



AGENDA

CITY OF UNION CITY/ SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING

**Tuesday, September 26, 2017
7:00 PM**

34009 Alvarado-Niles Road

1. CALL TO ORDER

- 1.a. Pledge of Allegiance
- 1.b. Roll Call

*Mayor Carol Dutra-Vernaci
Vice Mayor Pat Gacoscos
Councilmember Emily Duncan
Councilmember Lorrin Ellis
Councilmember Gary Singh*

2. UNFINISHED BUSINESS - None

3. PROCLAMATIONS AND PRESENTATIONS

- 3.a. Presentation on the Police Pink Patch Campaign for Breast Cancer Awareness
- 3.b. Proclamation Recognizing October, 2017 as Filipino-American History Month
- 3.c. Proclamation and recognition of the Golden Gloves Recipient s and Head Coach of Boxing program Johnny Gusman
- 3.d. Enov8 Conference - Manufacturing Day Reimagined: A Public/Private Partnership to Help Underserved and Underrepresented Students Successfully Make the Transition from the Classroom to the 21st Century Work Place.

4. ORAL COMMUNICATIONS

Comments from the audience on non-agenda items will be accepted for a period of 30 minutes. Speakers are limited to three minutes each. Persons wishing to speak must complete a speaker card available at the rear of the Council Chamber or from the City Clerk. If the number of speakers exceeds the time allotment, cards will be shuffled and 10 speakers chosen at random. The remaining speakers may speak under Section XI of the agenda.

5. CONSENT CALENDAR

All matters listed on the Consent Calendar are considered routine in nature and will be enacted by one motion. If discussion is required on a specific item, it will be removed from the Consent Calendar and considered separately.

5.a. Waived Further Reading of Proposed Ordinance

(This permits reading the title only in lieu of reciting the entire text of any proposed Ordinance.)

5.b. Approve the Minutes of the Special and Regular City Council Meetings of September 12, 2017

5.c. Adopt a Resolution Appointing Kristopher J. Kokotaylo as City Attorney

5.d. Second Reading and Adoption of an Ordinance Adding Chapter 15.88 to Title 15 of the Union City Municipal Code to Provide for an Expedited, Streamlined Permit Process for Electric Vehicle Charging Stations

5.e. Adopt a Resolution Authorizing the City Manager to Execute a Third Amendment to the Emergency Medical Services First Responder Advanced Life Support Services Agreement with the County Of Alameda

5.f. Adopt a Resolution Accepting and Appropriating FY 2017/18 Grant Funds from the First 5 Alameda County - Quality Counts Program in the Total Amount of \$3,000 to the Community & Recreation Services Department

5.g. Adopt a Resolution Recognizing the Professional Employees Group (PEG) as the Sole and Exclusive Bargaining Representative of its Members

5.h. Adopt a Resolution Recognizing the Management Employees Group (MEG) as the Sole and Exclusive Bargaining Representative of its Members

6. PUBLIC HEARINGS - None

7. CITY MANAGER REPORTS

7.a. Introduce Three Ordinances of the City Council of the City Of Union City: Amending Chapter 18.04 and Adding Chapter 18.118 to Restrict and Regulate the Personal Cultivation of Cannabis; Amending Chapters 18.04, 18.08, And 18.40 and Adding Chapter 18.117 to Impose Zoning Restrictions on Various Commercial Cannabis Uses; and Repealing Chapters 5.43 and 9.46 in Their Entirety and Adding Chapter 5.44 to Impose Regulatory Restrictions and Procedures for the Operation of Commercial Cannabis Uses

8. SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY - None

9. AUTHORITIES AND AGENCIES - None

10. CITY COMMISSION / COMMITTEE REPORTS - None

11. SECOND ORAL COMMUNICATIONS

12. SCHEDULED ORAL COMMUNICATION - None

13. ITEMS REFERRED BY COUNCIL

Oral Reports by Mayor and Councilmembers on meetings of County or Regional Board and Commissions

*Alameda County Fire Department Advisory Commission
Alameda County Library Advisory Commission
Alameda County Mayors Conference
Alameda County Transportation Commission (ACTC)
Alameda County Waste Management Authority (WMA)
Association of Bay Area Governments (ABAG)
City of Union City Audit Subcommittee
City of Union City Municipal Code Subcommittee
City of Union City Youth Violence Prevention & Intervention
Advisory Committee (YVPIP)
Disaster Council
Dumbarton Rail Corridor Policy Advisory Committee
East Bay Community Energy Board of Directors (EBCE)
East Bay Economic Development Alliance (EDA)
East Bay Regional Communications System Authority
(EBRCSA)
Economic Development Advisory Team (EDAT)
General Plan Advisory Committee (GPAC)
Housing Authority of the County of Alameda (HACA)
League of California Cities, East Bay Division (LOCC)
Metropolitan Transportation Commission (MTC)
New Haven Unified School District Joint Sub-Committee
Oakland Airport Community Noise Management Forum
Teen Center Project Updates
Union City Chamber of Commerce*

US Conference of Mayors

14. GOOD OF THE ORDER

15. CLOSED SESSION - None

16. ADJOURNMENT

A complete agenda packet is available for review at City Hall or on our website www.unioncity.org

Any writings or documents provided to a majority of City Council members regarding any item on this agenda will be made available for public inspection at the City Clerk's Counter at City Hall, located at 34009 Alvarado-Niles Road, Union City, California, during normal business hours.

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested person must request the accommodation at least two working days in advance of the meeting by contacting the City Clerk at (510) 675-5348.



Agenda Item

ATTACHMENTS:

Description	Type
 Proclamation	Attachment

CITY OF UNION CITY

PROCLAMATION



In Honor and Recognition of October 2017 as Filipino American History Month

WHEREAS, this is an appropriate time to promote and reflect on the richness of Filipino and Filipino American history and culture and to provide all Americans with the opportunity to learn and appreciate and honor the Filipino Americans and their historic and social contributions to the history of the USA.

WHEREAS, it is necessary to instill in our youth the importance of education, history and ethnicity in creating eminent role models, in establishing a proud cultural identity and producing exceptional citizens of this nation; and

WHEREAS, the earliest documented evidence of Filipinos in continental United States occurred in October 18, 1587, when mariners called "Luzones indios" under Spanish command landed in Morro Bay, California; and

WHEREAS, the Filipino American National Historical Society recognizes the year 1763 as the date of the first permanent Filipino settlement in the United States in Saint Malo, Louisiana; and

WHEREAS, today, the Filipino American community is the second largest Asian American group in the United States, with an estimated population of 3,400,000 people; and

*WHEREAS, the Filipino American National Historical Society established **Filipino American History Month** in 1988 and subsequently, every October, several communities throughout the United States and its territories, have celebrated this occasion, not only to commemorate the anniversary of the presence of the first Filipinos in US soil and to observe its heritage, but also to recognize the social, intellectual and economic contributions of Filipinos and Filipino Americans in this country; and*

*WHEREAS, **Filipino American History Month** was first proclaimed by the 111th Congress of the United States in November 2009; and*

WHEREAS, Filipino American servicemen and servicewomen have a longstanding history of serving to protect and defend this country in the Armed Forces, from the Civil War to the Iraq and Afghanistan conflicts; and

WHEREAS, our city of Union City has an estimated population of 14,000 Filipinos and Filipino Americans, representing over 20% of the City's population, and is the 5th highest of this population in the state of California; and Filipino Americans have had a profound impact on California's history, values and culture; and

WHEREAS, the Filipino Community played an important role in Union City's rich agricultural history, thereby helping to shape it's landscape; and

WHEREAS, immigrants from the Philippines and their families truly have enriched our nation and our city through their work in agriculture, their service in the Armed Forces, their contributions of skills and expertise as engineers, scientists, accountants, teachers, lawyers, nurses, and doctors, and their participation in public offices, civic affairs and community activities; and

WHEREAS, our city of Union City and New Haven Unified School District is the first in the nation to name a school after Filipino Farm Labor Leaders, Larry Itliong and Philip Vera Cruz; and

NOW, THEREFORE, the City Council of the City of Union City, hereby issues this Proclamation in honor and recognition of October 2017, as **Filipino American History Month**.

DATED: September 26, 2017

CAROL DUTRA-VERNACI, Mayor

PAT GACOSCOS, Vice Mayor

LORRIN ELLIS, Councilmember

EMILY DUNCAN, Councilmember

GARY SINGH, Councilmember



Agenda Item

ATTACHMENTS:

Description	Type
 Proclamation for CRS Boxing Program	Attachment

CITY OF UNION CITY

PROCLAMATION

Honoring the Boxing Athletes at Brickhouse Boxing at 10th Street Community Center

WHEREAS, youth and young adults, also known as tomorrow's leaders in our community of Union City, required services to help them reach their full potential; and

WHEREAS, youth and young adults can go and feel secure and learn how to make positive lifestyle choices while also learning the sport of boxing in a constructive environment that is safe and supportive; and

WHEREAS, youth and young adults are mentored to become productive, responsible and outstanding citizens; and

WHEREAS, youth and young adults are instructed on health, physical fitness and well-being as well as assist them learn discipline and gain self-confidence; and

WHEREAS, in 2010, the City of Union City-Community and Recreation Department established the Brickhouse Boxing Program which was developed for ages 9-24 years and coached by the exceptional and highly dedicated amateur boxer Johnny Gusman, who is greatly assisted by boxing staff and receives a lot of support from parents; and

WHEREAS, our athletes have committed themselves to developing their skills and character while participating in the boxing program and becoming positive individuals in the community, many took home titles and medals from various tournaments such as the Golden Gloves and Junior Olympics; and

NOW, THEREFORE, I, Mayor Carol Dutra Vernaci, on behalf of the City of Union City, hereby issue this Proclamation in honor and recognition to the following athletes and coach:

*Anthony Arradaza- Golden Gloves Tournament-California State Champion
Rodrigo Aleman –Junior Olympics-California State Champion
Roland Vizcarra- Junior Olympics-Northern California Champion
Alejandro Almaguer-Junior Olympics-Northern California Champion
Johnny Gusman – Head Coach*

DATED: September 26, 2017

Carol Dutra Vernaci, Mayor



Agenda Item

ATTACHMENTS:

Description	Type
▣ Draft Minutes for Special City Council Meeting of September 12, 2017	Attachment
▣ Draft Minutes for Regular City Council Meeting of September 12, 2017	Attachment



MINUTES SPECIAL MEETING

CITY OF UNION CITY CITY COUNCIL SPECIAL MEETING

Tuesday, September 12, 2017

6:30 PM

**City Council Conference Room
34009 Alvarado Niles Road**

1. CALL TO ORDER

Mayor Dutra-Vernaci called the meeting to order at 6:30 p.m.

Roll Call

Present: Councilmembers Duncan, Ellis, Singh, Vice Mayor Gacoscos,
Mayor Dutra-Vernaci

Absent: None

2. ORAL COMMUNICATIONS - None

3. CLOSED SESSION

3.a. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) of subdivision
(d) of Section 54956.9

Number of Potential Cases: One (1)

3.b. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representatives

Tony Acosta, City Manager

Mark Evanoff, Deputy City Manager

Bonnie Roland-Williams, Human Resources Manager

Employee organizations:

Management Employees Group (MEG)

Professional Employees Group (PEG)

Service Employees International Union, Local 1021 (SEIU)

Union City Police Management Association (UCPMA)

Union City Police Officers Association (UCPOA)

4. ADJOURNMENT

Mayor Dutra-Vernaci adjourned the meeting at 7:31p.m. with no reportable action.

Respectfully submitted,

Anna M. Brown, CMC
City Clerk



MINUTES

CITY OF UNION CITY/ SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY MEETING

**Tuesday, September 12, 2017
7:00 PM**

**Council Chamber
34009 Alvarado-Niles Road**

1. CALL TO ORDER

1.a. Pledge of Allegiance

Mayor Dutra-Vernaci led the salute to the flag.

1.b. Roll Call

Present: Councilmembers Duncan, Ellis, Singh, Vice Mayor
Gacoscas, Mayor Dutra-Vernaci

Absent: None

2. UNFINISHED BUSINESS - None

3. PROCLAMATIONS AND PRESENTATIONS

3.a. Recognizing Lt. Lisa Graetz and Community Resource Coordinator Crystal Raine as Recipients of the John Charland Jr. Luminary Innovation Award

Gary Charland, CEO and President of Masonic Homes of California and Franco Diamond, Executive Director of Masonic Homes of California presented the awards to recipients. Sgt. Graetz was not present.

3.b. Recognizing 2017 National Night Out Sponsors and Partners

The following individuals were present for recognition:

NNO Block Captains: Delia Torres and Lee Guio, Gary and Theresa Lum;
Assistant: Jill Stavosky

Sponsors: Fremont Bank Foundation – Julie Moore and Julie Zhu,
Roundtable – Elva Siguerroa, Cathay Bank - Fely Kwan, Lions Club –
Chief Greg Stewart, México Tipico – Lorena Cruz, Union City Dental Care
- Dr. Sands and Dr. Valencia, Starbucks – Katie Attwood

Partners: Paramedics Plus – Heidi Nishimoto

UCPD Staff: Chief McAllister, Cap. Gloria Lopez-Vaughan, Sgt Brandon
Hayward, Officer Roberta Paul, COA Cassie Castain and, CRC Crystal
Raine.

Mayor Dutra-Vernaci made special mention of Community Resource
Coordinator Raine for all of her work towards National Night Out.

The following people were unable to attend but were acknowledged:

Block Captains: Gina Trinh and Michelle Rodgers
Personnel that assisted: Wayne Cruz, Jason Rodgers, Tony Silveira

Sponsors: ADT, American licorice – Redvines – Cynthia Shavies, CERT,
Costco- Edgar Tapia, Kings Hawaiian, Krispy Kreme, Lowe's, RING,
OfficeMax, Valerio Tropical Bakery, Supervisor Richard Valle, Republic
Services, TRI-CED Recycling, Union City Recycles, Walmart, Abaxis

Partners: Alameda County Fire Department (ACFD), California Highway
Patrol (CHP)

4. ORAL COMMUNICATIONS

The following members of SEIU Local 1021 spoke about their memberships'
contributions to the City and requested Council support for an increase in
salaries:

Jesus Banuelos, Maintenance I and SEIU Vice President
Letty Contreras, Finance Specialist I
Erin Ewing, Program Coordinator

Kendahl Wallace spoke about the need for more housing, building vertical
housing/mixed use, increasing the amount of retail and improving the City's "curb
appeal".

The following individuals requested Councils' consideration of increasing the
amount of parks and open space in Union City:

Maria Ramirez
Maria Ramirez; reading statement from Elizabeth Ames
Larry Gissible
Pam Burnor

Adrienne Realiza spoke about the upcoming Alvarado Fall Fest featuring iBike Union City. All were invited to attend the event on September 30 at Old Alvarado Park.

5. CONSENT CALENDAR

It was moved by Councilmember Ellis and Vice Mayor Gacoscos, to adopt consent calendar items 5.a. through 5.p. The motion was carried by a unanimous voice vote.

5.a. Waived Further Reading of Proposed Ordinance

(This permits reading the title only in lieu of reciting the entire text of any proposed Ordinance.)

5.b. Approved the Minutes of:

Cannabis Study Session of August 8, 2017
Regular City Council Meeting of August 8, 2017
Parks and Open Space Study Session of August 15, 2017
Special City Council Meeting of August 15, 2017
Special City Council Meeting of August 28, 2017

5.c. Adopted **Resolution No. 5116-17** Approving the Inter-Governmental Collaboration Agreement for the Completion of the Assessment of Fair Housing

5.d. Adopted **Resolution No. 5117-17** Authorizing the Continued Participation of the City of Union City in the Alameda County HOME Consortium for HOME Funds and Authorizing the Execution of the Necessary Documents to Maintain the Eligibility of the HOME Consortium for HOME Program Funds in Accordance with the National Affordable Housing Act of 1990

5.e. Adopted **Resolution No. 5118-17** Authorizing the City Manager to Enter into a Consulting Services Agreement with Eden Council for Hope and Opportunity (ECHO) to Serve as the Program Administrator of the Residential Landlord and Tenant Relations Ordinance and the Rent Review Ordinance in an Amount not to Exceed \$75,000

5.f. Adopted **Resolution No. 5119-17** Authorizing the City Manager to Enter into a Consulting Services Agreement with Barbara Anscher to Provide On-Call Mediation Services for the Rent Review Ordinance in an Amount not to Exceed \$47,000

5.g. Adopted **Resolution No. 5120-17** Appropriating Cal-Recycle Tire Derived Products Grant Funds in the Amount of \$23,440 to City-Wide Playground Equipment and Fitness Course Repair Project Account

5.h. Adopted **Resolution No. 5121-17** to Approve Project Funding Agreements with Alameda County Transportation Commission for Project 17-29 Union City Boulevard Class 2 Bike Lanes in the Amount of \$7.8 Million and Project 17-30 Bicycle and Pedestrian Master Plan Update in

the Amount of \$150,000; Authorize City Manager to Execute the Agreements; and Appropriate Funds to Said Projects

- 5.i. Adopted **Resolution No. 5122-17, 5123-17, and 5124-17** Appointing Individuals to Serve on the Human Relations Commission, Park & Recreation Commission, and Oakland Airport/Community Noise Management Forum
- 5.j. Adopted **Ordinance No. 843-17** Approving Zoning Text Amendment AT-17-001, to Modify Chapter 18.38, Station Mixed Use Commercial District, to Reduce the Allowable FAR and Clarify List of Permitted and Conditionally Permitted Uses (Introduced August 8, 2017)
- 5.k. Adopted **Resolution No. 5125-17** for the Award of Contracts for Purchase of Certain Public Works, Police, and Community & Recreation Services Department Vehicles and Equipment, City Project No. 17-34
- 5.l. Adopted **Resolution No. 5126-17** to approve Amendments to the ROMA Design Group and HDR Engineering, Inc. Agreements increasing the Total Compensation by \$52,000 to complete Engineering and Design of the Pedestrian Crossing from the BART Station to the East Plaza, and authorizing the City Manager to execute the amendments in a form acceptable to the City Attorney
- 5.m. Adopted **Resolution No. 5127-17** Approving a Cooperative Agreement with Alameda- Contra Costa Transit District (AC Transit) for the South Alameda County Major Corridors Travel Time Improvement Project (Line 97 Route)
- 5.n. Adopted **Resolution No. 5128-17** Accepting and Appropriating 2015 Federal Justice Assistance Grant (JAG) - Formulas
- 5.o. Adopted **Resolution No. 5129-17** Accepting and Appropriating 2016 Federal Justice Assistance Grant (JAG) - Formulas
- 5.p. Adopted **Resolution No. 5130-17** to Appropriate Funds and Award a Construction Contract for City Project 16-35, Veterans Memorial Park in the Amount of \$291,537.12 to Silman Venture Corporation

With concurrence from Council, Mayor Dutra-Vernaci moved City Manager Reports to be heard before Public Hearings.

