



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

Monday, May 24, 2021 at 6:00 p.m.

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

**Planning Commission**

Robert Bailey, Chair  
Stephen Browne, Vice Chair  
Seth Smith, Commissioner  
Miranda Evans, Commissioner

A public agenda packet is available for review on the [City's website](#)

*Effective May 18, 2021 the City of Lemon Grove will resume in-person Open Session meetings at the Lemon Grove Community Center, 3146 School Lane, Lemon Grove, California 91945.*

*Masks and hand sanitizer will be available and social distancing will be maintained in the Chambers. In consideration of others, face coverings will be required.*

*Virtual Planning Commission Regular Meetings will be discontinued; however submission of Public Comment via email prior to the meeting deadline will be accepted in addition to in-person Public Comments. The audio recording will of the meeting will be posted to the City's website within 24 hours.*

**Public Comment:**

Written Public Comment will be accepted by email with the subject line PUBLIC COMMENT ITEM \_\_\_\_\_. Email to the Planning Commission Clerk at [amalone@lemongrove.ca.gov](mailto:amalone@lemongrove.ca.gov) prior to the meeting. The deadline for the public comment to be submitted is **Monday, May 24, 2021 at 12:00 p.m.** Any comment received after the deadline will not be read out-loud but will be maintained in the record.

**Process:**

1. Email the Planning Commission Clerk your written comment. In the Subject Line of the email indicate whether comment is for Public Comment (item not on the agenda) or Agenda Item # \_\_\_\_\_.  
\_\_\_\_\_.

Participants addressing the Planning Commission by email are encouraged to provide the following information:

- a) Full Name;
- b) Contact Number;
- c) Address;
- d) Public Comment or Agenda Item No;
- e) Subject;
- f) Written Comments

2. Include Comment – Comment is limited up to three (3) minutes. Comment will be read by the Planning Commission Clerk up to the three (3) minute mark.

If comment is received but there is no indication as to whether it is to be read under Public Comment or a specific agenda item, the comment will be retained in the record but not read at the meeting.

**CITY OF LEMON GROVE  
PLANNING COMMISSION REGULAR MEETING**  
Monday, May 24, 2021, 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**

**Changes to the Agenda:**

**Public Comment:**

*Written public comments submitted by the deadline via email to the Planning Commission Clerk at [amalone@lemongrove.ca.gov](mailto:amalone@lemongrove.ca.gov) will be read into the record by the Planning Commission Clerk. To discuss items on the agenda in-person, you will be required to fill out and submit a speaker slip at the meeting (provided at the meeting) to the Planning Commission Clerk. Per Lemon Grove Municipal Code Section 2.14.150, each comment is allowed up to three (3) minutes. (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.)*

**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 COMMUNITY DEVELOPMENT DEPARTMENT. APPEALS OF DECISIONS MUST BE FILED WITHIN TEN (10) DAYS.)*

**1. Recreational Cannabis**

**Reference:** Noah Alvey, Community Development Manager

**Recommendation:** Conduct a public hearing and adopt a resolution recommending City Council approval of amendments to the Municipal Code to allow recreational cannabis and associated activities.

**Business from the Community Development Manager:** *(Non-Action Items)*

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

**Planning Commission 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 Deputy City Clerk at (619) 825-3800 or email [amalone@lemongrove.ca.gov](mailto:amalone@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, Audrey Malone 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 Planning Commission of the City of Lemon Grove, California, was delivered and/or notice by email not less than 72 hours before the hour of 6:00 p.m. on May 20, 2021 to the members of the governing agency, and caused the agenda to be posted on the City's website at [www.lemongrove.ca.gov](http://www.lemongrove.ca.gov) and at Lemon Grove City Hall, 3232 Main Street Lemon Grove, CA 91945.

/s/ Audrey Malone  
Planning Commission Clerk



# CITY OF LEMON GROVE

## PLANNING COMMISSION STAFF REPORT

### Item No. 1

**Meeting Date:** May 24, 2021

**Submitted to:** Planning Commissioners

**Department:** Community Development Department

**Staff Contact:** Noah Alvey, Community Development Manager

[nalvey@lemongrove.ca.gov](mailto:nalvey@lemongrove.ca.gov)

**Item Title:** **Recreational Cannabis**

---

**Recommended Action:** Conduct a public hearing and adopt a resolution recommending City Council approval of amendments to the Municipal Code to allow recreational cannabis and associated activities.

