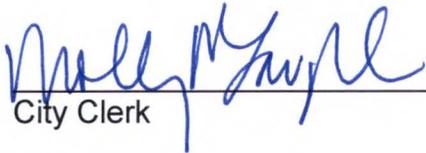




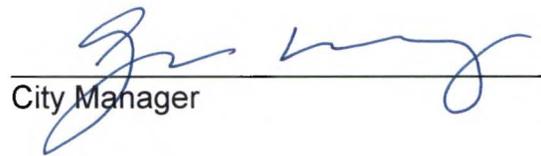
REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: FEBRUARY 13, 2018

TITLE: SECOND READING AND ADOPTION OF ORDINANCE NOS. 18-01 AND 18-02 APPROVING A CITYWIDE ZONE CHANGE TO AMEND APPLICABLE SECTIONS OF ZONING ORDINANCE SECTION 3-39 "CANNABIS RELATED USES, COMMERCIAL CANNABIS ACTIVITIES, DELIVERIES, AND CULTIVATION PROHIBITED" TO ALLOW CANNABIS TESTING LABORATORIES (00728989-PZC)



City Clerk



City Manager

RECOMMENDED ACTION

- 1) Read by title only, second reading and adoption of ORDINANCE NO. 18-01 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, AMENDING CHAPTER 3-39 OF THE IRVINE ZONING CODE (ENTITLED CANNABIS RELATED USES, COMMERCIAL CANNABIS ACTIVITIES, DELIVERIES, AND CULTIVATION PROHIBITED) AND OTHER RELATED ZONING CODE SECTIONS TO ALLOW CANNABIS TESTING LABORATORIES IN CERTAIN ZONING DISTRICTS (SECTIONS 1-2-1, 3-3-1, 3-37-29, 3-37-33, AND 3-37-34)
- 2) Read by title only, second reading and adoption of ORDINANCE NO. 18-02 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA, ADDING DIVISION 22 TO TITLE 4 OF THE IRVINE MUNICIPAL CODE PERMITTING CANNABIS TESTING LABORATORIES CONSISTENT WITH THIS DIVISION AND THE CITY'S ZONING CODE

EXECUTIVE SUMMARY

On January 23, 2018, the City Council introduced for first reading two ordinances approving a citywide zone change to amend applicable sections of Zoning Ordinance Section 3-39 "Cannabis Related Uses, Commercial Cannabis Activities, Deliveries, and Cultivation Prohibited" to allow cannabis testing laboratories (00728989-PZC). After introduction, modifications were made to both ordinances.

Ordinance No. 18-01 was modified to amend Sections 3-37-33.-5.4(B)(4) and 3-37-34.-5.5(B)(4) of the Irvine Zoning Code as follows (noted in bold, underline and strikethrough):

Sec. 3-37-33. – 5.4 General Industrial

B. *Permitted Uses.*

4. Cannabis testing laboratory (not allowed within ~~4000~~ **600** feet of schools or residences)

Sec. 3-37-34. – 5.5 Medical and Science.

B. *Permitted Uses.*

4. Cannabis testing laboratory (not allowed within ~~4000~~ **600** feet of schools or residences)

Ordinance No. 18-02 was modified to amend Sections 4-22-107(1)(d), and Section 4-22-107(1)(m), of the Irvine Municipal Code as follows (noted in bold, underline and strikethrough):

Section 4-22-107 Cannabis Testing Laboratory Permit Application and Renewal Requirements.

1(d). Certification from the Community Development Director or his/her designee(s) that the proposed laboratory is located at least ~~4000~~ **600** feet away from any parcel zoned for residential purposes and at least ~~4000~~ **600** feet away from any school (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12), commercial day care center, or youth center.

1(m). A copy of the testing laboratory's certificate(s) of accreditation and/or application(s) for certificate(s) of **ISO/IEC 17025** accreditation, in compliance with state law. In the event the applicant only provides evidence of an **ISO/IEC** application, the applicant must demonstrate **a good faith effort towards receiving final accreditation approval within a reasonable amount of time. Failure to do so may be a basis for permit suspension or revocation, or denial of a request for permit renewal.** ~~that he/she has obtained final approval of a certificate of accreditation prior to commencing operations.~~

The motion to introduce Ordinance Nos. 18-01 and 18-02 for first reading **as amended** carried by the following vote:

AYES: 4 COUNCILMEMBERS: Fox, Lalloway, Shea and Wagner

NOES: 0 COUNCILMEMBERS: None

ABSENT: 1 COUNCILMEMBERS: Schott

ABSTAIN: 0 COUNCILMEMBERS: None

Unless otherwise directed by a Member of the City Council, the vote at second reading will reflect the same vote as at the first reading. However, if a Councilmember was absent at first reading, his or her vote cast at second reading will be reflected. If a Councilmember is not present at the second reading/adoption, the vote will be reflected as absent.

