensure tax liability responsibility;
- g. *Dispensaries* shall implement procedures as outlined in their approved *Operations Manual*;
- h. *Dispensaries* shall submit an "Annual Performance Review Report" for review and approval by the Development Services Director. The "Annual Performance Review Report" is intended to identify effectiveness of the approved Conditional Use Permit, *Operations Manual*, and Conditions of Approval, as well as any proposed modification to procedures as deemed necessary. The Development Services Director may review and approve amendments to the approved "*Operations Manual*"; and the frequency of the "Annual Performance Review Report." *Medical marijuana* cultivation and dispensing monitoring review fees pursuant to the current Master Fee Schedule shall accompany the "Annual Performance Review Report" for costs associated with the review and approval of the report.
- i. *Dispensaries* shall maintain 24-hour recorded video surveillance of the *Premises*. Recordings shall be retained for 30-days for inspection by City staff. City staff must provide valid cause for viewing video surveillance. City staff must ensure that patient privacy is safeguarded. Video surveillance will not be shared with law enforcement except when formally requested as part of a law enforcement investigation directly involving the *Dispensary*.

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- j. Sales of alcoholic beverages are prohibited.
 - k. Sales of tobacco and tobacco products are prohibited.
 - l. Sales of drug paraphernalia are prohibited.
 - m. The location of the *Dispensary* shall include the installation of a centrally monitored alarm system
 - n. Lighting shall be installed to adequately light the exterior and interior of the *Dispensary Premises* while in conformance with 17.24.080£.2.
8. **Source of Medical Marijuana.** A *Dispensary* shall only dispense marijuana from the following sources and this information shall be included in the *Operations Manual*:
- a. On-site Cultivation for Authorized *dispensary*. If the Conditional Use Permit authorizes limited, on-site *Medical marijuana* cultivation at the *dispensary*, on-site cultivation shall be considered an accessory use and shall not exceed twenty-five (25) percent of the *dispensaries'* total floor area and in no case exceed 1,500 square feet. In addition to these area limitations, the accessory use shall conform to the specific zone regulations, Section 17.24.060 Accessory Buildings and Uses, Section 17.32.100 of this Title, and applicable Building and Fire Codes. The *Operations Manual* shall include information regarding the on-site cultivation including, but not limited to:
 - i. Description of measures taken to minimize or offset energy use from the cultivation or processing of *medical marijuana* on-site; and
 - ii. Description of chemicals stored or used; and
 - iii. Description of any effluent discharged into the City's wastewater and/or stormwater system;
 - a. **Licensed External Source.** Until one year following the date when the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, *Dispensaries* shall source their *medical marijuana* from cultivators and manufacturers that have obtained a local business license or equivalent document showing that the organization is operating in zoning and regulatory compliance from another jurisdiction for the *Medical marijuana* cultivation or manufacturing. One year from the date that the California State Bureau of Medical Marijuana Regulation begins accepting applications for licenses, or sooner, if such a deadline is set by the Bureau, all sources of *medical marijuana* or *medical marijuana* products sold in a *dispensary* must also have a state license for their *medical marijuana* activities.

17.32.100. Medical Marijuana Cultivating Regulations.

The cultivation of *medical marijuana* for personal use by a *qualified patient* shall be permitted in connection with a residence owned or leased by a *qualified patient* and meeting the minimum standards noted below.

A. Medical Marijuana Cultivation for Personal Use

- 1. An individual *qualified patient* shall be allowed to cultivate *Medical marijuana* within his/her private residence. If the private residence is leased or rented, a notarized authorization from the property owner must be filed with the City. A *primary caregiver* shall only cultivate *Medical marijuana* at the residence of a *qualified patient* for whom he/she is the *primary caregiver*.
- B. **Zones.** Cultivating *medical marijuana* is allowed in conforming Residential Low (RL) and Residential Medium/Low (RLIM) zones where there is an existing single family development subject to the following standards and authorized by a Zoning Clearance.

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C. Standards

1. Cultivation shall only occur within an enclosed structure that can be secured and locked including the residence, new or remodeled addition to a residence, residential accessory building or a legally converted garage.
2. Garage conversions shall require a replacement in kind prior to authorizing a cultivation area.
3. The grow area shall be within a self-contained structure, with a 1-hour firewall assembly made of green board, and shall be ventilated with odor control, and shall not create a humidity or mold problem
4. The *Qualified patient* shall reside in the residence where the *Medical marijuana* cultivation occurs;
5. The interior area dedicated to the cultivation of marijuana in an existing residence or within a proposed addition to the residence shall not exceed 50 square feet.
6. An accessory structure containing a *Medical marijuana* cultivation area shall not exceed 50 square feet and shall be consistent with the accessory structure requirements of the residential zone and Section 17.24.060.
7. *Medical marijuana* cultivation lighting shall not exceed 1200 watts;
8. Evidence of *medical marijuana* cultivation either within or outside the residence shall not be visible from outside the *Premises*.
9. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and shall not be displaced by *Medical marijuana* cultivation.
10. The *medical marijuana* cultivation area shall be in compliance with the current, adopted edition of the California Building Code § 1203.4 Natural Ventilation or § 402.3 Mechanical Ventilation (or its equivalent(s)).
11. The *medical marijuana* personal cultivation and processing shall comply with stormwater, wastewater, and applicable greenhouse gas reduction requirements;
12. Personal *medical marijuana* cultivation and processing shall not be visible from the exterior of the *Premises*;
13. A *Qualified patient* or *Primary caregiver* shall participate in *Medical marijuana* cultivation in only one residential location within the City of Lemon Grove.