**Summary:** On November 17, 2020, February 16, 2021, and May 4, 2021, the City Council conducted workshops on potential Municipal Code changes to allow recreational cannabis sales, cultivation, transportation, distribution, manufacturing, and research. This report summarizes the proposed amendments to the Municipal Code based upon feedback from the City Council at the workshops. There are no changes proposed for existing separation requirements from regulated and protected uses. The proposed amendments would allow approved dispensaries to add recreational cannabis sales and associated uses with a minor use permit. In addition to changes for existing dispensaries, the proposed amendments would allow cultivation, distribution, manufacturing, and research from properties located in the Light Industrial zone subject to the approval of a conditional use permit. It is requested that the Planning Commission conduct a public hearing and adopt a resolution recommending City Council approval of amendments to the Municipal Code to allow recreational cannabis and associated activities.

**Background:** On November 17, 2020, the City Council discussed establishing a process for allowing recreational cannabis sales by approving amendments to the Municipal Code. During the discussion, the City Council was generally supportive of maintaining current separation standards, but there was not a clear consensus on a process for existing medical marijuana dispensaries to add recreational cannabis. During this meeting, the City Council also expressed interest in discussing options for allowing for cannabis cultivation, distribution, and research.

On February 16, 2021, the City Council once again discussed amendments to the Municipal Code for allowing recreational cannabis and staff presented options for cannabis cultivation, distribution, and research. During the discussion, the City Council requested additional information on law enforcement and financial impacts associated with recreational cannabis dispensaries. The City Council also provided feedback on cultivation, distribution, manufacturing, and research options.

On May 4, 2021, staff presented research to the City Council regarding state and national policies related to recreational cannabis and their associated law enforcement and financial impacts. Crime statistics from the San Diego County Sheriff's Department were also included to provide context at the local level. During the workshop, the City Council considered staff's research and provided additional feedback regarding a draft strike-through ordinance.

**Discussion:** Proposed amendments to the Municipal Code based on the City Council's feedback are included in **Attachment A** and are summarized in four (4) categories below which include the addition of recreational cannabis sales, new regulations for cultivation, new regulations for distribution and delivery, and the addition of manufacturing, research and development as a conditionally permitted use.

*Recreational Cannabis Sales* – Proposed changes to the Municipal Code retitle Chapter 17.32 as “Cannabis Regulations” and include the addition of new definitions related to recreational cannabis activities. For existing approved medical marijuana dispensaries, staff added a new provision, which will allow the addition of other permitted cannabis uses with the approval of a minor use permit. As an example, the proposed process would allow an operating dispensary to add recreational cannabis sales with a publicly noticed decision by the Community Development Manager and appeals heard by the City Council. The minor use permit will also be an effective tool because it will allow conditions of approval to be placed on the new operations at dispensary.

*Cultivation* – The Municipal Code currently allows medical marijuana cultivation by qualified patients and caregivers in the residential low (RL) and residential medium/low (RLM) zones where there is an existing single-family development as required by State law. Proposed changes to the Municipal Code would allow personal cultivation to continue in accordance with State law. For commercial cultivation, the changes would allow cultivation on any property in the Light Industrial (LI) zone subject to the issuance of a conditional use permit. For dispensaries not located in the LI zone, cultivation would be allowed in accordance with existing limitations for accessory uses and subject to either a conditional use permit or minor use permit. Operating dispensaries would be allowed to add cultivation with a minor use permit.

*Delivery & Distribution* – The Municipal Code does not currently allow for the delivery of cannabis. Proposed changes to the Municipal Code would allow cannabis delivery from approved dispensaries and also clarifies that legally operating dispensaries outside of the City limits may deliver cannabis to customers within the City and further clarifies that distribution would be allowed.

*Manufacturing, Research & Development* – The Municipal Code does not currently permit research and development. Proposed changes to the Municipal Code would allow manufacturing, research, and development on any property in the LI zone subject to the issuance of a conditional use permit. Dispensaries located outside of the LI zone would also be allowed to add manufacturing, research, and development subject to either a conditional use permit or minor use permit.