7. CITY MANAGER REPORTS

- 7.a. Adopt a Resolution Amending the Master Fee Schedule to Establish the Rent Ordinances Subcategory and Related Fees under the Economic and Community Development Category for Administration of the Residential Landlord and Tenant Relations Ordinance and the Rent Review Ordinance

Housing and Community Development Coordinator Alin Lancaster presented the staff report, providing a review of the steps taken thus far in

the adoption and implementation of the Eviction Protection and Rent Review Ordinances.

Ms. Lancaster stated the administration costs associated with the implementation of the Eviction Protection and Rent Review Ordinance were \$62,472 and \$130,824, respectively.

Ms. Lancaster explained the Ordinances allow the City to charge administration fees, calculated to a total of \$31.50 per unit. Fees become effective November 1, 2017 and will be due at business license renewal or new application. Fees will be updated annually with Master Fee Schedule.

Tom Silva, President of the Rental Housing Association, provided comment in support of the Rent Review Ordinance and looked forward to continuing cooperative efforts with the City on getting the word out.

Mr. Wu, Union City property owner/landlord spoke against the ordinance and stated the tax should be voted on.

Interim City Attorney Kokotaylo clarified the Ordinance was implementing a fee and did not require voter approval.

It was moved by Vice Mayor Gacoscas and seconded by Councilmember Singh to adopt **Resolution No. 5031-17** amending the Master Fee Schedule to Establish the Rent Ordinances Subcategory and Related Fees under the Economic and Community Development Category for Administration of the Residential Landlord and Tenant Relations Ordinance and the Rent Review Ordinance. The motion was carried by a unanimous voice vote.

7.b. Direction on Use of City Funds for Alvarado Historic District Merchants Association Fall Festival

Mayor Dutra-Vernaci recused herself citing a conflict of interest under the Political Reform Act. Vice Mayor Gacoscas led the discussion.

City Manager Acosta stated the matter was before Council for consideration due to the current budget situation and costs were estimated to be in the range of \$15,000 due to Smith Street closure and staffing costs. In the past, the City contributed between \$3000 and \$5000 in support.

Further discussion and statement from Ms. Adrienne Realiza revealed Smith Street will no longer be closed due to the associated costs, bringing the amount requested down to \$3000.00.

Given the new information, City Manager Acosta stated the funds were available.

It was moved by Councilmember Duncan and seconded Councilmember Ellis, to provide the same level of support for this year's Fall Festival that has been provided in the past, between the ranges of \$3,000 to \$5,000.

The motion was carried by the following voice vote:

AYES: Councilmembers Duncan, Ellis and Singh, Vice Mayor
Gacoscos
NOES: None
ABSTAIN: Mayor Dutra-Vernaci
ABSENT: None

Mayor Dutra-Vernaci returned to the dais.

6. PUBLIC HEARINGS

- 6.a. Public Hearing (Published Notice) to Adopt a Resolution Approving the 2016-2017 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) and Authorizing the City Manager to Submit the 2016-2017 CDBG CAPER to the U.S. Department of Housing and Urban Development

Housing and Community Development Coordinator Alin Lancaster presented the staff report, comparing the 2016-17 goals with the 2016-17 accomplishments and reviewing the accounting of CDBG funds spent in 16-17.

Mayor Dutra-Vernaci opened the public hearing and called for public testimony. Being none, Mayor Dutra-Vernaci closed the public hearing.

It was moved by Councilmember Duncan and seconded by Councilmember Singh to Adopt **Resolution No. 5132-17** Approving the 2016-2017 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) and Authorizing the City Manager to Submit the 2016-2017 CDBG CAPER to the U.S. Department of Housing and Urban Development. The motion was carried by a unanimous voice vote.

- 6.b. Public Hearing (Published Notice) for Introduction and First Reading of an Ordinance of The City of Union City Adding Chapter 15.88 to Title 15 of The Union City Municipal Code to Provide for an Expedited, Streamlined Permitting Process for Electric Vehicle Charging Stations

Chief Building Official Kevin Reese presented the staff report, noting that State law requires an electric vehicle (E.V.) charging station ordinance by September 30, 2017. The draft ordinance establishes an expedited streamlined permitting process and is consistent with goals and intent of the Plug-In Electric Vehicle Infrastructure Permitting Checklist contained in the Zero-Emission Vehicles in California: Community Readiness Guidebook adopted by the Governor's Office of Planning and Research.

Mayor Dutra-Vernaci opened the public hearing and called for public testimony. Being none, Mayor Dutra-Vernaci closed the public hearing.

It was moved by Councilmember Ellis and seconded by Vice Mayor Gacoscos to Introduce an Ordinance Adding Chapter 15.88 to Title 15 of the Union City Municipal Code to Provide for an Expedited, Streamlined

Permitting Process for Electric Vehicle Charging Stations. The motion was carried by a unanimous voice vote.

8. SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY - None

9. AUTHORITIES AND AGENCIES - None

10. CITY COMMISSION / COMMITTEE REPORTS - None

11. SECOND ORAL COMMUNICATIONS

Barry Ferrier spoke regarding the meeting scheduled for September 13 at the Mark Green Sports Center regarding the Dumbarton Corridor Study. Mr. Ferrier expressed concern about the lack of political leaders on the legislative policy making body (DBRAC).

12. SCHEDULED ORAL COMMUNICATION - None

13. ITEMS REFERRED BY COUNCIL

Oral Reports by Mayor and Councilmembers on meetings of County or Regional Board and Commissions

Alameda County Fire Department Advisory Commission – Councilmember Singh attended the meeting of September 7 where it was told that Alameda County firefighters were sent to Texas to help with Hurricane Harvey.

Councilmember Singh also noted that the new contract between ACFD and the City of Newark was nearing completion.

Alameda County Library Advisory Commission – No report.

Alameda County Mayors Conference – No report.

Alameda County Transportation Commission (ACTC) – Mayor Dutra-Vernaci attended the ACTC meeting of September 11 where an update on the I-880 interchange and Whipple/Industrial intersection improvements was given.

Alameda County Waste Management Authority (WMA) – No report.

Association of Bay Area Governments (ABAG) – No report.

City of Union City Audit Subcommittee – No report.

City of Union City Municipal Code Subcommittee – No report.

City of Union City Youth Violence Prevention & Intervention Advisory Committee (YVIP) – No report.

Disaster Council – No report.

Dumbarton Rail Corridor Policy Advisory Committee – No report.

East Bay Community Energy Board of Directors (EBCE) – No report.

East Bay Economic Development Alliance (EDA) – No report.

East Bay Regional Communications System Authority (EBRCSA) – No report.

Economic Development Advisory Team (EDAT) – Councilmember Duncan attended the EDAT meeting of September 6 where the Enov8 Conference, Reimagining Manufacturing Day was discussed. Councilmember Duncan requested a Council briefing before the date of the Conference on October 5.

General Plan Advisory Committee (GPAC) – No report.

Housing Authority of the County of Alameda (HACA) – No report.

League of California Cities, East Bay Division (LOCC) – No report.

Metropolitan Transportation Commission (MTC) – Mayor Dutra-Vernaci provided an update on the Regional Measure 3 and SB 595 actions. All Alameda County items made it on the list, which was now in the State Assembly.

Mayor Dutra-Vernaci noted the process this go around was more of a top-down process as compared to Regional Measure 2.

New Haven Unified School District Joint Sub-Committee – No report.

Oakland Airport Community Noise Management Forum – No report.

Teen Center Project Updates – No report.

Union City Chamber of Commerce – No report.

US Conference of Mayors – No report.

14. GOOD OF THE ORDER

Vice Mayor Gacoscos noted her attendance of the ribbon cutting ceremony for the Connecting Waters Charter School with City Manager Acosta.

Vice Mayor Gacoscos announced that Union City Friends of Sister Cities will be awarded the Local Heroes Award at Senator Bob Wieckowski's State of the 10th Senate District Address and Awards Ceremony on Thursday, September 28, 2017 at the UC Santa Cruz Silicon Valley Campus in Santa Clara.

Councilmember Duncan commended staff on the 9/11 Remembrance and Celebration at the Flight 93 Memorial.

Mayor Dutra-Vernaci congratulated the Sister Cities Committee for the upcoming recognition. Regretfully she cannot attend due to the Tri-Cities Mayors and City Managers' meeting regarding funding of the East West Connector in Oakland.

15. CLOSED SESSION - None

16. ADJOURNMENT

Mayor Dutra-Vernaci adjourned the meeting at 9:32 p.m.

Respectfully submitted,

Anna M. Brown, CMC
City Clerk



Agenda Item

DATE: 9/26/2017

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: ANTONIO E. ACOSTA, City MANAGER

SUBJECT: ADOPT A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY APPOINTING KRISTOPHER J. KOKOTAYLO AS CITY ATTORNEY

The City Council is requested to adopt a resolution removing the interim designation, and appointing Interim City Attorney Kristopher J. Kokotaylo as City Attorney for the City of Union City.

BACKGROUND

On May 22, 2017, Governor Edmund G. “Jerry” Brown Jr. appointed former City Attorney Benjamin T. Reyes II as Judge of the Superior Court for the State of California. Ben left the practice of law in July and currently serves as a Judge in Contra Costa County.

At a closed session special meeting on June 13, 2017, the City Council provided unanimous direction to place the appointment of Kristopher Kokotaylo as Interim City Attorney on the agenda for the June 27, 2017 City Council meeting with an interim designation in order to allow the City Manager to perform a cost analysis of transition to an in-house City Attorney. The City Council also provided direction for the City Manager to perform the cost analysis within a time period of 60-90 days. The City Council appointed Kristopher Kokotaylo as Interim City Attorney on June 27, 2017.

DISCUSSION

The City Manager completed a cost analysis of transitioning the City Attorney function in-house and concluded that there would not be cost savings associated with an in-house transition of the City Attorney’s office; in addition, no suitable office space could be identified in City Hall. Pursuant to the City Council’s previous direction, the City Council is requested to remove the interim designation and permanently appoint Kristopher J. Kokotaylo as City Attorney.

FISCAL IMPACT

None.

RECOMMENDATION

That the City Council adopt a resolution removing the interim designation, and appointing Interim City Attorney Kristopher J. Kokotaylo as City Attorney for the City of Union City.

Prepared by:

Kristopher J. Kokotaylo, Interim City Attorney

Submitted by:

ANTONIO E. ACOSTA, CITY MANAGER

ATTACHMENTS:

Description	Type
□ Resolution Appointing Kristopher J. Kokotaylo as City Attorney	Resolution

RESOLUTION NO. 2017-XXX

**RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF UNION CITY APPOINTING
KRISTOPHER J. KOKOTAYLO AS CITY ATTORNEY**

WHEREAS, the City Council of the City of Union City appointed Kristopher J. Kokotaylo as Interim City Attorney on June 27, 2017; and

WHEREAS, the City Council of the City of Union City desires to remove the interim designation and desires to appoint Kristopher J. Kokotaylo, of the law firm of Meyers Nave Riback Silver & Wilson, A Professional Corporation, to the position of City Attorney for the City of Union City, and to serve in this position for and during the pleasure of the City Council; and

WHEREAS, Kristopher J. Kokotaylo possesses the education, qualifications and experience necessary to serve as City Attorney; and

WHEREAS, Kristopher J. Kokotaylo has previously taken the oath of office on June 27, 2017.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Union City hereby removes the interim designation and appoints Kristopher J. Kokotaylo as City Attorney for the City of Union City effective September 26, 2017, with all the rights, privileges and authority of the Office of the City Attorney.

2859338.1



Agenda Item

DATE: 9/26/2017

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JOAN MALLOY, ECONOMIC AND COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: SECOND READING AND ADOPTION OF AN ORDINANCE OF THE CITY OF UNION CITY ADDING CHAPTER 15.88 TO TITLE 15 OF THE UNION CITY MUNICIPAL CODE TO PROVIDE FOR AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR ELECTRIC VEHICLE CHARGING STATIONS

On September 12, 2017 City Council conducted a public hearing and first reading of the proposed ordinance adding chapter 15.88 to the Union City Municipal Code to provide for an expedited, streamlined permitting process for electric vehicle charging stations.

Staff recommends that the City Council conduct a second reading of the proposed ordinance to add Chapter 15.88 to Title 15 of the Union City Municipal Code.

BACKGROUND

Union City is required by State law to adopt an ordinance that implements an expedited, streamlined permitting process for electric vehicle charging stations. As a result, staff has prepared an ordinance that complies with Government Code section 65850.7. Staff recommends that the City Council conduct a second reading and adopt an ordinance providing for an expedited, streamlined permitting process for electric vehicle charging stations.

DISCUSSION

As presented to the City Council on September 12, 2017, the proposed ordinance meets all of the requirements of AB 1236 and adoption of the proposed ordinance would bring the City into compliance with Government Code 65850.7.

FISCAL IMPACT

There is no fiscal impact from adoption of the proposed ordinance.

RECOMMENDATION

Staff recommends that the City Council waive reading the full text of the Ordinance, conduct the second reading of the title of the proposed Ordinance, and adopt the Ordinance approving the addition of Chapter 15.88 to Title 15 of the Union City Municipal Code to provide for an expedited, streamlined permitting process for electric vehicle charging stations.

The ordinance will become effective October 26, 2017.

Prepared by:

Kevin Reese, Chief Building Official

Submitted by:

Joan Malloy, Economic and Community Development Director

ATTACHMENTS:

Description	Type
□ Ordinance Adding Chapter 15.88 to Title 15 of the Union City Municipal Code	Resolution

ORDINANCE NO. XX-17

AN ORDINANCE OF THE CITY COUNCIL OF UNION CITY ADDING CHAPTER 15.88 TO TITLE 15 OF THE UNION CITY MUNICIPAL CODE TO PROVIDE FOR AN EXPEDITED, STREAMLINED PERMITTING PROCESS FOR ELECTRIC VEHICLE CHARGING STATIONS

WHEREAS, the State of California and the City of Union City desire to promote and encourage the use of fuel-efficient electric vehicles; and

WHEREAS, on October 8, 2015, Governor Jerry Brown signed AB 1236, amending Government Code section 65850.7, which requires local agencies to adopt an ordinance that creates an expedited and streamlined permitting process for electric vehicle charging stations; and

WHEREAS, the City Council of Union City seeks to implement AB 1236 through the creation of an expedited, streamlined permitting process for electric vehicle charging stations; and

WHEREAS, the City Council of Union City finds that it is in the interest of the health, welfare, and safety of the public to provide an expedited, streamlined permitting process to encourage and facilitate the convenient development of electric vehicle charging stations.

NOW THEREFORE, the City Council of Union City does ordain as follows:

Section 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

Section 2. California Environmental Quality Act (CEQA). This Ordinance is exempt from CEQA based on sections 15378 and 15061(b)(3) of the State CEQA Guidelines, because it has no potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment. This Ordinance is a text amendment involving the adoption of regulations to expedite and streamline permitting for electric vehicle charging stations; thus, it can be seen with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

Section 3. Findings. The City Council makes the following findings in support approving this Ordinance, based on the whole of the record before it.

1. The City has a substantial interest in complying with Government Code 65850.7 by creating an expedited, streamlined permitting process for Electric Vehicle Charging Stations.
2. The amendments are consistent with the City's efforts to promote and encourage the use of Zero-Emission Vehicles

Section 4. Approval. The City Council hereby approves the amendments to the Municipal Code, more specifically, adding Chapter 15.88, as shown in attached Exhibit A, which is incorporated herein by reference and available for review in the City Clerk's office during normal business hours

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 6. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

EXHIBIT A

CHAPTER 15.88 EXPEDITED STREAMLINED PERMITTING PROCESS FOR ELECTRIC VEHICLE CHARGING STATION

- 15.88.010 Intent and purpose.
- 15.88.020 Definitions.
- 15.88.030 Expedited permitting process.
- 15.88.040 Permit application process.
- 15.88.050 Technical review.
- 15.88.060 Electric vehicle charging station installation requirements.
- 15.88.070 Right of appeal.
- 15.88.080 Fees

15.88.010 Intent and purpose.

The purpose and intent of this chapter is to promote and encourage the use of electric vehicles by creating an expedited, streamlined, permitting process for electric vehicle charging stations while promoting public health and safety and preventing specific adverse impacts in the installation and use of such charging stations. This chapter is also intended to comply with the requirements of California Government Code section 65850.7, as may be amended from time to time.