D. Prohibitions

1. The cultivation of *medical marijuana* shall not be authorized by or considered a Home Occupation and no Home Occupation permit shall be issued.
2. The use of gas products (CO₂, butane, etc.) for *medical marijuana* cultivation or processing for personal use.
3. Sale or dispensing of *medical marijuana* from a residential zoned property.
4. Signage identifying any uses related to *medical marijuana* in a residential zone.

E. Deviations

1. Any proposed *medical marijuana* cultivation for personal use by an individual *qualified patient* or *primary caregiver* that does not meet the grow area standard of Section 17.32.090.8 shall require review and approval by the director of Development Services or designee. The proposed deviation from the cultivation area limitations shall be processed as a Zoning Clearance. The director of Development Services or designee shall review the submitted information and make an interpretation of need. A complete

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application shall include the following documentation:

- a. *Licensed Physician's* recommendation or verification of more than one *qualified patient* living in the residence shall be submitted with the request showing why the cultivation area standard is not feasible.
- b. Written permission from the property owner.
- c. Show conformance to the residential zone and accessory building regulation.
- d. The Building Official and Fire Chief may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.
- e. *Medical marijuana* cultivation area shall be enclosed in a structure with a 1-hour firewall assembly of green board.
- f. The *medical marijuana* cultivation area shall not exceed 100 square feet.

17.32.110. Transportation of Medical Marijuana.

All activities involving the transportation of marijuana for personal patient use, to the extent permitted by The Compassionate Use Act of 1996, shall be conducted by *Qualified patients* and/or the authorized *Primary caregiver* of the *Qualified patient*, where the quantity transported and the method, timing and distance of the transportation are reasonably related to the medical needs of the *Qualified patient*. All personal transportation shall be conducted in accordance with state law.

All activities involving the transportation of marijuana for a *Dispensary* shall comply with California State Regulations, restrictions and guidelines, as enumerated in Division 8, Chapter 3.5 of the California Business and Professions Code, and established by the Bureau of Medical Marijuana Regulations.

17.32.120. Procedures

A. Administrative Citation and Revocation.

1. Any violation of this ordinance occurs the City has the authority to immediately cite a *Dispensary* for the violation. The *Dispensary* is given one warning and if not corrected within seven calendar days, the City may issue an administrative citation of \$500 per violation. The citations may escalate according to the schedules identified in Section 1.12.012 until and unless the violations have been corrected.
2. A use permit may be revoked according to Section 17.28.020, subdivision (n) (Revocation of Permits and Approval). Revocation proceedings may occur for non-compliance with the governing Condition Use Permit or Zoning Clearance and any of the standards in this Chapter.

B. Transfer of Use Permit. The rights of an approved Use Permit to operate a *Dispensary* may be transferred to another *Dispensary* as a Use Permit modification according to Section 17.28.020, subdivision (m).

C. Appeals. Any applicant or other interested person may appeal a decision by the Development Services Director according to Section 17.28.0201.

D. Fees. Applications filed under this Ordinance shall be reviewed and processed on a full cost recovery basis pursuant to the current Master Fee Schedule. The City Council may amend the Master Fee Schedule from time to time to ensure for full cost recovery of administration of any Permit issued under this Ordinance.

E. Amendments. Amendments to this Chapter shall conform to the process identified in Section 17.28.080. (Ord. 443 § 1, 2016)

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18.16.060 Exotic animals and beekeeping.

A. The keeping of animals considered to be members of a rare and endangered species, exotic or wild animals, including dangerous or poisonous reptiles, shall not be permitted within the city, except as provided in Section 6.04.420 of the Lemon Grove Municipal Code.

B. Beehives may be kept within the residential low and low/medium zoning districts subject to the following:

1. The beekeeper shall apply for a beekeeping permit. The permit application shall be filed on a form available from the development services department and shall be accompanied with a nonrefundable fee as established by resolution of the city council.

2. Up to four beehives may be permitted. Beehives shall be placed at least twenty-five feet from the exterior line of the traveled way of any public streets, at least twenty-five feet from the exterior line of any private access easement, at least fifteen feet from any side or rear lot line, and at least twenty-five feet from neighboring dwellings. For three to four hives, a one-hundred-foot **separation** from neighboring dwellings is required.

3. Beekeepers shall keep sufficient open water available near the beehives during hot and dry weather in compliance with vector control regulations.

4. Beehives shall be well maintained at all times.

5. A beehive shall be no larger than fifteen cubic feet in volume.

6. Only docile bee species may be permitted.

7. Registration with the county of San Diego Department of Agriculture, Weights, and Measures is required prior to beekeeping activities.

8. The following firefighting materials shall be maintained, in good working condition, at all times when the beehive is attended by the keeper, sufficiently near the beehive so as immediately to be available in case of fire:

a. A shovel; and

b. Either a fire extinguisher of the two and one-half-gallon water-under-pressure type or the five-gallon back-pump type or its equivalent; or a garden hose connected to a source of water.

9. Beehives shall be placed at least one hundred feet from the border of sensitive areas. Sensitive areas include areas where people, such as the elderly, small children, individuals with medical conditions or confined animals inhabit or frequent that are more at risk if stinging incidents were to occur. Sensitive areas are characterized by a demonstrated need for a greater safety buffer. These areas include, but are not limited to, schools, playgrounds, picnic areas, outdoor sports facilities, daycare centers, senior care facilities, medical facilities, and animal-boarding facilities.