REPORT PREPARED BY Molly McLaughlin, City Clerk

ATTACHMENTS:

1. City Council Ordinance No. 18-01
2. City Council Ordinance No. 18-02

CITY COUNCIL ORDINANCE NO. 18-01

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA AMENDING CHAPTER 3-39 OF THE IRVINE ZONING CODE (ENTITLED CANNABIS RELATED USES, COMMERCIAL CANNABIS ACTIVITIES, DELIVERIES, AND CULTIVATION PROHIBITED) AND OTHER RELATED ZONING CODE SECTIONS TO ALLOW FOR CANNABIS TESTING LABORATORIES IN CERTAIN ZONING DISTRICTS (SECTIONS 1-2-1, 3-3-1, 3-37-29, 3-37-33, and 3-37-34)

WHEREAS, on October 9, 2015, Governor Brown signed three bills into law (AB 266, AB 243, and SB 643), which collectively are known as the Medical Marijuana Regulation and Safety Act (“MMRSA”) and which established a comprehensive state licensing scheme for commercial uses related to medicinal cannabis; and

WHEREAS, pursuant to the authority granted by the MMRSA, the City adopted Ordinance No. 16-01, and thereby prohibited all commercial marijuana activities, regardless of whether those activities related to medicinal or recreational uses; and

WHEREAS, since the adoption of Ordinance No. 16-01, the voters passed Proposition 64 or the Adult Use of Marijuana Act (“AUMA”) in November 2016, which established a similar state licensing scheme for adult use (i.e., non-medicinal) marijuana facilities; and

WHEREAS, after the passage of the AUMA, the Legislature adopted and the Governor signed into law SB 94, which is known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (the “MAUCRSA”); and

WHEREAS, the MAUCRSA effectively consolidates the regulatory scheme provided for by the MMRSA (relating to medicinal marijuana) with the regulatory scheme provided for by the AUMA (relating to non-medicinal marijuana) to provide for one licensing structure for all cannabis related uses; and

WHEREAS, under the MAUCRSA, cities retain their ability to regulate medicinal and adult use commercial cannabis related uses; and

WHEREAS, the City Council continues to find that commercial cannabis activities, as defined by Business & Professions Code section 26001, subdivision (i), other than testing laboratories, can adversely affect the health, safety and well-being of City residents; and

WHEREAS, citywide prohibition of both medicinal and adult use commercial cannabis activities, other than testing laboratories, is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities; and

WHEREAS, the City Council also finds that testing laboratories for either medicinal or adult use marijuana shall be permitted in certain zoning districts in the City, as set forth below, and subject to the regulations contained in Title 4, Division 22 of the Irvine Municipal Code; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 7, 2017 at which time it considered all evidence presented, both written and oral, and at the of the hearing, voted to adopt a resolution recommending that the City Council adopt this ordinance; and

WHEREAS, the City Council held a duly noticed public hearing on this Ordinance on January 23, 2018 at which it considered all evidence presented, both written and oral; and

NOW, THEREFORE, the City Council of the City of Irvine, California DOES HEREBY ORDAIN as follows:

SECTION 1. Recitals. The foregoing recitals are true and correct and are incorporated herein as though set forth in full.

SECTION 2. Authority. This Ordinance is adopted pursuant to the authority granted by the California Constitution and State law, including but not limited to Article XI, Section 7 of the California Constitution, and the MAUCRSA.

SECTION 3: No Changes to Permitted Uses. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

SECTION 4: CEQA Determination. In adopting this Ordinance, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations Sections 15061(b)(3) and 15378, in that it can be seen with certainty that the adoption of the Zoning and Municipal Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In addition, the adoption of the proposed ordinance is exempt under the California Environmental Quality Act pursuant to Business & Professions Code section 26055(h), because, if approved, the companion ordinance to this Zone Text Amendment will require all applicants to comply with CEQA prior to the issuance of the cannabis permit.

SECTION 5: Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

SECTION 6. Effective Date. This Ordinance shall become effective thirty (30) days after its passage and adoption. Within 15 days of the date of adoption of this Ordinance, the City Clerk shall post a copy of said Ordinance in places designated for such posting and shall certify to the same. The City Clerk shall certify the passage of this Ordinance and shall cause the same to be published as required by law.