15.88.020 Definitions.

For the purpose of carrying out the intent of this chapter, the terms in this chapter have the meaning set forth below:

- A. "Electric vehicle charging station" or "charging station" shall mean any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code, as it reads on the effective date of this chapter, and delivers electricity from a source outside an electrical vehicle into a plug-in electric vehicle.
- B. "Building Official" shall mean the Building Official for Union City or the Building Official's designee.
- C. "City" shall mean the City of Union City.
- D. "Electronic submittal" shall mean the utilization of one or more of the following:

1. Email
 2. The Internet
 3. Facsimile
- E. “Expedited permitting process” or “expedited review” shall mean the process outlined in Section 15.88.030 for permit review and inspection requirements.
- F. “Specific adverse impact” shall mean a significant, quantifiable, direct and unavoidable impact, based on objective, identified and written public health or safety standards, policies or conditions as they existed on the date the application was deemed complete.

15.88.030 Expedited permitting process.

The Building Official shall implement an expedited, streamlined permitting process for electric vehicle charging stations, and adopt a checklist of all requirements with which electric vehicle charging stations shall comply with in order to be eligible for expedited review. The expedited streamlined permitting process and checklist may refer to the recommendations contained in the most current version of the "Plug-In Electric Vehicle Infrastructure Permitting Checklist" of the "Zero-Emission Vehicles in California: Community Readiness Guidebook" as published by the Governor's Office of Planning and Research. The City's adopted checklist shall be published on the City's website and shall be accessible to the public.

15.88.040 Permit application processing.

- A. The applicant shall verify that the installation of an electric vehicle charging station will not have specific, adverse impact to public health and safety and building occupants. Documentation required to be submitted by the applicant includes but is not limited to: identifying electrical system capacity and loads; electrical system wiring, bonding and overcurrent protection; building infrastructure affected by charging station equipment and associated conduits; charging station equipment location and vehicle parking.
- B. The Building Official shall allow for electronic submittal of permit applications covered by this article and associated supporting documentation. In accepting such permit applications, the Building Official shall also accept electronic signatures on all forms, applications, and other documentation in lieu of a wet signature by applicant.
- C. A permit application that satisfies the information/documentation requirements in the City's adopted checklist shall be deemed complete and be promptly processed. Upon confirmation by the Building Official that the permit application and supporting documents meet the requirements of the City's adopted checklist, and is consistent with all applicable laws and health and safety standards, the Building Official shall, consistent with

Government Code Section 65850.7, approve the application and issue all necessary permits.

D. If the Building Official determines that the permit application is incomplete, he or she shall issue a written correction notice to the applicant, detailing all deficiencies in the application and any additional information required to be eligible for expedited permit issuance.

E. Application approval / permit issuance does not authorize an applicant to energize or utilize the electric vehicle charging station, unless and until an inspection is performed and approval is granted by the City and the utility carrier as necessary.

F. Inspections shall be required. When an inspection is requested, the inspection shall be done in an efficient and timely manner. Inspections shall verify safety requirements and ensure that the electric vehicle charging stations are properly installed and in compliance with Code and the approved plans. If the electric vehicle charging station fails the initial inspection, a subsequent inspection may be required.

15.88.050 Technical review.

A. If the Building Official makes a finding based on substantial evidence that the electric vehicle charging station could have a specific adverse impact upon the public health or safety, as defined in this chapter, the City may require the applicant to apply for a Use Permit.

B. In the technical review of an electric vehicle charging station, the Building Official shall not condition the approval for any electric vehicle charging station permit on the approval of such a system by an association, as that term is defined by Civil Code Section 4080.

15.88.060 Electric vehicle charging station installation.

A. Electric vehicle charging station equipment shall meet the requirements of the California Electrical Code, the Society of Automotive Engineers, the National Electrical Manufacturers Association, and accredited testing laboratories such as Underwriters Laboratories, and rules of the Public Utilities Commission or a Municipal Electric Utility Company regarding safety and reliability.

B. Installation of electric vehicle charging stations and associated wiring, bonding, disconnecting means and overcurrent protective devices shall meet the requirements of Article 625 and all applicable provisions of the California Electrical Code.

C. Installation of electric vehicle charging stations shall be incorporated into the load calculations of all new or existing electrical services and shall meet the requirements of the California Electrical Code. Electric vehicle charging equipment shall be considered a continuous load.

D. Anchorage of either floor-mounted or wall-mounted electric vehicle charging stations shall meet the requirements of the California Building or Residential Code as applicable per occupancy, and the provisions of the manufacturer's installation instructions. Mounting of charging stations shall not adversely affect building elements.

E. Commercial Electric Vehicle Charging Stations shall comply with accessibility requirements found in the California Building Code Chapter 11B

15.88.070 Right of appeal.

Any person having any record title or legal interest in the building may appeal from any action or decision of the Building Official under this chapter by filing an appeal to the Planning Commission for determinations of the Zoning Administrator in accordance with the procedures set forth in Union City Municipal Code 18.52.087(B), or as may be amended

15.88.080 Fees.

Fees shall be assessed as set forth in the fee schedule adopted by the City.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Union City at a regular meeting held on September 12, 2017, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS

APPROVED:

Carol Dutra-Vernaci, Mayor

ATTEST:

APPROVED AS TO FORM:

Anna Brown, City Clerk

Kristopher J. Kokotaylo, Interim
City Attorney

2853115.1



Agenda Item

DATE: 9/26/2017

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: KRISTOPHER J. KOKOTAYLO, INTERIM CITY ATTORNEY

SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A THIRD AMENDMENT TO THE EMERGENCY MEDICAL SERVICES FIRST RESPONDER ADVANCED LIFE SUPPORT SERVICES AGREEMENT WITH THE COUNTY OF ALAMEDA

The City of Union City (the “City”) and the County of Alameda (the “County”) are members to an Emergency Medical Services First Responder Advanced Life Support Services Agreement (the “Agreement”) which permits the City to provide and receive funding for First Responder Advanced Life Support (“FRALS”) Units and to serve as a designated provider of FRALS, or emergency, Services. Staff recommends that the City Council authorize the City Manager to execute a third amendment (the “Amendment”) to the Agreement with the County. The third amendment will permit the continuance of first responder services and payments to the City for services provided.

BACKGROUND

On November 1, 2011, the City and the County executed the Agreement. The Agreement permits the City to provide and receive funding for FRALS Units and to serve as a designated provider of FRALS Services.

The City and County have executed two previous amendments to extend the term of the Agreement and revise the revenue and support provided to the City for the services provided under the Agreement. The amendments also ensured continued payment for the FRALS Services provided by the City under the Agreement.

DISCUSSION

The Agreement, as amended, is currently set to expire. The Amendment would extend the term of the Agreement to June 30, 2018 in order to permit continuance of FRALS Services from the City and payments from the County for the services provided. Additionally, the Amendment would transfer ownership of Alameda County Emergency Medical Services Agency equipment to the City at no cost.

FISCAL IMPACT

The City will receive additional payments from the County totaling \$128,812.45 for the additional duration of the Agreement from November 1, 2017 until June 30, 2018 for the FRALS Services provided. Staff have been advised that it is very likely the FRALS agreement will not be renewed.

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to Execute a Third Amendment to the Emergency Medical Services First Responder Advanced Life Support Services Agreement with the County of Alameda.

Prepared by:

Kristopher J. Kokotaylo, Interim City Attorney

Submitted by:

Kristopher J. Kokotaylo, Interim City Attorney

ATTACHMENTS:

Description	Type
☐ Resolution Approving FRALS Amendment	Resolution
☐ Exhibit A FRALS Reso	Exhibit

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY
AUTHORIZING THE CITY MANAGER TO EXECUTE A THIRD
AMENDMENT TO THE EMERGENCY MEDICAL SERVICES FIRST
RESPONDER ADVANCED LIFE SUPPORT SERVICES AGREEMENT
WITH THE COUNTY OF ALAMEDA**

WHEREAS, on November 1, 2011, the City of Union City (the “City”) and the County of Alameda (the “County”) executed an Emergency Medical Services First Responder Advanced Life Support Services Agreement (the “Agreement”) for the City to provide and receive funding for First Responder Advanced Life Support (“FRALS”) Units and to serve as a designated provider of FRALS Services; and

WHEREAS, the City and County previously executed amendments to the Agreement in order to extend the term of the Agreement and revise the revenue and support provided to the City for the services provided under the Agreement; and

WHEREAS, the City and the County desire revise the Agreement to extend the term of the Agreement to June 30, 2018 in order to permit continuance of FRALS Services from the City and payments from the County for the services provided; and

WHEREAS, the City and the County further desire to revise the Agreement to transfer ownership of certain Alameda County Emergency Medical Services Agency equipment to the City at no cost; and

WHEREAS, the City and the County desire to execute an additional amendment to the Agreement to reflect the proposed revisions.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Union City, that the City Manager or his designee is hereby authorized to enter into the Third Amendment to Agreement, in substantive form attached hereto as Exhibit A, in a form approved by the City Attorney, and undertake such actions as may be necessary or appropriate to carry out and implement the terms of the Third Amendment to Agreement; and

BE IT FURTHER RESOLVED that the City Manager (or his or her designee) is authorized to make all approvals and take all actions necessary or appropriate to carry out and implement the terms of the Third Amendment to Agreement and to administer the City’s obligations, responsibilities and duties to be performed under the Agreement.

2865333.1

THIRD AMENDMENT TO AGREEMENT

This Third Amendment ("Amendment") to the Emergency Medical Services First Responder Advanced Life Support Services Agreement ("Agreement"), made and entered into on November 1, 2017, is made by the **County of Alameda** ("County") and the **City of Union City** ("Contractor").

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, County and Contractor agree to amend the Agreement in the following respects:

1. Section 2.1 of the Agreement, concerning the term, is deleted and replaced with the following language:
 - 2.1 The term of the agreement shall be July 1, 2011 through June 30, 2018.
2. Section 11 of the Agreement, concerning Contractor Revenue/Support, is amended to include new subsections 11.1.3 and 11.1.4:
 - 11.1.3 Contractor shall be compensated on a per-unit basis in installments as defined in EXHIBIT E – FIRST RESPONDER SUPPORT PAYMENT SCHEDULE.
 - 11.1.4 For the period November 1, 2017 through June 30, 2018, Contractor funding under this Agreement shall be increased 3%. Contractor and County agree that under this Agreement, 1% of the Increase will be set aside in an account created by the County for eventual increases in the number of FRALS units or other projects that enhance Fire EMS response. The use of funds from the 1% set-aside account shall be reviewed by a panel of three, including the EMS Director and two fire chiefs selected by the Alameda County Fire Chiefs Association who are not involved in the matter being considered for funding.
3. Section 12 of the agreement, concerning Vehicles and Equipment, is amended to include new Subsections 12.6 and 12.7:
 - 12.6 Contractor agrees to accept ownership of the following equipment currently in its possession at no cost from County EMS:

Four (4) LIFEPAK 15 system

Four (4) Physio-Control chest compression system (LUCAS device)
 - 12.7 County EMS will fund Physio-Control, Inc. service plans LP15-OSCOMP-1 and LUCAS-OSCOMP-1 for each system identified in Subsection 12.6 through June 30, 2018.
4. Paragraph 1 of EXHIBIT E – FIRST RESPONDER SUPPORT/PAYMENT SCHEDULE is amended to include an additional three rows in the chart, as follows:

Year	8-month Total Amount per FRALS Unit x 4	Period of Service	COLA	% Funded	Period Amount	Total Amount
7	\$32,203.11 x 4 = \$128,812.45	11/1/2017- 1/31/2018	2%	100%	\$48,304.67	\$48,304.67
		2/1/2018- 4/30/2018	0%	100%	\$48,304.67	\$96,609.34
		5/1/2018- 6/30/2018	0%	100%	\$32,203.11	\$128,812.45

5. Paragraph 4 of EXHIBIT E – FIRST RESPONDER SUPPORT/PAYMENT SCHEDULE is amended to read “Payment to Contractor will be made in installments upon receipt of an invoice at least thirty (30) business days in advance of the start of each Period as identified in EXHIBIT E – FIRST RESPONDER SUPPORT/PAYMENT SCHEDULE.”
6. EXHIBIT G – EQUIPMENT LOAN AGREEMENT Sections A.2 concerning LIFEPAK 15 system and A.3 Concerning Physio-Control chest compression system (LUCAS device) are deleted.
7. Except as expressly modified by this Third Amendment, all of the terms and conditions of the Agreement are and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to the Agreement on the date(s) referenced below.

COUNTY OF ALAMEDA

CITY OF UNION CITY

By: _____
Signature

By: _____
Signature

Name: Wilma Chan

Name: Antonio E. Acosta

Title: President of the Board of Supervisors

Title: City Manager

Date: _____

Date: _____

Approved as to Form:
DONNA R. ZIEGLER, County Counsel

By: _____
K. Scott Dickey, Assistant County Counsel

By signing above, signatory warrants and represents that he/she executed this Third Amendment in his/her authorized capacity and that by his/her signature on this Third Amendment, he/she or the entity upon behalf of which he/she acted, executed this Third Amendment.

EXHIBIT D

COUNTY OF ALAMEDA

DEBARMENT AND SUSPENSION CERTIFICATION

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- **Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;**
- **Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;**
- **Does not have a proposed debarment pending; and**
- **Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.**

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: City of Union City

PRINCIPAL: Antonio E. Acosta **TITLE:** City Manager

SIGNATURE: _____ **DATE:** _____



Agenda Item

DATE: 9/26/2017

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: JILL STAVOSKY, COMMUNITY & RECREATION SERVICES DIRECTOR

SUBJECT: ADOPT A RESOLUTION ACCEPTING AND APPROPRIATING FY 2017/18 GRANT FUNDS FROM THE FIRST 5 ALAMEDA COUNTY - QUALITY COUNTS PROGRAM IN THE TOTAL AMOUNT OF \$3,000 TO THE COMMUNITY & RECREATION SERVICES DEPARTMENT

A resolution has been prepared for the City Council of the City of Union City to adopt and appropriate FY 2017/18 grant funds from the First 5 of Alameda Quality Counts Program in the total amount of \$3,000 to the Community & Recreation Services

BACKGROUND

The First 5 of Alameda Quality Counts (QC) Quality Improvement (QI) Grant supports Child Care Centers to accomplish Quality Improvements Plan (QIP) goals. The grant is one support to assist sites that are identified during the QC process.

DISCUSSION

The First 5 of Alameda Quality Counts Program has awarded the Union City Community & Recreation Services Holly Licensed Preschool Program with \$3,000 to assist with the purchase age appropriate child development equipment and materials, professional development costs that align with the site QIP, and minor facility enhancements.

FISCAL IMPACT

There is no fiscal impact on the General Fund.

RECOMMENDATION

It is recommended that the City Council accepts and appropriates FY 2017/18 grant funds from the First 5 of Alameda Quality Counts Program in the total amount of \$3,000 to Community & Recreation Services.

Prepared by:

Marissa Vera, Recreation Supervisor

Submitted by:

Jill Stavosky, Community & Recreation Services Director

ATTACHMENTS:

Description		Type
<input type="checkbox"/>	Resolution	Resolution
<input type="checkbox"/>	Budget Transfer	Attachment

RESOLUTION NO. XXXX-17

**RESOLUTION TO THE CITY COUNCIL OF THE CITY OF UNION CITY
ACCEPTING AND APPROPRIATING FY 2017/18 GRANT FUNDS FROM THE FIRST 5
ALAMEDA COUNTY-QUALITY COUNTS PROGRAM IN THE TOTAL AMOUNT OF \$3,000
TO THE COMMUNITY & RECREATION SERVICES DEPARTMENT**

WHEREAS, the First 5 of Alameda Quality Counts (QC) Quality Improvement (QI) Grant Supports Child Care Centers to accomplish Quality Improvements Plan (QIP) goals. The grant is one support to assist sites that are identified during the QC process; and

WHEREAS, the First 5 of Alameda Quality Counts Program has awarded Union City Community & Recreation Services with \$3,000 to assist site to purchase age appropriate child development equipment and materials, professional development cost that align with the site QIP and minor facility enhancements ; and

WHEREAS, as acceptance of said grant funds in the amount of \$3,000 and appropriation of same to the Community & Recreation Services budget (1110-51020-44502).

NOW, THEREFORE, BE IT RESOVLED that the City Council of the City of Union City hereby accepts and appropriates FY 2017/18 grant funds from the First 5 of Alameda Quality Counts Program in the total amount of \$3,000 to Community & Recreation Services (1110-51020-44502).