10. Property operators, owners, or residents who have medical reasons may apply to have their locations designated as sensitive sites. Businesses and facilities with employees who have medical reasons or where bees could cause a nuisance during normal work activities may also apply to have their locations designated as sensitive sites. The development services director may approve sites or remove sites previously approved or designated as sensitive sites upon request. Upon appeal, the city council has final discretion to approve designation of locations as sensitive sites upon review of supportive documentation. (Ord. 439 § 2, 2016)

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LGMC Chapter 18.27 - Alcoholic Beverage Sales

18.27.010 Statement of necessity.

A. The city council finds and determines that the sale and use of alcoholic beverages contributes to problems encountered by residents, businesses, property owners, visitors and workers of the city of Lemon Grove. Documented problems include: (1) debilitating and life-threatening medical conditions such as those related to the dysfunction of the heart and circulatory system, stroke and diseases of the liver; (2) social problems such as child and family neglect and abuse, public drunkenness, and lost productivity; (3) public safety issues relating to drunk driving and related automobile traffic and pedestrian accidents, violence and crime.

B. The city council finds and determines that, without the appropriate regulation, the sale, service and use of alcoholic beverages may adversely and seriously affect the peace, health, safety and welfare of residents of the community and may specifically affect the safety of children and of visitors to the city, may contribute to the deterioration of neighborhoods, cause devaluation of property, erode community values and lower the quality of life.

C. The city council finds that relatively high densities of alcohol outlets are associated with relatively higher rates of related medical disorders, relatively higher rates of social problems and alcohol-related traffic casualties. (Ord. 446 § 2, 2017)

18.27.020 Purpose.

A. To deal with and ameliorate problems and adverse conditions associated with establishments which sell, serve or give away alcoholic beverages by restricting the location of such uses in relation to one another, and their proximity to facilities primarily devoted to use by children and families and the general public, and through the denial of a conditional use permit or through the imposition of conditions on a case-by-case basis, thereby preventing undue concentration and undesirable community impact of such uses, and by the imposition of reasonable conditions upon the operation of all such uses both existing and in the future.

B. To implement the purposes, policies, and programs of the general plan. (Ord. 446 § 2, 2017)

18.27.030 Definitions.

The following words and phrases are specifically defined to apply to the regulations of this chapter. Where words are not defined here or elsewhere in this municipal code, their common meaning shall apply.

A. "Alcoholic beverage" means and includes alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

B. Alcoholic Beverage Sales, Incidental.

1. Alcoholic beverage sales in restaurants shall be considered incidental if all of the following conditions exist:

- a. Alcoholic beverages are sold for consumption on the premises only;
- b. The primary purpose of the establishment is sit-down dining with table service;
- c. The restaurant contains a fully equipped kitchen, which is utilized each day of business operation for preparation of meals to be served to patrons;
- d. Full food service is available in the restaurant for all hours that the facility,

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including the bar or cocktail lounge, is open;

e. Take-out food service, if any, is only incidental to the primary use, sit-down food service;

f. The restaurant offers no drive-up or drive-through service and does not have a take-out window;

g. A separate bar or cocktail lounge may be located on the premises;

h. No alcoholic beverage is served in conjunction with any form of adult entertainment in accordance with Chapter 18.28.

2. Alcoholic beverage sales in food stores other than convenience markets shall be considered incidental when the shelving or display area allocated to alcoholic beverages does not exceed more than ten percent of the total shelf and display area within the store.

3. Alcoholic beverage sales in drug stores with a floor area greater than ten thousand square feet, with or without the sale of household merchandise, beauty supplies, toiletries, and packaged food products, shall be considered incidental when the shelving or display area allocated to alcoholic beverages does not exceed six percent of the total shelf and display area within the store.

4. Brewpubs, wine bars, rectifiers, and alcoholic beverage manufacturers with accessory on- and off-sale alcoholic beverage sales, including, but not limited to, tasting rooms and off-sale alcoholic beverages that are manufactured on-site with catering permitted on-site shall be considered incidental provided performance standards in Section 17.24.080(E) are adhered to.

5. Accessory indoor music and outdoor consumption of alcoholic beverages within a private fenced area shall be considered incidental provided noise regulations within Section 9.24.080(B) are adhered to during the hours between seven p.m. to seven a.m.

C. "Brewpub" means a small primary or accessory beer manufacturer, which may include a restaurant, where the alcohol is produced exclusively at its own premises and sold for on- and/or off-site consumption. This operation allows the sale of other supplier's alcohol for consumption on its own premises.

D. "Convenience markets" means, for purposes of this chapter, any store selling food and household merchandise to the public, which has a floor area less than ten thousand square feet.

E. "Establishment" means a place of business with its furnishings and staff which may be regarded as the smallest unit conveyable by sale, rent or lease.

F. "Notice and order" means the community development director's written notice and order to a business or facility owner or operator which directs such owner or operator to comply with city regulations and the specific requirements of the conditional use permit or zoning clearance authorizing the operation of the business or facility which sells, serves or gives away alcoholic beverages.

G. "Off-sale liquor establishment" means any establishment wherein alcoholic beverages are sold or given away for consumption off the premises, including, but not limited to, any establishment which is applying for or has obtained a liquor license from the California Department of Alcoholic Beverage Control, including types 20 and 21.