SECTION 7. The following findings required by Section 2-38-7 of the City of Irvine Zoning Code for approval of a Zone Change have been made as follows:

1. The proposed Zone Change is consistent with the City of Irvine General Plan.

The purpose of the zone change is to allow cannabis testing laboratories as a permitted use in specific zoning districts. These laboratories would be limited to the following zoning districts, 5.1 IBC Multi-Use, 5.4 General Industrial, and 5.5 Medical and Science. Cannabis testing laboratories in these zoning districts and in the corresponding general plan land use designations are considered appropriate since this limits the opportunity to be located near sensitive land uses, such as schools and residences. Furthermore, these uses are more likely to be located in an existing research and development areas where similar testing of a product is being conducted as part of an established business. As such, this zone change is consistent with the goals and objectives of the City of Irvine General Plan.

2. The proposed Zone Change is consistent with any applicable concept plan.

This finding does not apply to the proposed zone change as there is not an applicable concept plan for a text amendment to the zoning code.

3. The proposed Zone Change meets all the requirements set forth within Division 8 for the dedication of permanent open space through a specified phased implementation program for affected planning areas and zoning districts.

This project is not subject to the phased permanent open space dedication implementation program set forth in Division 8-1.

4. The proposed Zone Change is in the best interest of the public health, safety and welfare of the community.

The City-initiated Zone Change is consistent with all applicable provisions of the Zoning Ordinance and is determined to be in the best interests of the health, safety and welfare of the community. The environmental impacts of the proposed Zone Change application are exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b) (3), which provides that CEQA applies only to projects that have the potential to cause a significant effect on the environment, and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In addition, the adoption of the proposed ordinance is exempt under the California Environmental Quality Act pursuant to Business & Professions Code section 26055(h), because, if approved, the companion ordinance to this Zone Text Amendment will require all applicants to comply with CEQA prior to the issuance of the cannabis permit.

Therefore, the proposed Zone Change is consistent with and in the best interest of the public health, safety and welfare of the community.

5. Based upon information available at the time of approval, adequate sewer and water lines, utilities, sewage treatment capacity, drainage facilities, police protection, fire protection/emergency medical care, vehicular circulation and school facilities will be available to serve the area affected by the proposed City-initiated Zone Change when development occurs.

The proposed project does not include any specific development. The zone change is limited to a text amendment which would allow cannabis testing laboratories. These labs could be included with existing research and development businesses as both land uses include the testing of a product. As such the need for infrastructure would be minimal.

6. If the proposed Zone Change affects land located within the coastal zone, the proposed Zone Change will comply with the provisions of the land use plan of the certified local coastal program.

A small portion of the 5.1 Irvine Business Complex zone is located within the coastal zone. This portion of the zoning district will not be included in the zone change; therefore, no changes to the local coastal plan are required.

SECTION 8. Based on the above findings, the City Council of the City of Irvine DOES HEREBY APPROVE Zone Change 00728989-PZC amending the City's Zoning Ordinance as depicted in Exhibit A.

SECTION 9. Nothing in this Ordinance shall be construed to allow persons to engage in conduct that violates the law, endangers others, causes a public nuisance, allows the illegal use or diversion of Cannabis, or allows any activity relating to Cannabis that is otherwise illegal under state or local law.

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the ____ day of _____ 2018.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, Molly McLaughlin, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on the 23rd day of January 2018, and duly adopted at a regular meeting of the City Council of the City of Irvine held on the ____ day of _____ 2018.

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

CITY CLERK OF THE CITY OF IRVINE

Zoning Code Section 1-2-1

Adding definition for cannabis testing laboratory:

Camouflage facility: A wireless communication facility utilizing effective and appropriate camouflage design techniques such that the antennae and accessory wireless equipment are not visible or not readily visible.

Cannabis testing laboratory: a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following: (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; and, (2) Licensed by the bureau

Canopy: A fixed structure of any material and any length, projecting from and connected to a building and/or columns and posts from the ground, or supported by a frame extending from the building and/or posts from the ground.

Amending the definition for research and development:

Research and development: Uses engaged in the research, analysis, development and/or testing of a product, not to include cannabis testing laboratories.