PASSED, APPROVED AND ADOPTED by the City Council of the City of Union City at a special meeting held on the 26th day of September 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CAROL DUTRA-VERNACI
Mayor

ATTEST:

APPROVED AS TO FORM:

ANNA M. BROWN
City Clerk

KRISTOPHER J. KOKOTAYLO
Interim City Attorney

**REQUEST FOR BUDGET TRANSFER
OR
SUPPLEMENTAL APPROPRIATION**

Nature of adjustment:

Inter-account Transfer []

Additional Appropriation []

Approved by Council Action/Resolution # _____

INCREASE BUDGET OF THIS ACCOUNT		DECREASE BUDGET OF THIS ACCOUNT	
Account Number	Amount	Account Number	Amount

Reason for request:

REQUIRED: IF A CAPITAL BUDGET IS BEING DECREASED, EXPLAIN HOW THE DECREASE WILL IMPACT THE PROJECT (ELIMINATE, POSTPONE, REDUCE SCOPE, NO IMPACT, OTHER)

Department Head Signature: _____ Date: _____

Availability of funds approved by Administrative Services Director: _____

City Manager approval: _____



Agenda Item

DATE: 9/26/2017

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: BONNIE ROLAND-WILLIAMS, HUMAN RESOURCES DIRECTOR

SUBJECT: A RESOLUTION RECOGNIZING THE PROFESSIONAL EMPLOYEES GROUP (PEG) AS THE SOLE AND EXCLUSIVE BARGAINING REPRESENTATIVE OF ITS MEMBERS

A resolution has been prepared to clarify the status of the Professional Employees Group (PEG) as the sole and exclusive bargaining representative of its members with regard to wages, hours, and other terms and conditions of employment.

BACKGROUND

The PEG and the City have a long-established relationship of meeting and conferring on behalf of professional employees regarding wages, hours and other terms and conditions of employment.

DISCUSSION

The PEG represents approximately twenty (20) Union City employees, as defined in the Memorandum of Understanding between the City of Union City and the PEG. For more than twenty five (25) years the City has met with representatives of the PEG to discuss terms of employment for the group's members, but has never adopted a resolution to formally recognize the group as an exclusive representative.

Adoption of the resolution officially confers recognition of the PEG as the sole and exclusive bargaining representative of its members under the Meyers-Milias-Brown Act. This resolution clarifies the status of the group and its right to represent its members with regard to wages, hours, and other terms and conditions of employment and allows all parties to proceed with a clear understanding of the status of the group.

FISCAL IMPACT

There is no fiscal impact either to the employees or the City as a result of adoption of the proposed resolution,

which formalizes the City's existing practice of recognizing PEG as the sole representative of its members.

RECOMMENDATION

Staff is recommending that the City Council approve the resolution to formally recognize the Professional Employees Group (PEG) as the sole and exclusive bargaining representative of its members.

Prepared by:

Bonnie Roland-Williams, Human Resources Director

Submitted by:

Antonio E. Acosta, City Manager

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Resolution	Resolution

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY
RECOGNIZING THE PROFESSIONAL EMPLOYEES GROUP (PEG) AS THE SOLE
AND EXCLUSIVE BARGAINING REPRESENTATIVE OF ITS MEMBERS**

WHEREAS, for more than twenty five (25) years the City of Union City has met with the Professional Employees Group (PEG) to discuss wages, hours, and other terms and conditions of employment of the PEG members; and

WHEREAS, the City of Union City has previously entered into multiple agreement with the PEG governing terms and conditions of employment, the most recent being a January 2015 – July 2017 Memorandum of Understanding; and

WHEREAS, the January 2015 – July 2017 Memorandum of Understanding between the City of Union City and the Professional Employees Group defines the full-time classifications represented by the Professional Employees Group; and

WHEREAS, the City of Union City has not previously adopted a formal resolution recognizing the PEG as the exclusive representative of its member; sand

WHEREAS, the City of Union City desires to maintain the existing effective working relationship between Senior Management and the PEG; and

WHEREAS, the PEG have indicated their desire for the City to recognize the PEG as the exclusive representative of its members.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Union City does hereby formally recognize the Professional Employees Group (PEG) as the sole and exclusive bargaining representative of its members.



Agenda Item

DATE: 9/26/2017

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: BONNIE ROLAND WILLIAMS, HUMAN RESOURCES DIRECTOR

SUBJECT: A RESOLUTION RECOGNIZING THE MANAGEMENT EMPLOYEES GROUP (MEG) AS SOLE AND EXCLUSIVE BARGAINING REPRESENTATIVE OF ITS MEMBERS

A resolution has been prepared to clarify the status of the Management Employees Group (MEG) as the sole and exclusive bargaining representative of its members with regard to wages, hours, and other terms and conditions of employment.

BACKGROUND

The MEG and the City have a long-established relationship of meeting and conferring on behalf of "mid-management" employees regarding wages, hours and other terms and conditions of employment.

DISCUSSION

The MEG represents approximately twenty-five (25) Union City employees, as defined in the Memorandum of Understanding between the City of Union City and the MEG. For more than twenty five (25) years the City has met with representatives of the MEG to discuss terms of employment for the group's members, but has never adopted a resolution to formally recognize the group as an exclusive representative.

Adoption of the resolution officially confers recognition of the MEG as the sole and exclusive bargaining representative of its members under the Meyers-Milias-Brown Act. This resolution clarifies the status of the group and its right to represent its members with regard to wages, hours, and other terms and conditions of employment and allows all parties to proceed with a clear understanding of the status of the group.

FISCAL IMPACT

There is no fiscal impact either to the employees or the City as a result of adoption of the proposed resolution,

which formalizes the City's existing practice of recognizing MEG as the sole representative of its members.

RECOMMENDATION

Staff is recommending that the City Council approve the resolution to formally recognize the Management Employees Group (MEG) as the sole and exclusive bargaining representative of its members.

Prepared by:

Bonnie Roland-Williams, Human Resources Director

Submitted by:

Antonio E. Acosta, City Manager

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Resolution	Resolution

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION CITY
RECOGNIZING THE MANAGEMENT EMPLOYEES GROUP (MEG) AS THE SOLE
AND EXCLUSIVE BARGAINING REPRESENTATIVE OF ITS MEMBERS**

WHEREAS, for more than twenty five (25) years the City of Union City has met with the Management Employees Group to discuss wages, hours, and other terms and conditions of employment of the MEG members; and

WHEREAS, the City of Union City has previously entered into multiple agreement with the Management Employees Group governing terms and conditions of employment, the most recent being a January 2015 – July 2017 Memorandum of Understanding; and

WHEREAS, the January 2015 – July 2017 Memorandum of Understanding between the City of Union City and the Management Employees Group defines the full-time classifications represented by the Management Employees Group; and

WHEREAS, the City of Union City has not previously adopted a formal resolution recognizing the Management Employees Group as the exclusive representative of its members; and

WHEREAS, the City of Union City desires to maintain the existing effective working relationship between Senior Management and the Management Employees Group; and

WHEREAS, the Management Employees have indicated their desire for the City to recognize Management Employees Group as the exclusive representative of its members.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Union City does hereby formally recognize the Management Employees Group (MEG) as the sole and exclusive bargaining representative of its members.



Agenda Item

DATE: 9/26/2017

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: KRISTOPHER J. KOKOTAYLO, INTERIM CITY ATTORNEY

SUBJECT: INTRODUCE THREE ORDINANCES OF THE CITY COUNCIL OF THE CITY OF UNION CITY: AMENDING CHAPTER 18.04 AND ADDING CHAPTER 18.118 TO RESTRICT AND REGULATE THE PERSONAL CULTIVATION OF CANNABIS; AMENDING CHAPTERS 18.04, 18.08, AND 18.40 AND ADDING CHAPTER 18.117 TO IMPOSE ZONING RESTRICTIONS ON VARIOUS COMMERCIAL CANNABIS USES; AND REPEALING CHAPTERS 5.43 AND 9.46 IN THEIR ENTIRETY AND ADDING CHAPTER 5.44 TO IMPOSE REGULATORY RESTRICTIONS AND PROCEDURES FOR THE OPERATION OF COMMERCIAL CANNABIS USES

The City of Union City is proposing to modify Title 18 of the Municipal Code, repeal Chapter 9.46 “Medical Marijuana Cultivation and Delivery” of Title 9 of the Municipal Code, and repeal Chapter 5.43 “Medical Marijuana Dispensaries” and add Chapter 5.44 “Cannabis” to Title 5 of the Municipal Code to:

- Impose zoning restrictions and use regulations on the personal cultivation of cannabis pursuant to state law; and
- Impose zoning restrictions on various commercial cannabis uses authorized and licensed by the State of California and the City; and
- Impose regulatory restrictions and procedures for the operation of commercial cannabis uses.

Staff recommends that the City Council introduce the attached ordinances that would amend the zoning ordinance to impose zoning restrictions and regulations on personal cannabis cultivation and commercial cannabis uses and create a regulatory scheme for commercial cannabis uses within the City.

The primary questions for the City Council are:

1. Should Union City allow commercial cannabis businesses here? If the answer is yes, then the proposed ordinances allow commercial cannabis operators subject to regulatory requirements.
2. If so, which ones? The proposed ordinances allow all commercial cannabis uses except for outdoor commercial cultivation. However, all commercial cannabis uses require City Council approval.
3. How many such businesses should we allow at the start? The proposed ordinances create flexibility.

The City Council can chose, by resolution to issue no permits in any particular category or can chose to issue multiple permits in any particular category.

BACKGROUND

California voters enacted the Compassionate Use Act (“CUA”) in 1996, legalizing medical cannabis. The CUA provides qualified patients with an affirmative defense to criminal charges for possession of a reasonable amount of cannabis needed for medical conditions. In 2003, the California Legislature adopted the Medical Marijuana Program Act (“MMPA”). This law enhanced access to medical cannabis for qualified patients and caregivers by allowing for collective, cooperative cultivation projects, commonly known as “dispensaries”. In 2015, the Legislature enacted the Medical Marijuana Regulation and Safety Act, which was later renamed the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive licensing and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis.

In November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions. The AUMA complements the MCRSA, and creates a comprehensive regulatory and licensing structure for commercial nonmedical cannabis businesses, including cultivation, manufacturing and retail. In addition, the AUMA permits adults 21 years of age and older to cultivate up to six (6) cannabis plants at a private residence. Local jurisdictions may not prohibit such cultivation, except that they may still prohibit outdoor personal cannabis cultivation.

In order to implement the AUMA, and to address inconsistencies and other issues between the AUMA and MCRSA, the Legislature adopted SB 94 in June 2017. SB 94 consolidated the medical and recreational regulatory schemes to create one single comprehensive regulatory system to regulate all commercial cannabis uses (“MAUCRSA”). The State Bureau of Cannabis Control is currently working with several State agencies to draft regulations for all of the various license types. State licenses for all cannabis businesses are expected to be ready for issuance in January 2018.

None of the various cannabis related laws prevent the City from enacting nuisance and land use regulations regarding cannabis. A city is constitutionally authorized to make and enforce within its limits all local police, sanitary, and other ordinances. (Cal. Const. Art. XI, § 7.) Importantly, an applicant for a state license must first obtain local approval for a commercial cannabis use prior to receiving state approval and cannot submit an application for a state license if the proposed business violates a local ordinance.

Staff presented a broad overview on cannabis regulatory policy to the City Council during a study session in August. Staff conducted extensive outreach to inform the community of the study session and offered the public various opportunities to express its opinion on the issues. In addition, Godbe Research conducted a scientific poll of 529 likely Union City voters in November 2020. The survey examined voter attitudes toward the different types of cannabis business; regulations to protect public health, public safety, and the environment; and taxing cannabis operations.

In September 2017, the City Council conducted a joint study session with the Planning Commission regarding cannabis related issues. At the study sessions in August and September, based on staff’s recommendation, the City Council directed staff to develop ordinances allowing for the operation of commercial cannabis businesses within the City, coupled with regulations governing such businesses and the process for obtaining the necessary licenses to operate such businesses.

In addition to a regulatory cannabis ordinance, the City Council directed staff to amend the zoning ordinance to allow for commercial cannabis uses and to regulate personal cultivation.

DISCUSSION

The proposed ordinances include amendments to the City's zoning ordinance related to personal cultivation of cannabis and commercial cannabis uses. In general, the zoning ordinance amendment related to commercial cannabis uses makes a variety of commercial cannabis activities permitted uses provided that the commercial cannabis operator obtains a permit issued by the City Council. The regulatory scheme is established by a proposed ordinance amending the City's Municipal Code related to Business Licensing and Regulations. The processes and procedures related to the commercial cannabis regulatory scheme are further described below under subsection B.

A. Title 18, Zoning Amendments Regarding Personal Cultivation and Commercial Uses

The City currently prohibits all cannabis uses including medical marijuana cultivation, delivery and dispensaries.

Personal Cannabis Cultivation:

The proposed amendments related to personal cannabis cultivation are included in Exhibit A to Attachment 1. The amendments include the following provisions:

- Consistent with state law, allows personal cultivation of up to six (6) cannabis plants in any private residence, an accessory structure to a private residence, or outdoors at a private residence, by a person 21 years of age or older or by a person that cultivates medical cannabis as a qualified patient or primary caregiver.
- All structures and equipment used for cultivation must comply with all applicable building and safety codes, cultivation cannot interfere with the primary occupancy of the building or structure, and there cannot be exterior evidence of cultivation.
- Tenants must obtain landlord approval prior to engaging in personal cultivation.
- Outdoor cultivation is limited to a rear or side yard enclosed by a solid fence at least six feet high. The height of the cannabis plants cannot exceed the fence height and must be set back ten (10) feet from the property line.
- Prohibits outdoor cannabis cultivation at private residences where minors reside.

Commercial Cannabis Uses:

The proposed amendments related to commercial cannabis uses are included in Exhibit A to Attachment 2 and include the following:

- The following commercial cannabis uses are permitted uses in the ML (Light Industrial) District and the MS (Special Industrial District): Testing, Dispensary/Retail, Distribution, Indoor/Mixed-Light Cultivation, Manufacturing, and Microbusiness.
- Outdoor commercial cannabis cultivation prohibited.
- Commercial cannabis operators must have a permit issued pursuant to the City's regulatory ordinance,

With approval of the above amendments, personal cannabis cultivation will be regulated consistent with the requirements of California law, and commercial cannabis uses will be permitted and regulated in certain zoning districts in the City.

B. Title 5, Cannabis Regulatory Ordinance

The proposed amendments to the City's Municipal Code related to Business Licensing and Regulations are included in Exhibit A to Attachment 3. These proposed amendments create the general process and procedure for issuance of commercial cannabis permits.

Process and Procedures:

1. City Council establishes number and type of permits:

No commercial cannabis uses are permitted without City Council approval. The proposed text amendments allow the City Council to establish both the type of commercial cannabis uses permitted and the number of permits that the City will issue for each type. The following are the general categories of commercial cannabis uses:

- 1) Retail/Dispensaries: facility where cannabis and/or cannabis products are offered for retail sale.
- 2) Cultivation: activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.
- 3) Manufacturing: activity involving the production or preparation of cannabis or cannabis products or packaging or labelling of cannabis or cannabis products.
- 4) Distribution: the business of procuring, selling, and transporting cannabis, and the inspection, quality assurance, storage, labeling, packaging and other related processes.
- 5) Testing: activity related to performing tests of cannabis or cannabis products.

2. City Council opens the process for accepting permit applications:

The City Council, in its sole discretion, elects when to open the process for accepting commercial cannabis permit applications. The City Council adopts the procedures to govern the application process and the manner in which the City Council will determine the most qualified applicant to receive any permits. These procedures may include administrative hearings, various phases of review and other requirements.

At a minimum all applicants must provide information including, but not limited to, the following: 1) A signed affidavit agreeing to abide by and conform to the conditions of the permit and the Union City Municipal Code; 2) A security plan; 3) A zoning verification letter; and 4) Consent from the property owner to use the proposed location for commercial cannabis activity.

3. Public Hearing and City Council issuance of permits:

Following an open application period and review of applications by City staff and recommendations by the City Manager, the City Council considers commercial cannabis permit applications meeting minimum qualifications at a public hearing. The City is required to provide notice to property owners within 300 feet of

the boundaries of the property upon which the commercial cannabis use is proposed at least fifteen (15) days prior to the public hearing. **The City Council may issue up to the maximum number of qualified commercial cannabis permits with any and all conditions that the City Council deems necessary.**

Minimum Standards:

The proposed amendments also establish minimum standards for all commercial cannabis uses, in addition to any conditions of approval established by the City Council for each cannabis permit:

Distance Requirements:

Commercial cannabis uses are prohibited from establishing within one hundred feet (100') of a residential zoning district, any school or child care facility, any park, library, or youth center. The City Council may modify the distance requirements if a cannabis operator can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur.

Public Safety and Security:

- Background checks: All applicants for commercial cannabis permits and all employees for commercial cannabis operators must undergo a background check approved by the Chief of Police.
- Security and safety: Operators must provide a security plan approved by the Chief of Police and security cameras installed at certain locations with remote access by the Chief of Police. Firearms are prohibited on the premises of commercial cannabis businesses and panic buttons must be installed.

Site Plan:

Applicants are required to submit a site plan detailing proposed improvements to any premises to be used for a commercial cannabis use. This includes the requirement that the applicant address a myriad of deferred maintenance issues.

Environment:

Applicants must address environmental impacts including impacts related to air quality, greenhouse gas emissions, use of hazardous materials, water supply and wastewater.

Monitoring and Revocations/Renewals:

- Commercial cannabis uses are monitored by the police department.
- Permits are issued for a limited one year duration, must be renewed annually, and are revocable for a variety of reasons including failure to comply with the Municipal Code or any conditions of approval imposed upon the permit.

FISCAL IMPACT

There are no direct fiscal impacts as a result of adopting the attached Ordinance.