H. "On-sale liquor establishment" means any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises, including, but not limited to, any establishment which is applying for or has obtained a California Department of Alcoholic Beverage Control license types 41, 42, 47, 48, 51, 52 and 63.

I. "Rectifier" means to cut, blend, rectify, mix, flavor and color distilled spirits and wine

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upon which excise tax has been paid and, whether rectified by the licensee or another person, to package, label, export and sell the products to persons holding licenses authorizing the sale of distilled spirits.

J. "Tasting room" means an area used for accessory alcoholic beverage retail consumption on the premises where the alcoholic beverages are produced.

K. "Wine bar" means a small primary or accessory wine beverage manufacturer, which may include a restaurant, where the wine is produced exclusively at its own premises and sold for on- and/or off-site consumption. This operation allows the sale of other supplier's alcohol for consumption on its own premises.

L. Substantial Change in Mode or Character of Operation. Any of the following actions or situations will constitute a "substantial change in mode or character of operation" for purposes of this chapter:

1. The establishment changes its type of retail liquor license within a license classification; or

2. The establishment ceases operation for a period of thirty-one days. The suspension of business during the diligent prosecution of building repairs or remodeling undertaken under the authority of a valid building permit shall not be considered a substantial change in the mode or character of operation if the repairs or remodeling do not change the nature of the licensed premises and do not increase the square footage of the area which constitutes the establishment;

3. Any addition exceeding ten percent of the existing floor area is made to the building or portion of a building occupied exclusively by a business which sells or serves alcoholic beverages and which would be subject to approval by conditional use permit, if being established as a new use;

4. Any modification, remodeling or renovation of an existing building, or portion thereof, occupied exclusively by a business or facility which sells or serves alcoholic beverages, when the value of such modification, remodeling, or renovation exceeds fifty percent of the replacement value of the subject premises as determined by the building official;

5. The establishment is found to be a public nuisance by the city council;

6. The California Department of Alcoholic Beverage Control has held a formal hearing regarding accusations of violations, by the establishment, of ABC rules and has determined that such violations have occurred.

M. Timely Compliance.

1. For all violations involving the unauthorized enlargement or physical modification to the existing building, facility or outdoor service area, timely compliance means complete removal of the physical modifications which constitute the violation or submittal of detailed working drawings sufficient for an application for building permit and a complete application for modification of the conditional use permit or zoning clearance which authorizes the business or facility. Evidence of the complete removal of unauthorized work, or the working drawings and complete application shall be filed in the office of the development services department within fifteen calendar days following the receipt of the development services director's notice and order by the owner, operator or employee-in-charge of the business or facility.

2. For all violations, other than those described in subsection L of this section, such as, but not limited to, the sale or display of unauthorized fortified wines, the display of unauthorized advertising signs, exceeding shelf area limitations; "timely compliance" means full compliance within twenty-four hours following receipt of the development services director's notice and order by the owner, operator or employee-in-charge of the business or

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facility. (Ord. 446 § 2, 2017)

18.27.040 General provisions.

A. Alcoholic Beverage Sales or Service, New and Substantial Changes. Except as otherwise stated herein, on and after the effective date of the ordinance creating this chapter, no place, facility or business wherein alcoholic beverages are sold, served or given away for on-site or off-site consumption, shall be established or shall affect a “substantial change” in mode or character of operation as defined in Section 18.27.030(G) without first obtaining a conditional use permit, or modification of an existing conditional use permit, pursuant to Section 17.28.050 of the zoning ordinance. A zoning clearance shall be required if alcoholic beverage sales or services are “incidental” as defined in Section 18.27.030(B).

B. Alcoholic Beverage Sales or Service, Not Authorized by CUP or zoning clearance. Except for those places, businesses and facilities described in subsection A of this section as an establishment having a conditional use permit or zoning clearance and being in full or substantial compliance with current requirements, on and after the effective date of the ordinance creating this chapter, all existing places wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption shall be considered nonconforming uses. Elimination of nonconforming status may be achieved by filing the appropriate application, receiving a conditional use permit or zoning clearance as required by this chapter, and complying with conditions of approval which shall be limited to the minimum conditions of approval as set forth in Section 18.27.060(A) and (B). These requirements shall be enforced according to the provisions of subsection C of this section. For existing businesses selling alcoholic beverages, the requirements of this chapter relating to minimum separations between the existing business, similar establishments and other specific land uses shall be waived.

C. Alcoholic Beverage Sales or Service—Enforcement. The alcoholic beverage sales ordinance shall be enforced according to the provisions of Section 18.27.120 of the development code and Section 17.28.020 of the zoning ordinance. (Ord. 446 § 2, 2017; Ord. 386 § 3, 2009)

18.27.050 Findings.

In addition to the findings required for the granting of conditional use permits by Section 17.28.050 of the zoning ordinance, the decision making authority shall consider the following:

A. Whether the proposed use will result in an undue concentration of establishments selling alcoholic beverages as defined by the state Alcoholic Beverage Control Department (ABC) or by city ordinance, resolution, or policy.

B. Whether the approval of the proposed use will violate the minimum requirements, set forth in this chapter, for distance separations between establishments which sell, serve or give away alcoholic beverages; and separations between establishments which sell, serve or give away alcoholic beverages and other specific land uses.