- **CHAPTER 3-3. - LAND USE MATRIX**
- **Sec. 3-3-1. - Land use matrix.**

Update the City's land use matrix to allow cannabis testing laboratories in the 5.1 Irvine Business Complex₁, the 5.4 General Industrial₂, and in the 5.5 Medical and Science Zones₂. This use would be prohibited in all other zones.

₁Cannabis testing laboratories are not allowed in the coastal zone.

₂Cannabis testing laboratories are not allowed within 600 feet of schools or residences.

Zoning Code Sections

Chapter 3-39

CANNABIS RELATED USES, COMMERCIAL CANNABIS ACTIVITIES, DELIVERIES, AND CULTIVATION PROHIBITED

Sec. 3-39-1 Definitions

“Cannabis” shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means “marijuana” as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. The term “Cannabis” shall also have the same meaning as set forth in Business & Professions Code § 26001(f), as may be amended from time to time. “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. For the purpose of this chapter, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

“Caregiver” or “Primary Caregiver” shall have the same meaning as set forth in Health & Safety Code § 11362.7, as may be amended from time to time.

“Commercial Cannabis Activity” shall have the same meaning as set forth in Business & Professions Code § 26001(i), as may be amended from time to time. Commercial Cannabis Activity includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, delivery or sale of cannabis and cannabis products.

“Cooperative” shall mean two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or making available marijuana, with or without cultivation.

“Cultivation” or “Cultivate” shall have the same meaning as set forth in Business & Professions Code § 26001(l), as may be amended from time to time.

“Delivery” shall have the same meaning as set forth in Business & Professions Code § 26001(p), as may be amended from time to time.

“Dispensary” shall mean and refer to any premises where Cannabis or Medicinal Cannabis or Cannabis Products are offered, either individually or in any combination, for retail sale or Delivery to consumers, customers, patients, or primary caregivers. For purposes of this Chapter, Dispensary shall also include a Cooperative. Dispensary shall not include the following uses: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health & 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 illnesses 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 home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

“Medical Cannabis” or “Cannabis” shall have the same meaning as set forth in Business & Professions Code § 26001(ai), as may be amended from time to time.

“Medicinal and Adult Use Cannabis Regulation and Safety Act” or “MAUCRSA” shall mean and refer to Senate Bill 94, signed into law on June 27, 2017, as the same may be amended from time to time.

“Testing Laboratory” shall have the same meaning as set forth in Business & Professions Code section 26001(as), as may be amended from time to time.

“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 from time to time.

Sec. 3-39-2 Prohibition.

Except as set forth in Subsection (F) of this Chapter, all Cannabis related uses, including but not limited to the manufacture, sale, delivery, distribution, processing, and cultivation of Cannabis, and all other Commercial Cannabis Activities for which a State license is required under the MAUCRSA are prohibited in all zones throughout the City, regardless of whether the Commercial Cannabis Activity relates to medicinal or adult use marijuana. Accordingly, the City shall not issue any permit, or process any license or other entitlement for any Cannabis related use or any other activity for which a State license is required under the MAUCRSA.

- A. Adult Use Cannabis Related Uses. Except as set forth in subsection (F) of this Chapter, all adult use Cannabis related uses, including but not limited to the manufacture, sale, delivery, distribution, processing, and cultivation of Cannabis, are expressly prohibited in all zones and all specific plan areas in the City, regardless of whether the Cannabis related use related to medicinal or adult use marijuana. No person shall establish, operate, conduct, permit or allow any Cannabis related use anywhere within the City.
- B. Medical Cannabis Uses. Except as set forth in subsection (F) of this Chapter, all Medical Cannabis related uses, including but not limited to the manufacture, sale, delivery, distribution, processing, and cultivation of Cannabis, are expressly

prohibited in all zones and all specific plan areas in the City, regardless of whether such uses qualify as Commercial Cannabis Activities under the MAUCRSA. No person shall establish, operate, conduct, permit or allow any Medical Cannabis related land use anywhere within the City.