RECOMMENDATION

1. Introduce the attached ordinance amending Chapter 18.04 and adding Chapter 18.118 “Personal Cultivation of Cannabis” to the Union City Municipal Code.
2. Introduce the attached ordinance amending Chapters 18.04, 18.08, and 18.40 and adding Chapter 18.117 “Commercial Cannabis Businesses” to the Union City Municipal Code.
3. Introduce the attached ordinance repealing Chapters 5.43 and 9.46 of the Union City Municipal Code in their entirety and adding Chapter 5.44 “Cannabis” to the Union City Municipal Code.
4. Adopt the ordinances following a public hearing of the amendments to the zoning ordinance and second readings of the ordinances on October 10, 2017, or at another meeting selected by the City Council if directed.

Prepared by:

Kristopher J. Kokotaylo, Interim City Attorney

Submitted by:

Kristopher J. Kokotaylo, Interim City Attorney

ATTACHMENTS:

Description	Type
<input type="checkbox"/> Zoning Text Amendments Personal Cultivation	Ordinance
<input type="checkbox"/> Exhibit A to Zoning Text Amendments Personal Cultivation	Exhibit
<input type="checkbox"/> Zoning Text Amendments Commercial Uses	Ordinance
<input type="checkbox"/> Exhibit A to Zoning Text Amendments Commercial Uses	Exhibit
<input type="checkbox"/> Municipal Code Amendment Commercial Cannabis Uses	Ordinance
<input type="checkbox"/> Exhibit A to Municipal Code Amendment Commercial Cannabis Uses	Exhibit

ATTACHMENT 1

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNION CITY
AMENDING CHAPTER 18.04 AND ADDING CHAPTER 18.118 “PERSONAL
CULTIVATION OF CANNABIS” TO THE UNION CITY MUNICIPAL CODE TO
RESTRICT AND REGULATE THE PERSONAL CULTIVATION OF CANNABIS**

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, California voters enacted the Compassionate Use Act (“CUA”) in 1996, legalizing medical cannabis; and

WHEREAS, in 2003, the California Legislature adopted the Medical Marijuana Program Act (“MMPA”) allowing for collective, cooperative cultivation projects, commonly known as “dispensaries”; and

WHEREAS, in 2015, the Legislature enacted the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive licensing and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis; and

WHEREAS, in November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions; and

WHEREAS, the Legislature adopted SB 94 in June 2017 to consolidate the medical and recreational regulatory schemes to create one single comprehensive regulatory system to regulate all cannabis uses; and

WHEREAS, the new comprehensive regulatory system created by SB 94, intended to regulate all cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, the CUA, MMPA, and MAUCRSA do not prevent a city from using its constitutional authority to enact nuisance, health, and safety, and land use regulations regarding cannabis uses and a city retains the authority to prohibit, limit or regulate cannabis uses within its jurisdiction; and

WHEREAS, the MAUCRSA permits adults 21 years of age and older to cultivate up to six (6) cannabis plants at a private residence; and

WHEREAS, pursuant to MAUCRSA, the City can enact reasonable regulations for the personal cultivation of nonmedical cannabis that occurs inside a residence or accessory structure, and may completely prohibit outdoor nonmedical cannabis cultivation; and

WHEREAS, the City is constitutionally authorized to make and enforce within its limits all local police, sanitary, and other ordinances; and

WHEREAS, the City Council has held two study sessions on issues related to cannabis in August and September 2017; and

WHEREAS, the City Council desires to adopt an ordinance amending the Zoning Code to regulate the personal cultivation of cannabis consistent with the requirements of California law; and

WHEREAS, the City Council desires to regulate the personal outdoor cultivation and indoor cultivation of cannabis in order to limit the possible negative secondary effects of cannabis cultivation, such as crime and other nuisances; and

PLANNING COMMISSION REVIEW

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments on September 21, 2017 at which time all interested parties had the opportunity to be heard. The Planning Commission considered a staff report dated September 21, 2017 (including background reports) and all written and oral testimony, and adopted Resolution No. ___ recommending approval of the amendments. The staff report and resolution are incorporated herein by reference; and

CITY COUNCIL REVIEW

WHEREAS, the City Council held a duly noticed public hearing on the proposed amendments on October 10, 2017, at which time all interested parties had the opportunity to be heard. The City Council considered a staff report dated October 10, 2017 (including background reports) and incorporated herein by reference, the Planning Commission recommendation, and all written and oral testimony before taking action on the amendments; and

WHEREAS, the amendments to the Municipal Code propose to amend Chapter 18.04 and add Chapter 18.118, as shown in Exhibit A, which is attached hereto and incorporated herein by reference.

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. Approval of the amendments is exempt from environmental review in accordance with California Environmental Quality Act Guidelines section 15061(b)(3), the general exemption for projects with no potential for significant effect on the environment. As a

series of text amendments and additions, it can be seen with certainty that there is no possibility that the Municipal Code Amendment will have a significant effect on the environment

SECTION 3. Findings. The City Council makes the following findings in support of approving this Ordinance, based on the whole of the record before it.

1. The proposed Municipal Code Amendments are consistent with the General Plan; and
2. The proposed Municipal Code Amendments are necessary and desirable to achieve the purposes of Title 18.

SECTION 4. Approval. The City Council hereby approves the amendments to the Municipal Code, more particularly, amending Chapter 18.04 and adding Chapter 18.118 as shown in attached Exhibit A, which is incorporated herein by reference and available for review in the City Clerk's office during normal business hours.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

2865827.1

EXHIBIT A

Chapter 18.08

DEFINITIONS

18.08.496 Private residence.

“Private residence” means a house, an apartment unit, a mobile home, or other similar dwelling as defined by California Health and Safety Code section 11362.2(b)(5) as may be amended.

...

Chapter 18.118

PERSONAL CULTIVATION OF CANNABIS

18.118.010 Purpose and Intent.

The purpose of this chapter is to impose zoning restrictions on the personal cultivation of cannabis pursuant to state law. This chapter is not intended to interfere with a patient’s right to use medical cannabis pursuant to state law, as may be amended, nor does it criminalize cannabis possession or cultivation otherwise authorized by state law. This chapter is not intended to give any person or entity independent legal authority to operate a cannabis business, as it is intended simply to impose zoning restrictions regarding personal cultivation of cannabis in the City pursuant to this Code and state law.

18.118.020 Applicability.

Nothing in this chapter shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of cannabis that is otherwise illegal under local or state law. No provision of this chapter shall be deemed a defense or immunity to any action brought against any person by the Alameda County District Attorney’s office, the Attorney General of the State of California or the United States of America.

18.118.030 Definitions.

A. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26001(f), as both may be amended. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products, unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by

Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

B. “Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.

C. “Personal cultivation” means cannabis cultivation conducted by an individual strictly for that individual’s personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with this Code and state law, including but not limited to Health and Safety Code sections 11362.1 and 11362.2, as may be amended. Personal cultivation also means and includes cultivation of medical cannabis conducted by a qualified patient exclusively for his or her personal medical use, and cultivation conducted by a primary caregiver for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, in accordance with state law, including Health and Safety Code sections 11362.7 and 11362.765, as may be amended. Except as herein defined, personal cultivation does not include, and shall not authorize, any cultivation conducted as part of a business or commercial activity, including cultivation for compensation or retail or wholesale sales of cannabis.

D. “Indoor cannabis cultivation” means cultivation of cannabis using exclusively artificial lighting.

E. “Mixed-light cannabis cultivation” means cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures, or light deprivation systems are included in this category.

F. “Outdoor cannabis cultivation” means cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

G. “Primary caregiver” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as may be amended.

H. “Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as may be amended.

I. “Medical cannabis” or “medicinal cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.7 *et seq.*), the Medical Marijuana Program Act (Health and Safety Code section 11362.7 *et seq.*), the Medical Cannabis Regulation and Safety Act (Business and Professions Code section 19300 *et seq.*) and the Medicinal and Adult Use Cannabis Regulation and Safety Act.

18.118.040 Indoor cannabis cultivation, mixed-light cannabis cultivation and general provisions for personal cultivation.

Personal cultivation, indoor cannabis cultivation and mixed-light cannabis cultivation for personal use is permitted on private residences and accessory structures to all private residences within all zoning districts, subject to all of the following minimum standards:

A. All indoor cannabis cultivation and mixed-light cannabis cultivation for personal use, including by a qualified patient or primary caregiver, shall occur at a private residence or accessory structure to a private residence, as those terms are defined in Chapter 18.08.

B. No more than six (6) cannabis plants total, per private residence, may be cultivated indoors or outdoors (or a combination of both) by either a qualified patient, primary caregiver, or an individual over twenty-one (21) years old at each private residence regardless of the number of qualified patients or adults twenty-one (21) and older who reside at such private residence. For example, a qualified patient or adult over the age of twenty-one (21) may grow three (3) plants outdoors and (3) plants indoors for a total of six (6) plants maximum at one private residence.

C. Medical cannabis shall only be cultivated by:

1. A qualified patient exclusively for his or her own personal medical use but who does not sell medical cannabis to any other person and who can provide a written doctor's recommendation to the City; or

2. A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides medical cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code section 11362.765(c).

D. For persons other than qualified patients or primary caregivers, all personal cultivation shall be conducted by persons twenty-one (21) years of age or older. The cumulative total of cannabis plants on the property of a private residence, indoor and outdoor, shall not exceed six (6) cannabis plants, regardless of the number of persons residing at the private residence.

E. Indoor cannabis cultivation and mixed-light cannabis cultivation of medical and nonmedical cannabis for personal use may occur inside a private residence and/or an accessory building or structure on the same parcel, subject to the following restrictions:

1. Structures and equipment used for indoor cannabis cultivation and/or mixed-light cannabis cultivation, such as indoor grow lights, shall comply with all applicable zoning, building, electrical and fire code regulations as adopted by the City.

2. All accessory buildings and structures used for indoor cannabis cultivation and/or mixed-light cannabis cultivation shall comply with the locational and other requirements set forth in Title 18.

3. Personal cultivation of cannabis shall not interfere with the primary occupancy of the building or structure, including regular use of kitchen(s) or bathroom(s).

4. No exterior evidence of cannabis cultivation occurring at the property shall be discernable from the public right-of-way.

5. A tenant must have written landlord approval to engage in personal cultivation of cannabis.

6. Nothing in this section is intended, nor shall it be construed, to authorize commercial cultivation of cannabis.

7. Nothing in this section is intended, nor shall it be construed, to authorize any public or private nuisance as specified in this Code.

8. The cultivation area shall not be accessible to minors.

F. Indoor cannabis cultivation and mixed-light cannabis cultivation for personal use shall comply with all requirements of state law in addition to any requirements imposed by this Code.

18.118.050 Additional regulations for outdoor cannabis cultivation for personal use.

Outdoor cannabis cultivation for personal use is permitted at all private residences and accessory structures to all private residences within all zoning districts of the City, subject to all of the following minimum standards:

A. Outdoor cannabis cultivation is only permitted in a rear or side yard that is entirely enclosed by a solid, opaque fence at least six feet high that is associated with a private residence or an accessory dwelling unit.

B. The height of the cannabis plants shall not exceed the standard fence height applicable to the parcel, or six feet, whichever is less.

C. The cannabis plants shall be placed at a minimum setback of ten feet from the edge of canopy to the property line.

D. No exterior evidence of cannabis cultivation occurring at the property shall be visible from the public right-of-way.

E. The cumulative total of cannabis plants outside and inside shall not exceed six cannabis plants, regardless of the number of adults 21 and older, qualified patients, and primary caregivers residing at the private residence.

F. Nothing in this section is intended, nor shall it be construed, to authorize commercial cultivation of cannabis.

G. Nothing in this section is intended, nor shall it be construed, to authorize any public or private nuisance as specified in this Code.

H. Outdoor cannabis cultivation shall not be permitted at private residences where minors reside.

I. Outdoor cannabis cultivation for personal use shall comply with all requirements of state law in addition to any requirements imposed by this Code.

18.118.060 Enforcement.

A. Nuisance. Any violation of this chapter is declared to be a public nuisance and may be abated by the city pursuant to this Code.

B. Penalty. A violation of this section shall either be a misdemeanor or an infraction at the discretion of the prosecuting attorney. However, notwithstanding anything in this code to the contrary, persons violating this section shall not be subject to criminal liability under this Code solely to the extent such conduct or condition is immune from criminal liability pursuant to state law, including the Compassionate Use Act of 1996 (Health and Safety Code section 11362.5), the Medical Marijuana Program Act (Health and Safety Code sections 11362.7 et seq.), or the Adult Use of Marijuana Act, as they may be amended. This section does not prohibit the city from abating violations of this section by any administrative, civil or other non-criminal means. In such cases, a violation of this section may be considered the civil or administrative equivalent of an infraction or misdemeanor as applicable.

2865785.1

ATTACHMENT 2

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNION CITY AMENDING CHAPTERS 18.04, 18.08, AND 18.40 AND ADDING CHAPTER 18.118 “COMMERCIAL CANNABIS BUSINESSES” TO THE UNION CITY MUNICIPAL CODE TO IMPOSE ZONING RESTRICTIONS ON VARIOUS COMMERCIAL CANNABIS USES

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, California voters enacted the Compassionate Use Act (“CUA”) in 1996, legalizing medical cannabis; and

WHEREAS, in 2003, the California Legislature adopted the Medical Marijuana Program Act (“MMPA”) allowing for collective, cooperative cultivation projects, commonly known as “dispensaries”; and

WHEREAS, in 2015, the Legislature enacted the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive licensing and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis; and

WHEREAS, in November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions; and

WHEREAS, the AUMA creates a comprehensive regulatory and licensing structure for commercial nonmedical cannabis businesses, including cultivation, manufacturing and retail; and

WHEREAS, the Legislature adopted SB 94 in June 2017 to consolidate the medical and recreational regulatory schemes to create one single comprehensive regulatory system to regulate all commercial cannabis uses; and

WHEREAS, the new comprehensive regulatory system created by SB 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, state licenses for all cannabis businesses are expected to be ready for issuance in January 2018; and

WHEREAS, the CUA, MMPA, and MAUCRSA do not prevent a city from using its constitutional authority to enact nuisance, health, and safety, and land use regulations regarding

commercial cannabis uses and a city retains the authority to prohibit, limit or regulate commercial cannabis uses within its jurisdiction; and

WHEREAS, the City Council desires to regulate all commercial cannabis uses operating in the City in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan; and

WHEREAS, the City is constitutionally authorized to make and enforce within its limits all local police, sanitary, and other ordinances; and

WHEREAS, an applicant for a state commercial cannabis license must first obtain local approval prior to receiving state approval and cannot submit an application for a state license if the proposed cannabis business violates a local ordinance; and

WHEREAS, the City Council has held two study sessions on issues related to cannabis in the August and September 2017; and

WHEREAS, the City Council desires to adopt an ordinance amending the Zoning Code to permit and regulate commercial cannabis uses within the City; and

WHEREAS, the City Council desires to permit certain commercial cannabis businesses in the Light Industrial (ML) District and the MS (Special Industrial) District, and to prohibit commercial cannabis businesses in all other zoning districts within the city; and

WHEREAS, no commercial cannabis business shall be permitted within the City unless it complies with the licensure and regulatory requirements contained in Union City Municipal Code chapter 5.44; and

PLANNING COMMISSION REVIEW

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments on September 21, 2017 at which time all interested parties had the opportunity to be heard. The Planning Commission considered a staff report dated September 21, 2017 (including background reports) and all written and oral testimony, and adopted Resolution No. ___ recommending approval of the amendments. The staff report and resolution are incorporated herein by reference; and

CITY COUNCIL REVIEW

WHEREAS, the City Council held a duly noticed public hearing on the proposed amendments on October 10, 2017, at which time all interested parties had the opportunity to be heard. The City Council considered a staff report dated October 10, 2017 (including background reports) and incorporated herein by reference, the Planning Commission recommendation, and all written and oral testimony before taking action on the amendments; and

WHEREAS, the amendments to the Municipal Code propose to amend Chapters 18.04, 18.08, and 18.40, and add Chapter 18.117, as shown in Exhibit A, which is attached hereto and incorporated herein by reference.

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. Approval of the amendments is exempt from environmental review in accordance with Business and Professions Code section 26055(h), the exemption for the adoption of an ordinance that requires discretionary review of permits. Additionally, approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 3. Findings. The City Council makes the following findings in support of approving this Ordinance, based on the whole of the record before it.

1. The proposed Municipal Code Amendments are consistent with the General Plan; and
2. The proposed Municipal Code Amendments are necessary and desirable to achieve the purposes of Title 18.

SECTION 4. Approval. The City Council hereby approves the amendments to the Municipal Code, more particularly, amending Chapters 18.04, 18.08, and 18.40 with additions shown in underline and deletions shown in strikethrough and adding Chapter 18.117 as shown in attached Exhibit A, which is incorporated herein by reference and available for review in the City Clerk's office during normal business hours.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

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EXHIBIT A

Chapter 18.04

GENERAL PROVISIONS

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18.04.210 Permitted, conditional and prohibited uses.