The proposed amendments to the Municipal Code are consistent with the General Plan because they will help improve the light industrial district along Federal Blvd. in accordance with Policy 1.5 of the General Plan Community Development Element, which states, “Foster revitalization of the Light Industrial district along Federal Blvd.” The proposed amendments to the Municipal Code are also consistent with Objective 4 of the General Plan Community Development Element, which seeks, “Expansion of commercial enterprises, light industries and professional services.”

It is requested that the Planning Commission conduct a public hearing and adopt a resolution recommending City Council approval of amendments to the Municipal Code to allow recreational cannabis and associated activities.

**Environmental Review:**

- Not subject to review
- Categorically Exempt
- Negative Declaration
- Mitigated Negative Declaration

The proposed Municipal Code update will result in minor changes in land use limitations regarding the permit process to sell different types of cannabis and allow cannabis cultivation, manufacturing, research, and development as allowed by Class 5 (Minor Alterations in Land Use Limitations) of Section 15305 of the California Environmental Quality Act. The conduct of cultivation, manufacturing, research, and development is substantially similar to other light industrial and manufacturing uses and any project specific impacts will be addressed through the associated discretionary permit process.

**Fiscal Impact:** The fiscal impact for processing recreational cannabis applications is expected to be cost neutral. The discretionary permit process would require a deposit and recovery of staff costs.

**Public Notification:** Published legal notice of the public hearing in the newspaper of record on May 14, 2021.

**Staff Recommendation:** Conduct a public hearing and adopt a resolution recommending City Council approval of amendments to the Municipal Code to allow recreational cannabis and associated activities.

**Attachment: Attachment A** – Resolution and Draft Strike-through Ordinance

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION RECOMMENDING CITY COUNCIL APPROVAL OF AMENDMENTS TO THE MUNICIPAL CODE TO ALLOW RECREATIONAL CANNABIS SALES AND ASSOCIATED USES**

*WHEREAS, the City of Lemon Grove adopted ordinances for the purpose of regulating medical marijuana/cannabis sales; and*

*WHEREAS, the City Council discussed updating existing medical marijuana/cannabis ordinances to allow for recreational marijuana/cannabis sales and associated uses; and*

*WHEREAS, the Planning Commission conducted a public hearing to consider Municipal Code amendments for recreational marijuana/cannabis sales and associated uses; and*

*WHEREAS, the proposed amendments to the Municipal Code are consistent with the General Plan because they will foster revitalization of the light industrial district along Federal Blvd. in accordance with Policy 1.5 of the General Plan Community Development Element; and*

*WHEREAS, the proposed amendments to the Municipal Code are consistent with the General Plan because they will expand commercial and light industrial opportunities for cannabis in accordance with Objective 4 of the General Plan Community Development Element; and*

*WHEREAS, the proposed amendments to the Municipal Code will create a discretionary permit process for cannabis related businesses that will ensure compatibility with surrounding properties and uses; and*

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

1. Recommends City Council approval of amendments to the Lemon Grove Municipal Code pertaining to recreational cannabis sales and associated uses as shown in Exhibit A.

**PASSED AND ADOPTED** on \_\_\_\_\_, 2021, the Planning Commission of the City of Lemon Grove, California, adopted Resolution No. \_\_\_\_\_, passed by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**Robert “Bob” Bailey, Chair**

**Attest:**

---

**Audrey Malone, Deputy City Clerk**

**Approved as to Form:**

---

**Kristen Steinke, City Attorney**

NOTE: Text proposed to be added is displayed in underlined type and text to be removed in shown in ~~strike through~~.

**Chapter 17.32 ~~MEDICAL MARIJUANA~~ CANNABIS REGULATIONS**

**17.32.010 Purpose.**

This chapter establishes the regulations for ~~the use of~~ medical marijuana cannabis, 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 chapter does not authorize or permit any conduct not allowed by state law.