- C. Commercial Cannabis Activities. Except as set forth in subsection (F) of this Chapter, all Commercial Cannabis Activities, including but not limited to the manufacture, sale, delivery, distribution, processing, and cultivation of Cannabis, are expressly prohibited in all zones and all specific plan areas in the City, regardless of whether such uses relate to medicinal or adult use marijuana. No person shall establish, operate, conduct, permit or allow a Commercial Cannabis Activity anywhere within the City.
- D. Cannabis Deliveries. Except as set forth in subsection (F) of this Chapter, all Deliveries of Cannabis and Medical Cannabis are expressly prohibited in the City. No person shall conduct any Deliveries of Cannabis or Medical Cannabis that either originate or terminate at any location within the City.
- E. Cannabis Cultivation. The commercial Cultivation of Cannabis is expressly prohibited in all zones and all specific plan areas in the City, regardless of whether the cultivation is related to medicinal or adult use marijuana.
- F. Cannabis Testing Laboratories. Cannabis Testing Laboratories shall only be permitted in the following zoning districts in the City: 5.1 IBC Multi-Use, 5.5 Medical and Science, and 5.4 General Industrial and upon the issuance of both (1) a valid permit issued by the City pursuant Title 4 - Public Safety of the City's Municipal Code and (2) a valid state license. Cannabis Testing Laboratories shall not be permitted in any other zoning district in the City.

Sec. 3-39-3 Public Nuisance

Any use or condition cause, or permitted to exist, in violation of any provision of this Chapter 3-39 shall be, and is hereby declared to be, a public nuisance and may be summarily abated by the City pursuant to California Code of Civil Procedure Section 731 or any other remedy available at law.

Sec. 3-39-4 Civil Penalties

In addition to any other enforcement permitted by the City's Zoning and/or Municipal Codes, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person who violates any provision of this Chapter. In any civil action that is brought pursuant to this Chapter, a court of competent jurisdiction may award civil penalties and costs to the prevailing party.

Sec. 3-37-29. - 5.1 IBC Multi-Use.

A. *Intent.* The Multi-Use land use district is intended as an area in which a wide variety of uses are allowed. Specific institutional uses, particularly those proposed to serve the needs of the residential and employee populations of this district, such as schools, parks, libraries and theaters, are especially encouraged in this area. Special provisions apply to several of the conditional commercial uses in this area which generate high levels of traffic.

B. *Permitted uses.*

GLU ¹ Category	Use
35	Accessory use
36	Agriculture (interim use)
29	Cannabis testing laboratory (not allowed in the coastal zone or within the IBC Residential Overlay area)
35 ^T	Commercial recreation (under 1,500 square feet)

Sec. 3-37-33. - 5.4 General Industrial.

A. *Intent.* This category reserves an area for uses such as manufacturing, warehousing and service industries.

(5.4)	Irvine Spectrum 2 (Planning Area 35)
	Irvine Spectrum 8 (Planning Area 40)
	Oak Creek (Planning Area 12)
(5.4A)	Irvine Spectrum 5 (Planning Area 34)
(5.4B)	Oak Creek (Planning Area 12)
	Irvine Spectrum 3 (Planning Area 32)
	Orange County Great Park (Planning Area 30)

B. *Permitted uses.*¹

1. Accessory use.
2. Agriculture (interim use).
3. Alternative health care provider (permitted only in 5.4B).
4. Cannabis testing laboratory (not allowed within 600 feet of schools or residences)
5. Caretaker's quarters.
6. Domestic animal care facility.⁸
7. Emergency shelter.
8. Industry, service.
9. Manufactured structure permit (up to two years).
10. Manufacturing, light.
11. Miniwarehouse.
12. Office, administrative, business, professional (permitted only in 5.4B).
13. Office, design professionals (permitted only in Planning Areas 12, 13, 32, 34, 35).²

Sec. 3-37-34. - 5.5 Medical and Science.

A. *Intent.* This category allows the development of a biomedical/high technology complex combining health care facilities and related businesses, medical research and education, general research and development, and light manufacturing and assembly in one master planned area.

(5.5)	Irvine Spectrum 4 (Planning Area 13)
(5.5A)	Irvine Spectrum 6 (Planning Area 31)
(5.5B)	Jamboree Business Center, East (Planning Area 10)
(5.5C)	Planning Area 17 (east of Laguna Canyon Road)
(5.5D)	Irvine Spectrum 8 (Planning Area 40)
(5.5E)	Reserved
(5.5F)	Planning Area 6 (Portola Springs)
(5.5G)	Planning Area 17 (west of Laguna Canyon Road)
(5.5H)	Planning Area 12 (Oakcreek)

B. *Permitted uses.* ¹

1. Accessory use.
2. Agriculture (interim use).
3. Alternative health care provider.
4. Cannabis testing laboratory(not allowed within 600 feet of schools or residences)
5. Caretaker's quarters.
6. Emergency shelters.
7. Financial institution (except drive-thru).