- A. Permitted Uses. Permitted uses are as listed for each zoning district.
- B. Conditional Uses. Conditional uses as listed for each zoning district shall be permitted upon granting of a use permit.
- C. Prohibited Uses. The following uses are prohibited in all zoning districts.
 - 1. Uses Not Listed. A use that is not listed as a permitted or conditionally permitted use is not a permitted use, unless a similar-use determination is made by the Director, Zoning Administrator or Planning Commission as provided in the particular zoning district.
 - 2. Prohibited Uses. The following uses are prohibited in all zoning districts.
 - a. ~~Medical marijuana dispensary, as defined in Section 18.08.403.~~
 - ab. Vapor bar/lounge, as defined in Section 18.08.612.
 - be. E-cigarette bar/lounge, as defined in Section 18.08.242.
 - cd. Hookah bar/lounge, as defined in Section 18.08.282.
 - e. ~~Medical marijuana cultivation, as defined in Section 18.08.401.~~
 - f. ~~Medical marijuana delivery, as defined in Section 18.08.402.~~
 - 3. Permits. No permits or any other applicable license or entitlement for use, including, but not limited to, the issuance of a business license, building permit, conditional use permit, or other land use approval, shall be approved or issued for the establishment or operation of a prohibited use in the City of Union City.

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Chapter 18.08

DEFINITIONS

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18.08.401 Medical marijuana cultivation.

~~“Medical marijuana cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana as defined in California Business and Professions Code Section 19300.5(1) as that section may be amended from time to time.~~

18.08.402 Medical marijuana delivery.

~~“Medical marijuana delivery” shall have the same meaning as “delivery” as defined in California Business and Professions Code Section 19300.5(m) as that section may be amended from time to time.~~

18.08.403 Medical marijuana dispensary.

—“Medical marijuana dispensary” or “dispensary” means: (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical marijuana to two (2) or more of the following: a qualified patient or a person with an identification card, or a primary caregiver, in strict accordance with California Health and Safety Code Section 11362.5 et seq.; or (2) any facility, building, structure or location where two (2) qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate in order to collectively or cooperatively distribute, sell, dispense, transmit, process, deliver, exchange or give away marijuana for medicinal purposes pursuant to California Health and Safety Code Section 11362.5 et seq., and such group is organized as a medical marijuana cooperative or collective as set forth in the Attorney General’s guidelines. The terms “primary caregiver,” “qualified patient,” and “person with an identification card” shall be as defined in California Health and Safety Code Section 11362.5 et seq.

For purposes of this chapter, a “medical marijuana dispensary” shall not include the following uses, as long as the location of such uses is otherwise regulated by applicable law and complies strictly with applicable law, including, but not limited to, California Health and Safety Code Section 11362.5 et seq.

- 1. —A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code;
- 2. —A health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code;
- 3. —A residential care facility for persons with chronic life threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code;
- 4. —A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code;
- 5. —A residential hospice or a home health agency licensed pursuant to Chapter 8 of the California Health and Safety Code.

Chapter 18.40

INDUSTRIAL DISTRICTS

Article II. ML (Light Industrial) District Regulations

18.40.220 Principal uses permitted.

...

L. Miscellaneous Manufacturing and Uses.

...

Commercial cannabis use as permitted by Chapter 18.117 and consistent with this chapter;

...

Article III. MS (Special Industrial) District Regulations

18.40.320 Principal uses permitted.

...

G. Miscellaneous Manufacturing and Uses.

...

Commercial cannabis use as permitted by Chapter 18.117 and consistent with this chapter;

...

Chapter 18.117

COMMERCIAL CANNABIS BUSINESSES

18.117.010 Purpose and Intent.

The purpose of this chapter is to impose zoning restrictions on various commercial cannabis uses authorized and licensed by the State of California pursuant to state law. This chapter is not intended to give any person or entity independent legal authority to operate a commercial cannabis use. It is intended to impose zoning restrictions regarding commercial cannabis businesses that may operate in the City pursuant to the Union City Municipal Code and state law. This chapter is in addition to any other business license and regulatory requirements imposed on cannabis businesses by this Code or other applicable state law. If a commercial cannabis use is not specifically permitted in this chapter it is not allowed in any zone within the City.

18.117.020 Applicability.

Nothing in this chapter shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of cannabis that is otherwise illegal under local or state law. No provision of this chapter shall be deemed a defense or immunity to any action brought against any person by the Alameda County District Attorney's office, the Attorney General of the State of California or the United States of America.

18.117.030 Definitions.

A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether

crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26001(f), as both may be amended. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products, unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

B. “Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.

C. “Indoor cannabis cultivation” means cultivation of cannabis using exclusively artificial lighting.

D. “Mixed-light cannabis cultivation” means cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures, or light deprivation systems are included in this category.

E. “Outdoor cannabis cultivation” means cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

F. “Cannabis dispensary” or “dispensary” means any commercial cannabis facility, whether fixed or mobile, operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including an establishment that delivers cannabis and/or cannabis products as part of a retail sale, operated pursuant to a cannabis license Type 10, or a cannabis license type subsequently established.

G. “Cannabis distribution facility” means the location or a facility, whether fixed or mobile, where a person conducts the business of procuring, selling, and transporting cannabis, and the inspection, quality assurance, storage, labeling, packaging and other related processes. This facility requires a cannabis license Type 11, or a cannabis license type subsequently established.

H. “Cannabis license” means a state license issued pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) or a subsequently applicable state law.

I. “Cannabis licensee” means a person issued a state license under MAUCRSA to engage in commercial cannabis uses or activity.

J. “Cannabis manufacturer” means a person that produces, prepares, propagates, or compounds manufactured 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 medical cannabis or medical cannabis products or labels or re-labels its container, that holds a cannabis license Type 6 or 7, or a cannabis license type subsequently established.

K. “Cannabis manufacturing facility” means a facility operated by a cannabis manufacturer for the manufacturing of cannabis.

L. “Cannabis nursery” means a cannabis licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

M. “Cannabis testing service” or “cannabis testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity, that holds a cannabis license Type 8, or a cannabis license type subsequently established.

N. “Commercial Cannabis Permit,” “Cannabis Permit,” or “Permit” means a permit issued by the City pursuant to Chapter 5.44 for the operation of a commercial cannabis use within the City.

O. “Commercial cannabis use” means any commercial cannabis activity licensed pursuant to the MAUCRSA, including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products. “Commercial cannabis use” also means any cannabis activity licensed pursuant to additional state laws regulating such businesses. Commercial cannabis uses shall not include legal medical cannabis or cannabis activities carried out exclusively for one’s personal use that do not involve commercial activity or sales.

P. “Microbusiness” means a commercial cannabis facility operating under a cannabis license Type 12, or a cannabis license type subsequently established, and meeting the definition of microbusiness pursuant to Business and Professions Code section 26070(a)(3)(A), as may be amended, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and retailer.

18.117.040 General conditions.

A. Commercial cannabis uses are prohibited from operating in all zoning districts in the City except as expressly permitted by and in conformance with the provisions of this chapter as well as Chapter 5.44.

B. All commercial cannabis uses permitted by this chapter must, prior to establishing and operating any such commercial cannabis use, obtain and maintain at all times a valid cannabis license, as may be applicable, and any local permit, license, variance or other entitlement required by this Code, including a commercial cannabis permit.

C. All commercial cannabis uses permitted by this chapter must comply with distance and setback requirements of this Code, including Title 18 and Chapter 5.44, and any established conditions of approval with a commercial cannabis permit.

D. No commercial cannabis use may operate without a commercial cannabis permit issued by the City.

E. The City is not obligated to issue commercial cannabis permits, but may do so pursuant to Chapter 5.44.

18.117.050 Cannabis manufacturing facility.

Cannabis manufacturing facilities are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76 , in the following zone:

- A. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.
- B. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.

18.117.060 Cannabis testing service.

Cannabis testing services are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zones:

- A. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.
- B. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.

18.117.070 Cannabis distribution facility.

Cannabis distribution facilities are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zone:

- A. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.
- B. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.

18.117.080 Cannabis cultivation.

A. Indoor cannabis cultivation and mixed-light cannabis cultivation is permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zone:

- 1. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.
- 2. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.
- B. Outdoor cannabis cultivation for commercial purposes is prohibited in all zoning districts.

18.117.090 Cannabis dispensary/retail under cannabis license Type 10.

Cannabis dispensaries, including non-storefront retail cannabis businesses, are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zones:

A. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.

B. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.

18.117.100 Microbusiness.

Microbusinesses are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zone:

A. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.

B. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.

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ATTACHMENT 3

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
UNION CITY REPEALING CHAPTER 5.43 “MEDICAL MARIJUANA
DISPENSARIES” AND 9.46 “MEDICAL MARIJUANA CULTIVATION AND
DELIVERY” IN THEIR ENTIRETY AND ADDING CHAPTER 5.44
“CANNABIS” TO THE UNION CITY MUNICIPAL CODE**

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, California voters enacted the Compassionate Use Act (“CUA”) in 1996, legalizing medical cannabis; and

WHEREAS, in 2003, the California Legislature adopted the Medical Marijuana Program Act (“MMPA”) allowing for collective, cooperative cultivation projects, commonly known as “dispensaries”; and

WHEREAS, in 2015, the Legislature enacted the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive licensing and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis; and

WHEREAS, in November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions; and

WHEREAS, the AUMA creates a comprehensive regulatory and licensing structure for commercial nonmedical cannabis businesses, including cultivation, manufacturing and retail; and

WHEREAS, the Legislature adopted SB 94 in June 2017 to consolidate the medical and recreational regulatory schemes to create one single comprehensive regulatory system to regulate all commercial cannabis uses; and

WHEREAS, the new comprehensive regulatory system created by SB 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, state licenses for all cannabis businesses are expected to be ready for issuance in January 2018; and

WHEREAS, the CUA, MMPA, and MAUCRSA do not prevent a city from using its constitutional authority to enact nuisance, health, and safety, and land use regulations regarding

commercial cannabis uses and a city retains the authority to prohibit, limit or regulate commercial cannabis uses within its jurisdiction; and

WHEREAS, the City Council desires to regulate all commercial cannabis uses operating in the City in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan; and

WHEREAS, the City is constitutionally authorized to make and enforce within its limits all local police, sanitary, and other ordinances; and

WHEREAS, an applicant for a state commercial cannabis license must first obtain local approval prior to receiving state approval and cannot submit an application for a state license if the proposed cannabis business violates a local ordinance; and

WHEREAS, the City Council has held two study sessions on issues related to cannabis in August and September 2017; and

WHEREAS, no commercial cannabis business shall be permitted within the City unless it complies with the licensure and regulatory requirements contained in Union City Municipal Code chapter 5.44; and

WHEREAS, Chapter 5.44 shall establish application, development, operating, and permit standards for commercial cannabis uses; and

WHEREAS, the City Council desires to retain the authority to, in its sole discretion, establish the number of permits issued for each type of commercial cannabis use by resolution, and from time to time open the application process; and

WHEREAS, the amendments to the Municipal Code propose to repeal Chapter 5.43 and Chapter 9.46 in their entirety and add Chapters 5.44, as shown in Exhibit A, which is attached hereto and incorporated herein by reference.

THE CITY COUNCIL OF THE CITY OF UNION CITY DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. CEQA. Approval of the amendments is exempt from environmental review in accordance with Business and Professions Code section 26055(h), the exemption for the adoption of an ordinance that requires discretionary review of permits. Additionally, approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

SECTION 3. Findings. The City Council makes the following findings in support of approving this Ordinance, based on the whole of the record before it.

1. The City has a substantial government interest in regulating commercial cannabis uses within the City in order to protect the public health, safety and welfare, while enabling economic development.
2. The amendments are neither overbroad nor vague, and are not in conflict with the City's General Plan.

SECTION 4. Approval. The City Council hereby approves the amendments to the Municipal Code, more particularly, repealing Chapter 5.43 and Chapter 9.46 in their entirety and adding Chapter 5.44 as shown in attached Exhibit A, which is incorporated herein by reference and available for review in the City Clerk's office during normal business hours.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 6. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in the Tri-City Voice, a newspaper of general circulation printed and published in Alameda County and circulated in the City of Union City, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

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EXHIBIT A

Chapter 5.44

CANNABIS

5.44.010 Purpose and Intent.

The purpose of this chapter is to identify and establish standards for uses related to cannabis cultivation, use, and commercial activities that are permitted, but which have the potential to create significant effects on the community and surrounding properties.

Furthermore, it is the purpose and intent of this chapter to:

A. Assist law enforcement agencies in performing their duties effectively and in accordance with California law.

B. Acknowledge that the cultivation of medical and nonmedical cannabis is illegal under federal law, while granting limited immunity from local prosecution to those medical and nonmedical cannabis activities that do not violate the restrictions and limitations set forth in this chapter or California law.

C. Ensure that cannabis grown for medical and nonmedical purposes remains secure and does not find its way to minors or illicit markets.

D. Implement state law by providing an equitable approach for regulating the cultivation of and other uses related to medical and nonmedical cannabis in a manner that is consistent with state law and balances the needs of businesses, medical patients and their caregivers with the health, safety, morals and general welfare of the residents and businesses within the city.

E. Require that medical and nonmedical commercial cannabis and commercial cannabis products be cultivated in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the public domain, to provide for the health, safety and welfare of the public, to prevent odor created by cannabis plants from impacting adjacent properties, and to ensure that cannabis remains secure and does not find its way to minors or illicit markets.

5.44.020 Definitions

A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26001(f), as both may be amended. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products, unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from

the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

B. “Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.

C. “Cannabis cultivation area” means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the drip-line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown.

D. “Cannabis indoor cultivation” means cultivation of cannabis using exclusively artificial lighting.

E. “Cannabis mixed-light cultivation” means cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures, or light deprivation systems are included in this category.

F. “Cannabis outdoor cultivation” means cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

G. “Cannabis cultivation site” means the premise(s), leased area(s), property, location or facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where all or any combination of those activities.

H. “Cannabis dispensary” or “dispensary” means any commercial cannabis facility, whether fixed or mobile, operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including an establishment that delivers cannabis and/or cannabis products as part of a retail sale, operated pursuant to a cannabis license Type 10, or a cannabis license type subsequently established.

I. “Cannabis distribution facility” means the location or a facility, whether fixed or mobile, where a person conducts the business of procuring, selling, and transporting cannabis, and the inspection, quality assurance, storage, labeling, packaging and other related processes. This facility requires a cannabis license Type 11 or a cannabis license type subsequently established.

J. “Cannabis license” means a state license issued pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”).

K. “Cannabis licensee” means a person issued a state license under MAUCRSA to engage in commercial cannabis uses or activity.

L. “Cannabis manufacturer” means a person that produces, prepares, propagates, or compounds 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 re-labels its container, that holds a cannabis license Type 6 or 7, or a cannabis license type subsequently established, and that holds a valid local license or permit.

M. “Cannabis manufacturing facility” means a facility operated by a cannabis manufacturer.

N. “Cannabis nursery” means a cannabis licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis

O. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

P. “Cannabis testing service” or “cannabis testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity, that holds a cannabis license Type 8, or a cannabis license type subsequently established.

Q. “Chief of Police” means the Police Chief of the City, or his or her designated representative.

R. “Child care center” shall have the same meaning as “child day care facility” in Health and Safety Code section 1596.750, and as “day care center” in Health and Safety Code section 1596.76, as both may be amended: any child care facility, including infant centers, preschools, extended day care facilities, and school-age child care centers where nonmedical care is provided to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

S. “City” means the City of Union City.

T. “City Manager” means the City Manager of the City of Union City, or his or her designated representative.

U. “Commercial Cannabis Permit,” “Cannabis Permit,” or “Permit” shall mean a permit issued by the City pursuant to this chapter for the operation of a commercial cannabis use within the City.

V. “Commercial cannabis use” means any commercial cannabis activity licensed pursuant to MAUCRSA, including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products. “Commercial cannabis use” also means any cannabis activity licensed pursuant to additional state laws regulating such businesses. Commercial cannabis uses shall not include legal medical cannabis or cannabis activities carried out exclusively for one’s personal use that do not involve commercial activity or sales.

W. “Council” or “City Council” means the City Council of the City of Union City.

X. “Distributor” means any commercial cannabis operation that distributes cannabis or cannabis products under a cannabis license Type 11, or a cannabis license type subsequently established.

Y. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

Z. “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

AA. “Medical cannabis” or “medicinal cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (“CUA,” Health and Safety Code section 11362.7 *et seq.*), the Medical Marijuana Program Act (“MMPA,” Health and Safety Code section 11362.7 *et seq.*) and the Medical Cannabis

Regulation and Safety Act (“MCRSA,” Business and Professions Code section 19300 *et seq.*) and MAUCRSA.

BB. “Microbusiness” means a commercial cannabis facility operating under a cannabis license Type 12, or a cannabis license type subsequently established, and meeting the definition of microbusiness pursuant to Business and Professions Code section 26070(a)(3)(A), as may be amended, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 cannabis manufacturer, and retailer.

CC. “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit and includes the plural as well as the singular number.

DD. “Premises” means a legal parcel, or a leasehold interest in land, or a leased or owned space in a building where the commercial cannabis use will be or is conducted.

EE. “Primary caregiver” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as may be amended.

FF. “Public place” means any publicly owned property or property on which a public entity has a right of way or easement. Public place also means any private property that is readily accessible to the public without a challenge or barrier, including but not limited to front yards, driveways, and private businesses.

GG. “Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as may be amended.

HH. “Operator” means the natural person or designated officer responsible for the operation of any commercial cannabis use and issued a permit pursuant to this chapter.

II. “Sale,” “sell,” and “to sell” shall have the same meaning as set forth in Business and Professions Code section 26001(aa), as may be amended: any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.

JJ. “School” means any public or private school providing instruction to students in kindergarten or any grades 1 through 12.

KK. “Volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall

LL. “Youth center” shall have the same meaning as in Health and Safety Code section 11353.1, as may be amended: any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

5.44.030 Standards for All Commercial Cannabis Uses

A. Purpose. This Section provides the application, development, operating, and permit standards for all commercial cannabis uses within the City. Additional standards may

apply to particular commercial cannabis uses, as established in other Sections of this chapter and as imposed by a commercial cannabis permit.