C. Whether the proposed use will be located in an area which, based on the most recent yearly compilation by the San Diego County sheriff’s department or other appropriate law enforcement agency, has experienced a greater than average number of reported crimes and arrests, including those reported as alcohol-related, as well as, criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, motor vehicle theft combined with all arrests for other crimes, felonies and misdemeanors, except traffic citations. (Ord. 446 § 2, 2017; Ord. 386 § 3, 2009)

18.27.060 Minimum conditions of approval.

A. Businesses or facilities providing alcoholic beverages for off-site consumption shall comply with the following minimum conditions of approval. However, the city council may impose such additional conditions and restrictions as found necessary or desirable to achieve

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the purposes of this chapter.

1. No alcoholic beverages shall be consumed on the premises under the control of the business owner or the property owner, excepting when alcoholic beverages are manufactured on the premises.
2. Adequate litter receptacles shall be provided.
3. All display of alcoholic beverages shall be located a minimum of five feet from the store entrance.
4. For establishments which sell or give away alcoholic beverages and also sell gasoline, no signs advertising alcoholic beverages may be visible from the exterior of the building. Except for liquor stores, the signage for which shall be governed by conditional use permit and the city sign ordinance, signage advertising alcoholic beverages for all other establishments selling alcoholic beverages for off-premises consumption shall be limited to no more than fifty percent of the temporary window display permitted by the sign ordinance (twelve and one-half percent of total window area). Not more than two neon signs which hang on the inside of a window may be permitted subject to, and deducted from, the area limitations established in this subsection. No reference to liquor, any alcoholic beverage or product, or alcoholic beverage brand name may be included in any permanent signage for any establishment selling alcoholic beverages for off-site consumption other than that displayed by liquor stores or alcoholic beverage manufacturers when they are on the premises.
5. No wine shall be displayed, sold or given away in containers of less than seven hundred ml, except multipack containers of wine and wine coolers containing no more than fifteen percent alcohol by volume.
6. No distilled spirits shall be displayed, sold or given away in containers of less than two hundred fifty ml, except two hundred ml pre-mixed cocktails.
7. The display, sale or distribution of fifty ml "airport bottles" and three hundred seventy-five ml "hip flask" containers is prohibited.
8. No single serve beer, ale or malt liquor shall be offered for sale in a container with a volume equal to or greater than thirty-two ounces, excepting off-sale alcoholic beverages from manufacturers on the premises. This restriction is not intended to prohibit the sale of such beverages in kegs or other types of containers, with a volume of two or more gallons, which are clearly designed to dispense multiple servings.
9. No wine with an alcoholic content greater than fifteen percent by volume shall be displayed, sold or given away unless the following conditions are met:
 - a. The alcohol content is solely the result of the natural fermentation process; or
 - b. If the alcohol content resulting from natural fermentation has been increased by the addition of wine spirits, brandy, or other alcohol, the wine must be sealed and capped by cork closure and aged for two or more years.
10. All litter shall be removed from the exterior areas around the building as required and no less frequently than once each day this business is open.
11. The operation of the business shall comply fully with all the rules, regulations and orders of the state Alcoholic Beverage Control Department. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit or zoning clearance.
12. The business shall comply with all of the conditions of the conditional use permit or zoning clearance which authorizes its operation.
13. For all businesses other than liquor stores, brewpubs, wine bars, rectifiers and

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manufacturing, warehouse, and distribution facilities, the display, sale and distribution of alcoholic beverages shall be accessory to other permitted activities. Except where Section 18.27.030(B)(3) requires a greater limitation, shelving or other display area allocated to the display of alcoholic beverages shall not exceed ten percent of the total shelf or display area within the premises.

14. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.

15. No display, sale or distribution of beer or wine, wine coolers or similar alcoholic beverages shall be made from an ice tub or similar container.

16. Employees engaged in the sale or distribution of alcoholic beverages shall be at least twenty-one years old, or at least one salesperson twenty-one years old or older must be on the premises during all times when alcoholic beverages are sold.

17. Businesses engaged in the sale or distribution of alcoholic beverages for off-site consumption shall maintain a minimum separation of five hundred feet from any other business required to have a conditional use permit for the sale of alcoholic beverages. This subdivision shall not apply to incidental alcoholic beverage sales and warehouses, and distribution facilities.

B. Businesses providing the sale or service of alcoholic beverages for on-site consumption shall comply with the following minimum conditions of approval. However, the city council may impose such additional conditions and restrictions as are found necessary or desirable to achieve the purposes of this chapter.

1. Except within city-approved outdoor places which are adequately separated from direct public access via a fence or other means, no alcoholic beverages shall be consumed outside of an enclosed building.

2. For restaurants, bars, taverns and cocktail lounges, signs advertising alcoholic beverages shall be limited to no more than fifty percent of the temporary window display permitted by the sign ordinance (twelve and one-half percent of total window area). Not more than two neon signs which hang on the inside of a window may be permitted subject to, and deducted from, the area limitations established in this subsection.

3. Except for manufacturers, brewpubs, wine bars and rectifiers, no reference to liquor, any alcoholic beverage or product, or alcoholic beverage brand name may be included in any permanent signage for any establishment selling alcoholic beverages for on-site consumption other than that displayed by bars, taverns and cocktail lounges.

No wine with an alcoholic content greater than fifteen percent by volume shall be displayed, sold or served unless the following conditions are met:

a. The alcohol content is solely the result of the natural fermentation process; or

b. If the alcohol content resulting from natural fermentation has been increased by the addition of wine spirits, brandy, or other alcohol, the wine must be sealed and capped by cork closure and aged for two or more years.