**17.32.020 Applicability.**

- A. The intent of this chapter is to regulate the cultivation, processing and dispensing of medical marijuana cannabis in a manner that protects the health, safety and welfare of the community.
- B. This ~~section~~ chapter is not intended to interfere with a *qualified patient* or *primary caregiver's* right to *medical marijuana*, as provided for in California Health and Safety Code Section 11362, nor criminalize the same. *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 cannabis dispensary business ~~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 cannabis business~~ owners, operators, employees, *primary caregiver* or *qualified patients* for violation of state or federal laws in a form satisfactory to the ~~director~~ manager of development services the Community Development Department. In addition, the ~~business owner and permittee of a cannabis business~~ each medical marijuana cooperative, collective or cultivation facility shall 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 cannabis business~~, and for any claims brought by any of their customers or *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 cannabis business provided at the ~~cooperative, collective~~ in a form satisfactory to the ~~director~~ manager of development services the Community Development Department.

**17.32.040 Application.**

Medical marijuana dispensary Cannabis businesses which dispense, deliver, process, manufacture, distribute, and cultivate medicinal marijuana cannabis shall be required to obtain a conditional use permit consistent with Section 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 cannabis business*.

### **17.32.050 Definitions.**

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

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code, unless otherwise specified; or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other product.

“Cannabis accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

“Cannabis business” means any business activity involving cannabis or industrial hemp, including, but not limited to, cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, cannabis products, industrial hemp, industrial hemp products or of ancillary products and accessories, whether or not carried on for gain or profit.

“Cannabis product(s)” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and/or other ingredients. “Cannabis product(s)” also means cannabis products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medicinal cannabis products.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer by a dispensary or its authorized agents. “Delivery” includes the use by a dispensary of any technology platform owned and controlled by the retailer, or independently licensed under California law, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

“Director” means a corporate officer, corporate board member, or employee with supervisory responsibilities of an authorized *dispensary* business that dispenses *medical cannabis*.

“Dispensary” means a facility where cannabis, cannabis accessories, or cannabis products are offered, either individually or in any combination, for retail sale.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between licensed entities for commercial use purposes.

“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.

“Manufacturer” means the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Medical marijuana” or “medical marijuana product” means ~~cannabis or marijuana~~ cannabis product, used for the treatment of pain and suffering caused by diseases and ailments. intended to be used, sold or sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, for a medical marijuana patient in California who possesses a physician’s recommendation, or a medical marijuana identification card issued pursuant to Health and Safety Code Section 11362.71. *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 Section 11362.7, and as may be amended.

“Microbusiness” means a cannabis business licensed by the State of California to act as three or more of the following at the same licensed premises: a distributor, dispensary, manufacturer, or cultivator.

“Non-Storefront Retailer” means a licensed retailer that conducts retail sales exclusively by delivery.

“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 chapter and the California Health and Safety Code Section 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 cannabis for personal medical purposes.

“Regulated uses” are for purposes of computing distance separations for ~~medical marijuana~~ *cannabis cooperative or collective businesses* (with or without accessory cultivation uses) but excluding individual residential cultivation sites operated by *qualified patients* or *primary caregivers* and located solely in single-family residential zones.

“Research” means the conduct of investigational activities that require cannabis and/or cannabis accessories in order to investigate opportunities for new cannabis products and/or develop new cannabis products.

### **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 chapter 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 or minor use permit by Section 17.28.052 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~~ *cannabis*; and separations between establishments which dispense, process or cultivate *medical marijuana* *cannabis* 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 Cannabis 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 one thousand feet of any other regulated use which is located either inside or outside the jurisdiction of the city,
  2. Within one thousand 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 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 ~~LiveScan~~ 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 and 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 ~~eighteen~~ twenty-one 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 *premises*. 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 sheriff's department staff have probable cause that the ~~collective~~ dispensary 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 medical marijuana 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:
    - 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 cannabis* 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 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 cannabis* 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 are precluded from~~ criteria for entering the *premises*.
  - iii. The hours of operation for an authorized *dispensary* shall be limited to between ~~eight~~ six a.m. to ~~eight~~ ten p.m. or as specified within the conditional use permit.
  - iv. *Dispensaries* shall not permit the use or consumption of ~~medical marijuana~~ *cannabis* on-site unless specifically authorized under the conditional use permit.
  - v. *Dispensaries* shall not permit the on-site display of unprocessed ~~marijuana cannabis~~ plants or representations of ~~marijuana cannabis~~ 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 cannabis~~.
  - vii. *Dispensaries* shall only permit the distribution of ~~medical marijuana cannabis~~ plant material and ~~medical marijuana cannabis~~ 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~~ Community Development Department. 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~~ Manager of the Community Development Department may review and approve amendments to the approved “*operations manual*”; and the frequency of the “annual performance review report.” ~~Medical marijuana~~ Cannabis 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 twenty-four-hour recorded video surveillance of the *premises*. Recordings shall be retained for ~~thirty~~ ninety 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*.
  - 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 Section 17.28.080.
8. Source of ~~Medical marijuana~~ cannabis. A *dispensary* shall only dispense ~~marijuana~~ cannabis from the following sources and this information shall be included in the *operations manual*:
- a. On-Site Cultivation, Manufacturing, and Distribution for Authorized *Dispensary*. If the conditional use permit authorizes ~~limited~~, on-site ~~medical marijuana~~ cannabis cultivation, manufacturing, or distribution at the *dispensary*, on-site cultivation, manufacturing, or distribution shall be considered an accessory use and shall not exceed twenty five percent of