B. **Applicability.** Commercial cannabis uses shall be permitted only in compliance with the requirements of this chapter, state law and all applicable requirements of the Union City Municipal Code and a commercial cannabis permit issued pursuant to this chapter. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to commercially cultivate, distribute, manufacture, deliver, or test cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid permit issued pursuant to the provisions of this chapter. Possession of other types of State or City permits or licenses does not exempt an operator from the requirement of obtaining a permit under this chapter.

C. **Limitations on Use.** Commercial cannabis uses shall only be allowed in compliance with this chapter and all applicable codes set forth in the Union City Municipal Code, including but not limited to: building, plumbing, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use, and shall comply with all permit, license, approval, inspection, reporting and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. The operator shall provide copies of other agency and department permits, licenses, or certificates to the City to serve as verification for such compliance.

D. **Permit Requirements and Application Procedure.** A commercial cannabis permit shall be required for any commercial cannabis use operating within the City. Commercial cannabis uses shall also be subject to permit requirements and regulations established by the state and those established by the City Council through resolution or ordinance. Commercial cannabis permits shall be subject to the requirements and limitations set forth in this chapter and shall be issued according to the following procedure:

1. The City Council shall establish the number of permits issued for each type of commercial cannabis use by resolution, as may be adjusted from time to time. The City Council is not obligated to adopt a resolution to issue permits for any type of commercial cannabis use.

2. The City Council may in its sole discretion elect, by resolution, to open the process for accepting applications for permits for specified commercial cannabis uses. Nothing in this chapter obligates the City Council to open the process for accepting applications. The City Council shall adopt the procedures to govern the application process and the manner in which the City Council will determine the most qualified applicant to receive the permit(s). Following an open application period and review of applications by City staff and recommendations by the City Manager consistent with the City Council adopted procedures, the City Council shall consider commercial cannabis permit applications meeting minimum qualifications at a public hearing(s). The City shall provide notice to properties and property owners within 300 feet of the boundaries of the property upon which the commercial cannabis use is proposed at least fifteen (15) days prior to the public hearing for consideration of the permit application(s). The City Council may issue up to the maximum number of qualified commercial cannabis permits, as established by resolution, with any and all conditions that the City Council deems necessary. The City Council is not required to issue any permits following the application process and may issue fewer permits than there are qualified applicants. Any amendments to a commercial cannabis permit issued shall be approved by the City Council.

3. If a commercial cannabis permit becomes available within twelve (12) months following the close of a previous application period, City staff may first review all minimally

qualified applications from the prior application process, and consider them for submittal to the City Council pursuant to the public hearing process in Section 5.44.030(D)(2).

4. The City Council may adopt by resolution such forms, fees, and procedures as are necessary to implement this chapter with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of any permit. Such procedures may include a priority ranking system, and appointment of a staff review panel for cannabis permits.

5. The City reserves the right to reject any or all applications. Prior to permit issuance, the City may also modify, postpone, or cancel any request for applications at any time without liability, obligation, or commitment to any party, firm, or organization. Applicants for permits assume the risk that the City may elect to terminate or not issue permits for any commercial cannabis uses at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.

6. The application must include, at a minimum, the following:

a. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the cannabis permit, and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the Union City Municipal Code pertaining to the establishment and operation of the commercial cannabis use, including, but not limited to, the provisions of this Section. The affidavit(s) shall acknowledge that the approval of the cannabis permit shall, in no way, permit any activity contrary to the Union City Municipal Code, or any activity which is in violation of any applicable local or state laws and regulations.

b. All necessary information related to the proposed commercial cannabis use and its proposed operators, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor and/or partner information, and APN number of the parcel upon which the commercial cannabis use will be located. Certain private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.

c. Operating Plan as required under Section 5.44.050(D).

d. Security Plan as required under Section 5.44.030(J).

e. A zoning verification letter from the Economic and Community Development Department that the proposed location of the commercial cannabis use is consistent with Title 18.

f. Property Owner Consent. Permits for commercial cannabis uses shall only be issued where written permission from the property owner and/or landlord is provided. The applicant shall provide evidence of such written consent.

g. Air Quality. The applicant shall provide a calculation of the anticipated emissions of air pollutants. Applicants are encouraged to design their project so as to minimize or avoid air pollutant emissions.

h. Greenhouse Gas Emissions. The applicant shall provide calculations of the anticipated greenhouse gas emissions for the operation of the commercial cannabis use. The applicant shall further demonstrate compliance with any applicable state, regional, or local plan for the reduction of greenhouse gas emissions. No cannabis permit shall be granted for any commercial cannabis use that would violate any state, regional, or local plan for the reduction of greenhouse gases, nor shall any cannabis permit be issued where the construction and/or

operation of the commercial cannabis use would exceed any applicable threshold of significance for greenhouse gas emissions under the California Environmental Quality Act.

i. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a completed building occupancy classification form, identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

j. Water Supply. The applicant shall demonstrate to the satisfaction of the City that sufficient water supply exists for the use.

k. Wastewater. The applicant shall demonstrate to the satisfaction of the City that sufficient wastewater capacity exists for the proposed use. To the extent the proposed use will result in agricultural or industrial discharges to the City's wastewater system, the applicant shall provide a plan for meeting all federal, state, and local requirements for such discharges.

l. Parking. The application shall be accompanied by a site plan that demonstrates compliance with applicable parking requirements.

m. New or Improved Structures. If new structures or exterior and/or interior building improvements are proposed, including additions to existing buildings and installation of equipment such as tanks for storing hazardous materials, a site plan, floor plan, and elevation plan detailing the location and design shall be submitted with the application.

n. Deferred Maintenance. Any deferred maintenance issues associated with the building and site shall be addressed prior to establishment of the use. This includes, but is not limited to, replacement of dead or deficient landscaping, re-painting of the building, repaving or restriping of parking lot area, replacement of damaged fencing, removal or replacement of uplifted sidewalks, and removal of any trash or debris. A site plan shall be submitted with the application detailing any proposed improvements necessary to comply with this provision.

E. Limited Term and Interests. Permits shall be limited-term, and shall be issued for a maximum period of one (1) year. No property interest, vested right, or entitlement to receive a future permit to operate a commercial cannabis use shall inure to the benefit of such operator as such permits are revocable. The City may elect at any time to cease issuing commercial cannabis permits, including upon receiving credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.

F. Permit Requirements. In addition to state permitting requirements and the requirements of this chapter, all commercial cannabis uses shall be subject to the applicable requirements of Title 18. The City may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this Code, including a building permit, where the property upon which the use or structure is proposed is in violation of the Union City Municipal Code, or any other local, state or federal law. Commercial cannabis uses shall also be subject to permit requirements and regulations established by the Union City Municipal Code and any additional requirements established by other sections of this chapter, resolution or ordinance of the City Council. Operators must also obtain a City business license.

1. Operator Qualifications. Commercial cannabis operators must meet the following qualifications:

a. Operators must be 21 years of age or older.

b. Operators shall be subject to a background investigation by the Chief of Police at the time of application for a permit. Permits for commercial cannabis uses shall not be permitted for operators that:

- i. are on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance; or
- ii. have been convicted of a crime of moral turpitude; or
- iii. have been convicted of any misdemeanor or felony within the last ten years involving the following: the use of violence, force, fear, fraud or deception; or the unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance; or the use of money to engage in criminal activity; or the unlawful possession or use of a firearm.

Permits for commercial cannabis uses shall not be permitted for operators with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement, a criminal conviction for the sale or provision of illegal controlled substances to a minor, or any criminal conviction for a crime moral turpitude as determined by the Chief of Police.

2. Exercise and Renewal of Permit. Commercial cannabis permits shall be exercised only by the operator and shall expire upon termination of the business for which it was issued, or upon sale or transfer of ownership of the business engaged in the commercial cannabis use, unless the operator obtains City approval. All permits issued shall include the following provision: "This permit shall expire upon change of tenancy or sale or transfer of the business or property." Any permit that is abandoned for a period of six (6) months shall automatically expire, and shall become null and void with no further action required on the part of the City. Permits for commercial cannabis uses, other than dispensaries, shall be issued to the operator for a period not to exceed one (1) year from the date of permit approval and shall be subject to annual permit renewals. The operator must apply for permit renewal a minimum of 30 days prior to the expiration of the limited term permit. A commercial cannabis permit may have its renewal request administratively approved by the City Manager only if all of the following findings are made:

- a. The use has been conducted in accordance with this chapter, with the operator's approved operating and security plans, and with all applicable permit conditions of approval, state and local laws and regulations.
- b. The business for which the permit was approved has not been transferred to another owner or operator.
- c. There are no outstanding violations of health, safety, or land use.
- d. The commercial cannabis use for which the permit was approved has remitted all City taxes and fees due.

3. Revocation and Suspension. Any permit issued under this chapter for commercial cannabis uses may be immediately suspended for any of the reasons listed in (a) through (h) below. Any permit issued under this chapter may be revoked by the City Manager, following notice and opportunity for a hearing, upon any of the following:

- a. An operator fails to comply with the requirements of this chapter, this Code or any conditions of approval of the permit.
- b. An operator's state license for commercial cannabis uses is revoked, terminated, or not renewed.
- c. The commercial cannabis use has not been in regular and continuous operation for three (3) consecutive months.

d. State law permitting the use for which the permit was issued is amended or repealed resulting in prohibition of such use, or the City receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.

e. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification.

f. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application.

g. The operator fails to remit City taxes or fees when due.

h. The operator's state license for commercial cannabis uses is suspended. The City shall not reinstate the permit until documentation is received showing that the state license has been reinstated or reissued. The City Manager shall have discretion as to whether to reinstate any permit.

4. False or misleading information. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.

5. Appeals.

a. Within ten (10) calendar days after the date of a decision of the City Manager to revoke, suspend or not renew a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was improper.

b. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council.

c. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.

d. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing. The operator shall not operate the commercial cannabis use while awaiting appeal.

e. At the hearing, the appellant may present any information the appellant deems relevant to the decision appealed.

f. At the conclusion of the hearing the City Council may affirm, reverse or modify the decision of the City Manager. The decision of the City Council shall be final.

G. Compliance with County Health Officials. Commercial cannabis uses shall be subject to any permit requirements and regulations, including inspections, established by the Alameda County Public Health Department. All such permit requirements and regulations shall be interpreted to implement the purpose and intent of this chapter, and shall not prohibit any commercial cannabis use allowed under this chapter.

H. Development Standards.

1. Building Requirements. All structures used for commercial cannabis uses shall comply with all applicable sections of the Union City Municipal Code and operators shall obtain all required approvals, including any required discretionary approvals or building permits, prior to occupation of the structure. Commercial cannabis uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers or patients shall meet Union City Municipal Code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.

2. Emissions Control. All commercial cannabis uses shall utilize appropriate measures in construction and, where applicable, operations to prevent the emissions of dust, smoke, noxious gases, or other substances that have the potential to impact local or regional air quality.

3. Odor Control and Ventilation. Commercial cannabis uses shall comply with all current and future state laws and regulations related to odor control and ventilation, in addition to any specific requirements for the particular use established in this chapter. No commercial cannabis use may operate in a manner whereby cannabis odors are detectable from adjacent and nearby properties. All commercial cannabis uses must install a ventilation system that adequately controls for odor, humidity, and mold.

I. Health and Safety. Commercial cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.

J. Security. The following security measures shall be required by all operators. Additional security measures may apply to particular commercial cannabis uses, as established in this chapter.

1. A site security plan shall be required at the time of permit application and shall be subject to review and approval by the Chief of Police and the City Manager. All site security plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Such plans shall include, at a minimum, information regarding the implementation of the requirements of this Section 5.44.030(J). The Chief of Police may require additional information, including but not limited to, if required, identification of on-site security personnel and proper certification of personnel, be included in the site security plan.

2. Commercial cannabis uses must have security cameras installed that shall be motion-sensored and capable of recording activity on the premises, including entry points to the property, and within all buildings and structures on the premises, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record 24 hours per day, 7 days per week. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual committing a crime on the premises and the ability to capture license plates entering and exiting the premises. The operator shall provide the Chief of Police remote access of any on-site web-based video surveillance to monitor remotely at any time. Additionally:

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

b. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, or labeling activities

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

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

3. Surveillance video shall be kept for a minimum of sixty (60) days in a format that can be easily accessed for viewing. Operators shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to insure the safety of persons and to protect the premises from theft. Alarm and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator of any prolonged surveillance interruption and/or failure of the system. All surveillance equipment, records and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system and/or alarm system.

4. An operator shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of any alarm installation company, and the name of any monitoring company. All monitoring companies shall be licensed by the Bureau of Security and Investigative Services to monitor motion-sensor lighting and alarms. Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

5. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.

6. Weapons and firearms are prohibited on the premises, unless authorized by the Chief of Police. This provision shall not apply to public officials engaged in official duty.

7. Security measures shall be designed to ensure emergency access in compliance with fire safety standards.

8. All structures used for commercial cannabis use shall have locking doors, with commercial-grade non-residential locks, to prevent free access.

9. Security measures shall prevent individuals from remaining on the premises of the commercial cannabis use if they are not engaging in activities expressly related to the operations of the commercial cannabis use.

10. Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the commercial cannabis use premises, including the transfer of currency for remitting City tax payments

11. Except for live growing cannabis plants and products on display for sale at dispensaries during hours which the business is open to the public, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval of the Chief of Police. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.

12. Panic buttons shall be installed in all commercial cannabis use premises with easy access by employees and all employees shall be properly trained on its use.

13. Any security bars installed on the windows or the doors of the commercial cannabis use shall be installed only on the interior of the building in compliance with all applicable codes.

14. Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this Code.

15. Each commercial cannabis use shall identify a liaison and provide contact information to the Chief of Police who shall be available at all times to meet with the Chief of Police regarding security measures and operational issues.

16. Minimum lighting level of one-foot candle shall be provided at building entrances and in parking lot areas. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. Exterior lighting on the premises shall be balanced to complement the security/surveillance systems to ensure all areas of the premises are visible, and shall provide increased lighting at all entrances to the premises. The lighting required shall be turned on from dusk to dawn. The site security plan shall include a photometric plan meeting these requirements and fixture details if new or upgraded lighting is required.

K. Operating Standards. In addition to any other requirements, the following are the minimum development criteria and operational standards applicable to commercial cannabis uses:

1. The commercial cannabis use shall provide adequate security on the premises pursuant to Section 5.44.030(J), and any additional requirements in this section, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

2. The site plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to the requirements of Title 18 and City review and approval.

3. No exterior signage or symbols shall be displayed which advertises the availability of cannabis, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.

4. Odor control devices and techniques shall be incorporated in all commercial cannabis uses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis uses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility that is distinctive to its operation and is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis use. As such, commercial cannabis uses must install and maintain the following equipment or any other equipment which the Building Official or designee determines has the same or better effectiveness:

a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or,

b. An air system that creates negative air pressure between the commercial cannabis use's interior and exterior so that the odors generated inside the commercial cannabis use are not detectable on the outside of the commercial cannabis use site.

5. No cannabis shall be consumed on the premises of any commercial cannabis use, unless allowed under a permit. On-site consumption of cannabis may be allowed if expressly permitted by the permit, and if consumption occurs in accordance with state laws and regulations, as may be amended, and any conditions placed on the permit, including those related to ventilation and odor control.

6. No commercial cannabis use may increase in size without amending the permit and seeking City approval.

L. Employees.

1. All employees of operators must be at least 21 years of age.

2. All employees of operators shall be subject to a background investigation and approval by the Chief of Police prior to performing any work for an operator. Applications for City authorization for an employee to work for an operator of a commercial cannabis use shall be developed and processed by the Chief of Police.

3. The Chief of Police may deny authorization to an employee seeking to work for an operator of a commercial cannabis use if the employee:

a. is on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance; or

b. has been convicted of a crime of moral turpitude; or

c. has been convicted of any misdemeanor or felony within the last ten years involving the following: the use of violence, force, fear, fraud or deception; or the unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance; or the use of money to engage in criminal activity; or the unlawful possession or use of a firearm. Employee authorization may be denied for individuals with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement, a criminal conviction for the sale or provision of illegal controlled substances to a minor, or any criminal conviction for a crime moral turpitude as determined by the Chief of Police.

4. An operator shall not employ an individual that has not received authorization from the Chief of Police.

5. Each operator of a commercial cannabis use shall maintain on-site a current register of all the employees currently employed by the operator, and shall produce such register to the Chief of Police, designee, or any other City official authorized to enforce the Union City Municipal Code for purposes of determining compliance with this Section.

6. The Chief of Police is authorized to take all actions necessary in order to implement an employee authorization system, which may include requiring any employee of an operator to obtain a work permit from the City or requiring an employee of an operator to undergo future background investigations. The Chief of Police may establish a fee for the cost of issuing such authorization.

7. An employee that changes employment from the operator of one commercial cannabis use to another commercial cannabis use shall notify the City in writing of the change within ten (10) business days.

8. The Chief of Police may revoke authorization to an employee to upon any of the grounds for denial of authorization pursuant to Section 5.44.030(L)(3).