4. All litter shall be removed from the exterior of the building as required and no less frequently than once each day the business is open.

5. The operation of the business or facility shall comply fully with all the rules, regulations and orders of the state Alcoholic Beverage Control Department. Failure to comply with these requirements shall constitute grounds for revocation of a conditional use permit or zoning clearance.

6. For all businesses and other facilities engaged in the sale or service of alcoholic beverages for on-site consumption other than bars and taverns, the sale of alcoholic beverages shall be incidental and accessory to other permitted activities.

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7. Employees engaged in the sale or service of alcoholic beverages for on-site consumption shall be at least twenty-one years old.

8. Except for incidental alcoholic beverage sales businesses, businesses engaged in the sale or service of alcoholic beverages for on-site consumption shall maintain a minimum separation of one thousand feet from another business selling or serving alcoholic beverages for on-site consumption and a minimum of five hundred feet from any other business requiring a conditional use permit for the on-site or off-site sale or service of alcoholic beverages; any church or other place of worship; any public or private preschool, elementary school or high school; any public park or playground; any hospital, clinic, or other health care facility; any residential unit other than a caretaker's dwelling on a commercial or industrial property; and any property zoned for residential use. Except that existing businesses that serve alcohol and that were located closer than five hundred feet or one thousand feet from another business serving alcohol prior to adoption of the ordinance codified in this chapter shall be allowed to expand their business as long as the expansion does not violate the distance requirements from any of the designated sensitive uses identified in this section above. Based upon the particular circumstances involved, the city council shall determine the appropriate separation between private clubs and lodges operated by recognized national, state or regional religious or fraternal order and appropriate distances between such clubs and lodges and other types of land use. (Ord. 446 § 2, 2017)

18.27.070 Measurement of distance.

A. Types of Uses.

1. "Regulated uses" are those businesses and facilities which sell, serve or give away alcoholic beverages and which have been identified in Sections 18.27.060(A)(16) and 18.27.060(B)(8).

2. "Protected uses" are churches or other places of worship; any public or private preschool, elementary school or high school; any park or playground; any hospital, clinic, or other health care facility; any residential unit other than a caretaker's dwelling on a commercial or industrial property; and any property zoned for residential use.

B. Distance Computation.

1. When a physical separation is required between two regulated uses, the distance of such separation is measured along a straight line extending between the closest exterior structural walls of each use.

2. When a physical separation is required between a regulated use and a protected use, the distance of such separation is measured along a straight line extending between the closest exterior structural wall of the regulated use and the closest property line of the protected use. (Ord. 446 § 2, 2017)

18.27.080 Notification to alcoholic beverage control department.

A. Within five days following the city's approval of a conditional use permit or zoning clearance for a business proposing to sell, serve or give away alcoholic beverages, the city will send a written notice of such approval to the local office of the State Alcoholic Beverage Control Department.

1. The notice shall include a copy of the resolution or notice of approval and will state that city approval of the business or other facility proposing to sell, serve or give away alcoholic beverages has been granted subject to compliance, by the business or facility, with certain specific conditions.

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2. The notice shall indicate the final date for the filing of any appeals from the decision or conditions of approval.

3. The notice shall state clearly in its heading and text that formal city approval of the business or facility which proposes to sell, serve or give away alcoholic beverages will be withheld until the business has complied with all appropriate conditions of approval.

B. Within three working days of the city's determination that a business proposing to sell alcoholic beverages has fully complied with all appropriate conditions of approval of a conditional use permit or zoning clearance, a notice regarding such full compliance will be sent to the local ABC office. (Ord. 446 § 2, 2017)

18.27.090 Notification regarding violations.

Each time the development services director determines that a business or other facility which sells, serves or gives away alcoholic beverages has violated any provision or condition of its conditional use permit, zoning clearance, other city law or regulation, or any requirement of the state Alcoholic Beverage Control Department, it shall issue a written notice and order to the owner of the business or facility. The notice and order shall include the following:

A. A requirement that the business owner or facility operator correct all violations immediately.

B. A statement that a violation of the alcoholic beverage sales ordinance constitutes a misdemeanor subject to the general penalty provisions of this code, that conviction of a misdemeanor shall be punishable by fine or imprisonment or both such fine and imprisonment, and that each day a violation is committed or continued constitutes a separate offense.

C. A statement that, in addition to the penalties stated in Section 18.27.080, failure to comply in a timely manner or repeated violations may result in a revocation of the conditional use permit or zoning clearance which authorizes the maintenance of an establishment selling, serving or giving away alcoholic beverages.

D. A notification that a written report of such violation or violations has been transmitted to both the owner of the property where the business or facility is being conducted or operated and to the local office of the Alcoholic Beverage Control Department. (Ord. 446 § 2, 2017)

18.27.100 Justification for revocation of approvals.

Any business establishment which has been authorized by the city to sell, serve or give away alcoholic beverages shall comply fully with all city zoning and sign regulations, with all conditions attached to the approval of its conditional use permit or zoning clearance, and with all rules, regulations and orders of the State Alcoholic Beverage Control Department. Failure to comply with any of these requirements shall constitute grounds for revocation of a conditional use permit or zoning clearance. (Ord. 446 § 2, 2017)

18.27.110 Hearing regarding alleged violations.

If a business or other facility which sells, serves or gives away alcoholic beverages has been declared a public nuisance; if it has been found, by the California Department of Alcoholic Beverage Control, to be in violation of ABC rules; if its owner or operator fails to comply or refuses to comply with a notice and order to correct a violation in a timely manner; or if the development services director, on three separate occasions within any twelve-month period has issued a written notice and order to the owner of said business or operator of the facility, pursuant to Section 18.27.080, requiring the correction of specific violations of its conditional use permit or zoning clearance, the city council will schedule a public hearing, consistent with

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the requirements of Section 17.28.020 of the zoning ordinance to consider these matters. Following such public hearing, the city council may make any findings which it believes to be supported by the facts presented in the hearing, including the following:

A. It may find that the alleged violation(s) did not occur, were beyond the control of the business owner or facility operator, or were insignificant.