the *dispensaries'* total floor area and in no case exceed one thousand five hundred 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, or~~ manufacturing of *medical marijuana cannabis* 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;
- b. 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 cannabis* from licensed distributors and microbusinesses authorized to engage in distribution cultivators and manufacturers that have obtained a local business license from the State of California or equivalent document showing that the organization is operating in zoning and regulatory compliance from another jurisdiction for the *medical marijuana cannabis* 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 Personal use *marijuana cannabis* cultivating regulations.**

The cultivation of *medical marijuana cannabis* 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~~ required by the State of California.

~~A. *Medical marijuana* Cultivation for Personal Use. An individual *qualified patient* shall be allowed to cultivate *medical marijuana* within his or 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.~~

~~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 one-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 fifty square feet.~~
- ~~6. An accessory structure containing a *medical marijuana* cultivation area shall not exceed fifty 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 one thousand two hundred 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 Section 1203.4 Natural Ventilation or Section 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 (CO<sub>2</sub>, 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(C)(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 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 one-hour firewall assembly of green board.~~
- f. ~~The medical marijuana cultivation area shall not exceed one hundred square feet.~~

### **17.32.110 General cannabis cultivation, manufacturing, distribution, research, and/or development.**

Cannabis cultivation, manufacturing, distribution, research and/or development may be permitted within an enclosed building in the Light Industrial (LI) zone subject to the issuance of a conditional use permit. The separation standards set forth in Section 17.32.090 shall only apply to cannabis cultivation, manufacturing, or distribution conducted at a dispensary where cannabis, cannabis accessories, or cannabis products are offered, either individually or in any combination, for retail sale.

Cannabis cultivation, manufacturing, distribution, research, and/or development may be established in conjunction with a dispensary in the heavy commercial (HC), limited commercial (LC), general commercial (GC) zones as an accessory use subject to the issuance of a conditional use permit.

### **17.32.110 17.32.120 Transportation or dDelivery of medical marijuana cannabis.**

~~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 delivery of marijuana cannabis for by a dispensary shall comply with California State Regulations, restrictions and guidelines established by the State of California, as enumerated in Division 8, Chapter 3.5 of the California Business and Professions Code, and established by the Bureau of Medical Marijuana Regulations.~~

The delivery of cannabis from any dispensary to a retail or medical customer within the City shall only be permitted by a validly issued conditional use permit or as otherwise permitted by Section 17.32.130.F.

The delivery of cannabis from a dispensary or non-storefront retailer outside of the City to customers within the City shall be permitted from dispensaries and non-storefront retailers that have obtained a license from the State of California or equivalent document showing that the dispensary or non-storefront retailer is operating in zoning and regulatory compliance from another jurisdiction.

**~~17.32.120~~ 17.32.130 Procedures.**

A. Administrative Citation and Revocation.

1. Any violation of this chapter 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 five hundred dollars 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(n) (Revocation of permits and approval). Revocation proceedings may occur for noncompliance 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(m).

C. Appeals. Any applicant or other interested person may appeal a decision by the ~~development services director~~ Community Development Manager according to Section 17.28.020(I).