9. The applicant or authorized employee may appeal the denial or revocation of authorization within ten (10) business days after notice of the denial is served on the applicant or authorized employee to the City Manager by filing with the City Clerk a written notice of appeal specifying the grounds for such appeal. The appeal must also include the appeal fee established by resolution of the City Council. The date, time, and place of the appeal hearing shall be provided in writing to the applicant or authorized employee with at least ten (10) days' notice and copies of hearing rules. If the applicant or authorized employee fails to present evidence establishing that the denial or revocation is improper, the City Manager shall uphold the

determination of the Chief of Police and give written notice to the applicant or authorized employee. The authorized employee shall cease working for an operator of a commercial cannabis use within five (5) days of service of the notice of the City Manager's determination.

M. Tracking. Commercial cannabis operators shall comply with any track and trace program established by the City or state agencies. Commercial cannabis operators must maintain records tracking all cannabis production and products, and shall make all records related to commercial cannabis use available to the City upon request.

N. Police Notification. Operators shall notify the Union City Police Department within 24 hours of discovering any of the following:

1. Significant discrepancies identified during inventory. The level of significance shall be 2% of inventory or per state regulations, whichever is stricter.

2. Diversion, theft, or loss, or any criminal activity involving the commercial cannabis use or any agent or employee of the commercial cannabis use.

3. Any other breach of security.

O. Inspections and Monitoring. Commercial cannabis uses and operations shall be subject to inspections by appropriate local and state agencies, including but not limited to, the Chief of Police and the City. Inspections by the City shall be conducted during regular business hours, with at least 24-hours' notice unless public health or safety otherwise requires.

Administrative monitoring shall be required for each commercial cannabis use. An annual inspection and monitoring fee may be adopted by Resolution of the City Council.

P. Restriction on Alcohol Sales. No alcoholic beverages may be sold, dispensed, or consumed on or about the premises of any commercial cannabis use.

Q. Record Keeping.

1. Each operator shall maintain accurate records detailing all revenues and expenses of the commercial cannabis use and all assets and liabilities. On no less than an annual basis, at or before the time of the renewal of a permit, or at any time upon reasonable request of the City, each operator shall file a sworn statement detailing the number of sales by the operator during the previous twelve-month period, or shorter period based upon the timing of the request, provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each operator shall submit to the City a financial audit of the operator's operations conducted by an independent certified public accountant. Each operator shall be subject to a regulatory compliance review and financial audit as determined by the City Manager.

2. Each operator shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis use, and separately of all the officers, managers, employees, and agents currently employed or otherwise engaged by the commercial cannabis use. The register required by this paragraph shall be provided to the City Manager upon request.

3. Each operator shall maintain a record of all persons, patients, collectives and primary caregivers served by the operator as required by MAUCRSA. A cannabis dispensary shall keep an accurate account of the number of customers that visit the dispensary each month, and for the entire permit year.

4. All operators shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA.

R. **Liability and Indemnification.** To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City. To the maximum extent permitted by law, the operators under this chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City and its respective officials, officers, employees, representatives, agents and volunteers from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) against the City to attack, set aside, void or annul, any cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the operator shall reimburse the City for its reasonable legal costs and attorneys' fees. Operators shall be required to agree to the above obligations in writing.

5.44.040 Standards for Commercial Cannabis Cultivation

A. **Purpose.** This Section establishes development, operating, and permit standards for commercial cannabis uses related to cannabis cultivation in locations permitted by Title 18.

B. **Applicability.** This Section shall apply to all commercial cannabis uses related to cannabis cultivation, including but not limited to, cannabis indoor cultivation and cannabis mixed-light cultivation and associated drying, curing, grading, and trimming facilities. Cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles which are classified separately. Operators engaged in commercial cannabis uses related to cannabis cultivation shall comply with state laws and regulations and the following standards in addition to the requirements of Section 5.44.030. Permits shall only be issued to commercial cannabis cultivation uses identified pursuant to cannabis license Types, 1A, 1B, 1C, 2A, 2B, 3A, 3B and 4, pursuant to Business and Professions Code section 26050. Commercial cannabis use related to cannabis outdoor cultivation is prohibited.

C. **Permit Requirements.** In addition to the requirements of Section 5.44.030, commercial cannabis uses related to cannabis cultivation shall be subject to requirements of Title 18 and this Section.

D. **Limitations on Use.** All commercial cannabis uses related to cultivation shall be conducted and maintained in compliance with applicable state laws and regulations, this chapter, and with any other standards adopted by the City Council through resolution or ordinance. All structures related to commercial cannabis uses related to cultivation shall be subject to all applicable laws, including the California Building Code, California Fire Code, and the Union City Municipal Code.

E. **Development Criteria.**

1. **Number of Permits.** Multiple permits may be issued for multi-tenant operations on a single parcel provided that the total cultivation area of all tenants does not exceed the maximum cultivation area allowed under the state license with the largest allowable cultivation area and provided such permits are allowed under state law.

2. **Square Footage Limitations.** The total combined square footage of the cultivation area shall not exceed the maximum size thresholds as allowed by Title 18 and in the requirements for cannabis license Types, 1A, 1B, 1C, 2A, 2B, 3A, 3B, and 4. Structures and areas where cannabis is processed, dried, aged, stored, trimmed, packaged or weighed, and areas where equipment is stored and washed, shall be limited to the on-site cultivation use only.

3. Distance Requirements. Establishment of cannabis cultivation for commercial uses shall be consistent with Title 18 and unless otherwise allowed under state law:

a. Shall not be established on any parcel containing a dwelling unit used as a residence, nor within one hundred feet (100') of a residential zoning district.

b. Shall not be established within one hundred feet (100') from any school or child care facility.

c. Shall not be established within one hundred feet (100') of any park, library, or youth center.

d. The distance requirements of subsection (E)(3) above may be waived or modified by the City Council when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur, unless otherwise prohibited under state law.

e. All structures used for cannabis indoor cultivation or cannabis mixed-light cultivation and all structures used for drying, curing, grading or trimming and all cannabis indoor cultivation or cannabis mixed-light cultivation structures shall comply with the setbacks required by this chapter and Title 18. Structures associated with the cultivation shall not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure.

5. Fire Code Requirements. The operator shall prepare and implement a fire prevention plan for construction and ongoing operations and obtain an operational permit from the Fire Department. The fire prevention plan shall include, but not be limited to, emergency vehicle access and turn-around at the facility site(s), vegetation management and fire break maintenance around all structures.

6. Lighting. All indoor and mixed light operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

7. Runoff and Stormwater Control. Runoff containing sediment, or other waste or by-products, shall not be allowed to drain to the storm drain system, waterways, or adjacent lands. Prior to beginning grading or construction, the operator shall prepare and implement a stormwater management plan and an erosion and sediment control plan, approved by the City. The plan must include best management practices for erosion control during and after construction, and permanent drainage and erosion control measures pursuant to Chapter 15.85 of the Union City Municipal Code.

8. Security and Fencing. In addition to the security requirements in Section 5.44.030(J), the following security and fencing standards apply to commercial cannabis uses related to cannabis cultivation.

a. Security cameras shall be motion-sensored and be installed with capability to record activity beneath the canopy from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels.

b. All mixed-light cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of the base zoning district to screen cultivation operations from public view. Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the site or surrounding area. Razor wire, chain-link and similar fencing shall not be permitted.

c. Security measures shall be designed to ensure emergency access in compliance with fire safety standards. All structures used for cultivation or storage of cannabis shall have locking doors, using commercial-grade locks, to prevent free access.

F. Operating Standards. In addition to standards contained in Section 5.44.030, the following standards shall apply to all commercial cannabis uses related to cannabis cultivation.

1. Air Quality and Odor. All cannabis cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities. Cultivation sites may not create odors amounting to a nuisance and must comply with the Union City Municipal Code.

2. Energy Use. Use of renewable resources for cannabis indoor cultivation and cannabis mixed-light operations is encouraged, and the City's commercial cannabis permit application procedures may award credit for use of renewable resources.

3. Hazardous Materials. All commercial cannabis uses related to cultivation that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks requirements and maintain any applicable state or local permits for these programs including permits required by the Certified Unified Program Agency ("CUPA").

4. Hours of Operation. The hours of operations for commercial cannabis uses related to cultivation shall be specified in the permit.

5. Waste Management. A waste management plan addressing the storing, handling and disposing of all waste by-products of the cultivation and processing activities shall be submitted for review and approval by the City. This plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose or reuse the wastes in compliance with any regulations adopted by the City Council through resolution or ordinance.

All garbage and refuse on the site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the site shall not be accumulated or stored for more than seven (7) calendar days, and shall be properly disposed of before the end of the seventh day. All waste, including but not limited to refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from commercial cannabis uses related to cultivation must be properly stored and secured to prevent access by the public.

6. Waste Water Discharge. A waste water management plan shall be submitted identifying the amount of waste water, excess irrigation and domestic waste water anticipated, pre-treatment method (when applicable), as well as disposal method. All commercial cannabis uses related to cultivation shall comply with all state regulations, any regulations adopted by the City Council through resolution or ordinance and the discharger shall submit to the City verification of compliance with the waste discharge requirements of the applicable Regional Water Quality Control Board, or waiver thereof. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary sewer, septic, irrigation, greywater or bio-retention treatment systems.

7. Water Supply. An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Trucked water shall not be allowed, except as noted below and for emergencies requiring immediate action as determined by the City. The onsite water supply shall be considered adequate with documentation of any one of the following sources:

a. Municipal Water: The public water supplier providing water service to the site has adequate supplies to serve the proposed use.

b. Recycled Water: The use of recycled process waste water from an onsite use or connection to a municipal recycled water supply for the cultivation use, provided that an adequate on-site water supply is available for employees and other uses.

5.44.050 Standards for Commercial Cannabis Dispensaries

A. Purpose. This Section provides the location, operational, and permit standards for any cannabis dispensary within the City in order to promote the health, safety, and general welfare of its residents and businesses. The standards in this section shall be in addition to standards contained in Section 5.44.030 for all commercial cannabis uses.

B. Applicability. Cannabis dispensaries shall be permitted only in compliance with the requirements of this Section, and all other applicable requirements of this chapter, and Title 18.

C. Permit Requirements. Permits shall only be issued to cannabis dispensaries with cannabis license Types 10 and 12. In addition to the requirements of Section 5.44.030, commercial cannabis uses related to cannabis dispensaries shall be subject to requirements of Title 18 and this Section.

D. Compliance with Operating Plan and Conditions Required. In addition to the general requirements of Section 5.44.030, a cannabis dispensary shall submit, as a part of the permit application, an operating plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, hours and days of operation allowed and approved. The operating plan shall provide that the cannabis dispensary shall require, at a minimum, a doctor's written recommendation in compliance with state law for medical cannabis sales, as well as a photo identification for any person entering the site. Any commercial cannabis use issued a permit for a dispensary shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, customers, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.

1. No person shall be allowed onto the premises of a cannabis dispensary unless he/she is an employee, customer, vendor or contractor of the dispensary, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance. If the cannabis dispensary denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the permit may be suspended by the City Manager. In strict accordance with California Health and Safety Code section 11362.5 et seq., no person under the age of eighteen (18) shall be allowed on a medical cannabis dispensary site, and no person under the age of twenty-one (21) shall be allowed on a nonmedical cannabis dispensary premises pursuant to California Business and Professions Code section 26140. All persons entering the premises shall present a photo identification and shall

establish proof of doctor's recommendation, except as representing a regulatory agency; a doctor's recommendation shall not be required for customers of a nonmedical cannabis dispensary. The operating plan submitted pursuant to this Section 5.44.050(D) shall specify how the operator will comply with and enforce this provision.

2. No cannabis dispensary shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the permit. A dispensary may sell live starter plants, clones and seeds from qualified cannabis nurseries, but shall not cultivate or clone cannabis. An operator of a cannabis dispensary may sell manufactured cannabis, including edible products, and vaporizing devices if the operator has obtained all other necessary permits for such activities.

3. Record Keeping. A medical cannabis dispensary shall maintain records of its members using only the State of California Medical Marijuana Identification Card number issued by the County or the County's designee, pursuant to California Health and Safety Code section 11362.7 et seq., or a copy of a written doctor's prescription or recommendation, as a protection for the confidentiality of the cardholders. The dispensary shall track when members' medical cannabis recommendations and/or identification cards expire and enforce conditions of membership by excluding members whose identification cards or recommendations are invalid or expired. The dispensary shall maintain member records in a manner to protect confidential information in the records if the records contain information protected by applicable law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Public Law 104-191. A dispensary shall exclude members who are caught diverting cannabis for nonmedical use. All membership records shall be maintained on-site.

a. A dispensary shall, by using the patient or caregiver's identification number, keep an accurate account of the number of members that visit the dispensary each month, and also for the entire permit year.

b. The dispensary shall keep accurate records, follow accepted cash handling practices and maintain a general ledger of cash transactions. A medical dispensary shall maintain records of all members' contribution of labor, resources or money to the dispensary.

c. The dispensary shall allow the City to access the books, records, accounts and all data relevant to its operations for purposes of conducting an audit or examination to determine compliance with the Union City Municipal Code, conditions of approval, and applicable laws. Books, records, accounts and all relevant data shall be produced no later than twenty-four (24) hours after receipt of the City's request.

d. The dispensary shall maintain a log of member or customer complaints and shall make the log available to the City upon request. The log shall contain at a minimum: the date of the complaint, the complaining member's identification number or reference to his or her written recommendation, the nature of the complaint, and the action taken by the dispensary to address the complaint.

4. Required Signage. The following signs, in measurements of not less than eight by ten inches (8x10"), shall be clearly and legibly posted in a conspicuous location inside the cannabis dispensaries where they will be visible to customers in the normal course of a transaction, stating:

a. "The sale of cannabis without a state license is illegal."

b. "Smoking cannabis on this property, within twenty feet (20') of the dispensary, or in any public place is illegal under California law."

c. For medical cannabis dispensaries: “No one under the age of eighteen (18) shall be allowed on the premises, unless they are a qualified patient or a primary caregiver.”

d. For nonmedical cannabis dispensaries: “No one under the age of twenty-one (21) shall be allowed on the premises.”

E. Distance Requirements. Establishment of cannabis dispensaries shall be consistent with Title 18 and unless otherwise allowed under state law and approved by the City:

1. Shall not be established on any parcel containing a dwelling unit used as a residence, nor within one hundred feet (100') of a residential zoning district.

2. Shall not be established within one hundred feet (100') from any school or child care facility.

3. Shall not be established within one hundred feet (100') of any park, library, or youth center.

4. The distance requirements of subsections (E)(1)—(3) above may be waived or modified by the City Council when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur, unless otherwise prohibited under state law.

5.44.060 Standards for Cannabis Manufacturing Facilities, Cannabis Testing Services, Cannabis Distribution Facilities, Deliveries, and Microbusinesses

A. Permits under this Section shall only be issued to operators of commercial cannabis uses with cannabis license Types 6, 7, 8, 10, 11, and 12.

B. Additional Operating Standards. In addition to the requirements of Section 5.44.030 and any requirements of Title 18, commercial cannabis uses permitted under this Section shall not be open to the general public and shall implement a track and trace program that records the movement of cannabis and cannabis products through the business.

C. Distance Requirements. Establishment of commercial cannabis uses under this Section shall be consistent with Title 18 and unless otherwise allowed under state law and approved by the City:

1. Shall not be established on any parcel containing a dwelling unit used as a residence, nor within one hundred feet (100') of a residential zoning district.

2. Shall not be established within one hundred feet (100') from any school or child care facility.

3. Shall not be established within one hundred feet (100') of any park, library, or youth center.

4. Notwithstanding, the subsections (E)(1)—(3) may be waived or modified by the City Council when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur, unless otherwise prohibited under state law.

D. Manufacturing and delivery operations shall be subject to additional permitting and inspection requirements of the Alameda County Health Official, per Section 5.44.030(G).

E. Delivery. Deliveries of cannabis in the City shall only be permitted for operators that obtain a permit under this chapter for cannabis dispensaries and operates from a premises within the City. Such operators shall be in conformance with state law, shall be subject to the permit procedures and requirements for cannabis dispensaries under Section 5.44.050 and comply with the following:

1. Deliveries can only be conducted between the hours of 8:00 a.m. to 8:00 p.m.

2. A delivery business wishing to make deliveries must obtain a cannabis license Type 10, or a cannabis license type subsequently established.

3. Deliveries shall be made by an employee of the delivery business and said employee shall carry with him/her at all times a physical copy of the permit, business license and state license, when such a license is available. Delivery businesses shall comply with all state law and regulations pertaining to cannabis delivery businesses.

F. Microbusinesses. Any commercial cannabis permit issued to a microbusiness with a cannabis license Type 12, or a cannabis license type subsequently established, that contains a dispensary operation, shall be subject to the permit procedures and requirements for cannabis dispensaries under Section 5.44.050. Any commercial cannabis permit issued to a microbusiness with a cultivation component will also be subject to the requirements of Section 5.44.040 for cultivation operations.

5.44.070 Enforcement

A. Violations.

1. Any activity performed contrary to the provisions of this chapter is hereby declared to be a public nuisance.

2. Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to this chapter shall constitute a violation.

B. Remedies. In addition to the revocation and suspension provisions in Section 5.44.030(F) and any all available remedies under the law, the following remedies shall be available to the City or other enforcement agency regarding violations of this chapter:

1. Administrative enforcement pursuant to Chapter 1.18 of the Municipal Code.
2. Civil enforcement.
3. Criminal enforcement.

C. In any enforcement action brought pursuant to this Section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the City, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this Section. In any action by the agency having jurisdiction to abate unlawful cannabis uses under this Section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the City elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.

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