B. It may find that the alleged violation(s) did occur, that they were the responsibility of the business owner or facility operator, and were significant. As part of its determination regarding the appropriate action to be taken, the city council may consider whether the violations were corrected immediately after being brought to the owner's or facility operator's attention, whether such violations constitute a minor or major violation of this chapter and its purpose and intent, and whether such violations appear to constitute a pattern of disregard for the city's laws and the standards of the community. (Ord. 446 § 2, 2017; Ord. 386 § 3, 2009)

18.27.120 City actions in response to violations.

If, after a public hearing and full examination of the evidence regarding alleged violations of the city's regulations governing the sale, service or distribution of alcoholic beverages, the city council makes findings similar to those stated in Section 18.27.110(A) it may choose to take no action against the owner of the subject business or operator of the subject facility. However, if the evidence submitted in the public hearing convinces the city council that a significant violation has occurred, it may take one or more of the following actions:

A. Imposition of additional conditions governing the physical design of the building or property where the business is conducted or the facility is operated.

B. Attachment of additional conditions or limitations affecting the operations of the business or facility.

C. The city council may determine that the business or facility, and its manner of operation, constitutes a serious threat to the preservation of the public health, safety and welfare and may take one or both of the following actions:

1. It may revoke the conditional use permit or zoning clearance which authorizes the business or facility to sell, serve or give away alcoholic beverages.

2. It may recommend that the city council declare that the business or facility is a public nuisance subject to abatement or enjoinder in the manner provided by law. (Ord. 446 § 2, 2017)

LGMC Chapter 18.28 – Adult Entertainment

18.28.010 Purpose.

It is the purpose of this chapter to establish reasonable and uniform regulations to prevent the concentration of adult entertainment establishments, as defined in this chapter, within the city of Lemon Grove. These regulations are intended to prevent problems of blight and deterioration which accompany and are brought about by the concentration of adult entertainment establishments.

18.28.020 Definitions.

The following words and phrases are specifically defined to apply to the regulations of this chapter. Where words are not defined here or elsewhere in the municipal code, their common meanings shall apply.

A. "Adult bookstore" means an establishment that devotes more than fifteen percent of the

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total floor area utilized for the display of books and periodicals to the display and sale of the following:

1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specific sexual activities or specified anatomical areas; or
2. Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

An adult bookstore does not include an establishment that sells books or periodicals as an incidental or accessory part of its principal stock-in-trade and does not devote more than fifteen percent of the total floor area of the establishment to the sale of books and periodicals.

B. "Adult cabaret" means a nightclub, bar, theater, restaurant or similar establishment which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas and/or which regularly features films, motion pictures, video cassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

C. "Adult drive-in theater" means an open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

D. "Adult hotel or motel" means a hotel, motel or similar establishment offering public accommodations for any form of consideration which provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

E. "Adult mini-motion picture theater" means an establishment, with a capacity of more than five but less than fifty persons, where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

F. "Adult model studio" means any establishment open to the public where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution which meets the requirements established in the Education Code of the state of California for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

G. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

H. "Adult motion picture theater" means an establishment, with a capacity of fifty or more

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persons, where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical area for observation by patrons.

I. "Adult theater" means a theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical area for observation by patrons.

J. Anatomical areas. See "Specified anatomical areas" (Section 18.28.030(A)).

K. "Body painting studio" means any establishment or business which provides the services of applying paint or other substances, whether transparent or nontransparent to or on the human body when such body is wholly or partially nude in terms of specified anatomical areas.

L. Bookstore. See "Adult bookstore" and "General bookstore."

M. Cabaret. See "Adult cabaret."

N. "Church" means an institution which people regularly attend to participate in or hold religious services, meetings and other activities. The term "church" shall not carry a secular connotation, and shall include buildings in which the religious services of any denomination are held.

O. Drive-In Theater. See "Adult drive-in theater."

P. "General bookstore" means an establishment engaged in the buying, selling and/or trading of new and/or used books, manuscripts and periodicals of general interest. A general bookstore does not include an establishment that is encompassed by the definition of adult bookstore.

Q. "General motion picture theater" means a building or part of a building intended to be used for the specific purposes of presenting entertainment as defined herein, or displaying motion pictures, slides, or closed circuit television pictures before an individual or assemblage of persons, whether such assemblage be of a public, restricted or private nature, except a home or private dwelling; where no fee, by way of an admission charge, is charged; provided, however, that any such presentations are not distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical area in that any such depiction or description is only incidental to the plot or story line. A general motion picture theater does not include any establishment that is defined by adult motion picture theater, adult mini-motion picture theater, adult motion picture arcade, or adult drive-in theater.

R. "Legitimate or live theater" means a theater, concert hall, auditorium or similar establishment which, for any fee or consideration, regularly features live performances which are not distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas in that any such depiction or description is only incidental to the primary purpose of the performance.