D. Fees. Applications filed under this chapter 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 chapter.

E. Amendments. Amendments to this chapter shall conform to the process identified in Section 17.28.080.

F. Modifications to an Approved Conditional Use Permit. A dispensary with an approved conditional use permit may add uses permitted by specific zoning districts subject to the issuance of a minor use permit described in Section 17.28.052.

NOTE: Chapter 8.64 is proposed to be deleted and all text is shown in strike-through.

## **~~Chapter 8.64 PROHIBITION OF RECREATIONAL MARIJUANA BUSINESSES~~**

### **~~8.64.010 Definitions.~~**

The following definitions shall be used in this chapter as follows:

- A. ~~“Recreational marijuana business” or “business” means any facility or location, whether fixed or mobile, where recreational marijuana is made available, grown, processed or sold for any non-medicinal purpose.~~
- B. ~~“Recreational marijuana cultivation” or “cultivation” means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof, and any and all associated business and/or operational activities, either as a for profit or non-profit operation.~~
- C. ~~“Marijuana delivery” or “delivery” means the commercial delivery, transfer or transport, or arranging for the delivery, transfer or transport, or the use of any technology platform to arrange for or facilities the commercial delivery, transfer or transport of marijuana, marijuana edibles, and/or any marijuana products to or from any location within the jurisdictional limits of the city of Lemon Grove, and any and all associated business and/or operational activities, either as a for profit or non-profit operation. (Ord. 444 § 2, 2017; Ord. 437 § 2, 2016)~~

### **~~8.64.020 Recreational marijuana dispensaries as a prohibited use and/or activity.~~**

~~A recreational marijuana business as defined in Section 8.64.010 is prohibited in all zones within the city’s jurisdictional limits. No permit, whether conditional or otherwise, shall be issued for the establishment of such use. This ban includes the cultivation, manufacture, transportation, storage, distribution, processing, sale of recreational marijuana, and associated activities. This chapter shall not regulate businesses with a valid conditional use permit issued pursuant to Chapter 17.28 of the Lemon Grove Municipal Code. (Ord. 444 § 2, 2017; Ord. 437 § 2, 2016)~~

### **~~8.64.030 Violations.~~**

~~The provisions of this chapter shall be enforced by means of administrative, civil, and/or criminal remedies. Such remedies are cumulative and not exclusive. (Ord. 444 § 2, 2017; Ord. 437 § 2, 2016)~~

### **~~8.64.040 Cultivation of marijuana as a prohibited use and/or activity.~~**

~~Except as specifically allowed under a valid permit issued pursuant to Chapter 17.32 of the Lemon Grove Municipal Code, marijuana cultivation by any person or entity, including clinics, collectives, cooperatives and dispensaries, is prohibited in all zones within the city’s jurisdictional limits. No permit, whether conditional or otherwise, shall be issued for the establishment of such activity. Any cultivation that takes place in violation of any provision of this chapter is unlawful, and is hereby declared a public nuisance. This prohibition includes the cultivation, manufacture, transportation, storage, distribution, sale of recreational marijuana, and associated activities. Nothing in this chapter is intended to, nor shall it be construed to,~~

make legal any cultivation activity that is otherwise prohibited under California law. Nothing in this chapter is intended to, nor shall it be construed to, preclude any landlord from limiting or prohibiting marijuana cultivation by their tenants. (Ord. 444 § 2, 2017; Ord. 437 § 2, 2016)

**8.64.050 Delivery of marijuana as a prohibited use and/or activity.**

Recreational marijuana delivery by any person or entity, including clinics, collectives, cooperatives and dispensaries, is prohibited in the city. No permit, whether conditional or otherwise, shall be issued for the establishment of such activity. This prohibition includes the cultivation, manufacture, transportation, storage, distribution, sale of recreational marijuana and associated activities. Any delivery that takes place in violation of any provision of this chapter is unlawful, and is hereby declared a public nuisance. Nothing in this chapter is intended to, nor shall it be construed to, make legal any delivery activity that is otherwise prohibited under California law. Nothing herein prevents the use of public streets within the city of Lemon Grove by lawful businesses pursuant to state law. (Ord. 444 § 2, 2017; Ord. 437 § 2, 2016)