S. "Massage parlor" means an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state of California. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

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T. Motion Picture Theater. See “General motion picture theater.”

U. Parlor. See “Massage parlor.”

V. “Public playground/park/recreational area” means an area to which the public and particularly children, come to participate in athletic or recreational activities whether or not such activities are supervised or organized. Such areas include, but are not limited to, publicly owned and maintained parks, community gardens, athletic fields, playgrounds, and picnic areas.

W. Rap parlor. See “Massage parlor.”

X. “School” means an institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school, or any special institution of learning under the jurisdiction of the State Department of Education, but it does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

Y. “Sexual encounter establishment” means an establishment, other than a hotel, motel or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or persons may congregate, associate or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional person licensed by the state of California engages in sexual therapy. For the purposes of these regulations, sexual encounter establishment shall include massage or rap parlor or other similar establishments.

Z. Sexual activities. See “Specified sexual activities” (Section 18.28.030(B)). (Ord. 422, 2014)

18.28.030 Special phrases.

The following expressions shall be interpreted according to the specific and detailed meanings provided.

A. “Specified anatomical areas” means:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the aureole; or
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

B. “Specified sexual activities” means:

1. The fondling or other touching of human genitals, pubic region, buttocks, anus, or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or
3. Masturbation, actual or simulated; or
4. Excretory function as part of or in connection with any of the activities set forth in subsections (B)(1) through (3) of this section.

C. “Establishing an adult entertainment establishment” means:

1. The opening or commencement of any such establishment as a new establishment; or

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2. The conversion of an existing establishment, whether or not an adult entertainment establishment, to any of the adult entertainment establishments defined herein; or

3. The addition of any of the adult entertainment establishments defined herein to any other existing adult entertainment establishment; or

4. The relocation of any such establishment.

D. "Transfer of ownership or control" means:

1. The sale, lease or sublease of such establishment; or

2. The transfer of securities which constitute a controlling interest in such establishment, whether by sale, exchange or similar means; or

3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of such establishment, except for transfer by bequest or other operation of law upon the death of the person possessing such ownership or control.

18.28.040 Activities regulated.

For the purpose of this chapter, the following activities as defined in this chapter shall be deemed adult entertainment: adult arcade; adult bookstore; adult cabaret; adult drive-in theater; adult mini-motion picture theater; adult model studio; adult motel; adult motion picture theater; adult theater; body painting studio; massage parlor; sexual encounter establishment; plus any other business which involves specified sexual activities or the display of specified anatomical areas.

18.28.050 Permitted locations.

A. Zone. Adult entertainment establishments which are enumerated in Section 18.28.040 may be established only within the general commercial zone.

B. Site. No adult entertainment establishment shall be permitted within one thousand feet of another such business, within five hundred feet of any area zoned for residential use, or within six hundred feet of any church, school, public playground, park or recreational area.

18.28.060 Measure of distance.

Distance without regard to intervening structures, shall be:

A. A straight line measured from the closest exterior structural wall of any two adult entertainment establishments.

B. A straight line measured from the closest exterior structural wall of the adult entertainment establishment to the closest property line of a church, school, public playground, park, recreational area, or residential zone.

18.28.070 Permit.

No person shall cause or permit the establishment, substantial enlargement or transfer of ownership or control of any adult entertainment establishment without first obtaining an administrative permit therefor pursuant to the administrative permit procedure from the chief of police for the city of Lemon Grove or other person or agency designated by the Lemon Grove city council as the administering agency. An application for such permit may be made where authorized by the applicable use regulations and shall be acted upon in accordance with the standards for location as specified in Section 18.28.050.

Attachment C

18.28.080 Development and maintenance standards.

The premises of all adult entertainment businesses hereafter commenced shall, in addition to compliance with all other applicable requirements of the city of Lemon Grove zoning ordinance, be required to comply with the following specific requirements.

A. Signs. Except for theater marquee signs, changeable copy signs, temporary signs and small permanent signs are not permitted. All signs shall be subject to review and approval by the planning commission.

B. Exterior Painting. Buildings and structures shall not be painted or surfaced with garish colors or textures or any design that would simulate a sign or advertising message.

C. Advertisements, displays of merchandise, signs, or any other exhibit depicting adult entertainment activities placed within the interior of buildings or premises shall be arranged or screened to prevent public viewing from outside such buildings or premises.

D. No outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to an adult entertainment use is allowed.

E. Upon order of the city manager, graffiti appearing on any exterior surface of a building or premises, which graffiti is in public view, shall be removed and the surface shall be restored within seventy-two hours of notification to the owner or person in charge of the premises.

18.28.090 Exceptions.

A. A person possessing ownership or control of an adult entertainment establishment which does not comply with the standards for location pursuant to Section 18.28.050 on the effective date of the ordinance codified in this chapter, shall be permitted to transfer such ownership or control before January 1, 1983. The person acquiring such ownership or control, however, shall be required to discontinue the adult entertainment business within five years from the date of the transfer of ownership or control if such establishment does not comply with Section 18.28.050, Permitted locations.

B. A person possessing ownership or control of an adult entertainment establishment which meets the standards for location as specified in Section 18.28.050, shall be subject to the provisions of subsection A of this section when a church, school, public playground, park or recreation area, as defined by this chapter is established within six hundred feet of such adult entertainment establishment. Two years shall be permitted to utilize the transfer provisions of subsection A of this section, beginning on the date on which the church, school, public playground, park or recreational area begins operation.