CITY COUNCIL ORDINANCE NO. 18-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE, CALIFORNIA ADDING DIVISION 22 TO TITLE 4 OF THE IRVINE MUNICIPAL CODE PERMITTING CANNABIS TESTING LABORATORIES CONSISTENT WITH THIS DIVISION AND THE CITY'S ZONING CODE

WHEREAS, on October 9, 2015, Governor Brown signed three Bills into law (AB 266, AB 243, and SB 643), which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA") and which established a comprehensive state licensing scheme for commercial uses related to medicinal cannabis; and

WHEREAS, pursuant to the authority granted by the MMRSA, the City adopted Ordinance No. 16-01, and thereby prohibited all commercial marijuana activities, regardless of whether those activities related to medicinal or recreational uses; and

WHEREAS, since the adoption of Ordinance No. 16-01, the voters passed Proposition 64 or the Adult Use of Marijuana Act ("AUMA") in November 2016, which established a similar state licensing scheme for adult use (i.e., non-medicinal) marijuana facilities; and

WHEREAS, after the passage of the AUMA, the Legislature adopted and the Governor signed into law SB 94, which is known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (the "MAUCRSA"); and

WHEREAS, the MAUCRSA effectively consolidates the regulatory scheme provided for by the MMRSA (relating to medicinal marijuana) with the regulatory scheme provided for by the AUMA (relating to non-medicinal marijuana) to provide for one licensing structure for all cannabis related uses; and

WHEREAS, under the MAUCRSA, cities retain their ability to regulate medicinal and adult use commercial cannabis related uses; and

WHEREAS, the City Council continues to find that commercial cannabis activities, as defined by Business & Professions Code section 26001 subdivision (i), other than cannabis testing laboratories, can adversely affect the health, safety and well-being of City residents; and

WHEREAS, citywide prohibition of both medicinal and adult use commercial cannabis activities, other than cannabis testing laboratories, is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities; and

WHEREAS, the City Council also finds that cannabis testing laboratories for either medicinal or adult use marijuana shall be permitted in certain zoning districts in the City

subject to the issuance of a cannabis testing laboratory permit and subject to the regulations set forth below, and hereby adds Division 22 to Title 4 of the Irvine Municipal Code; and

The City Council of the City of Irvine DOES HEREBY ORDAIN AS FOLLOWS:

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

SECTION 2: Division 22 of Section 4 of the Irvine Municipal Code is hereby added to read as follows:

Division 22 CANNABIS TESTING LABS

Section 4-22-101. Purpose and Intent

It is the purpose and intent of this Division to regulate the testing of medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of Irvine and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Division to require all commercial cannabis testing lab operators to obtain and renew annually a permit to operate within Irvine. Nothing in this Division is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. Nothing in this Division shall be interpreted to allow any other commercial cannabis uses, other than cannabis testing laboratories that comply with the provisions contained herein. The provisions of this Division are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, federal or other law.

Section 4-22-102. Legal Authority

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter "MAUCRSA"), any subsequent state legislation and/or regulations regarding same, the City of Irvine is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial medicinal and adult-use cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Irvine to all commercial cannabis activity.

Section 4-22-103. All Commercial Cannabis Uses Prohibited Except as Specifically Authorized by this Division.

Except as specifically authorized in this Division, the commercial cultivation, dispensing, manufacture, processing, storing, laboratory testing, labeling, sale, delivery,

distribution or transportation (other than as provided under Bus. & Prof. Code section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Irvine.

Section 4-22-104. Compliance with all Laws.

Nothing in this Division shall be construed as authorizing any actions that violate federal, state or local law with respect to the operation of a cannabis testing laboratories or any other commercial cannabis use. It shall be the responsibility of the owners and the operators of the cannabis testing laboratories to ensure that the cannabis testing laboratory is, at all times, operating in a manner compliant with all applicable federal, state and local laws, including for as long as applicable, the Compassionate Use Act (“Prop. 215”), the Medical Cannabis Program Act (“MMPA”), the 2008 Attorney General Guidelines for the Security and Non-Diversion of Cannabis for Medical Purposes (“AG Guidelines”), the Medical Marijuana Regulation and Safety Act (“MMRSA”), Proposition 64 or the Adult Use of Marijuana Act (“AUMA”), and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) (collectively “the Medical Cannabis Collective Laws”), any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis testing lab permit.

Section 4-22-105 Definitions.

When used in this Division, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

Applicant: means an owner who is applying for a state license and City of Irvine license pursuant to this Division.

Bureau: shall mean the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

Cannabis: shall means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from marijuana. “Cannabis” also means “marijuana” as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. The term “Cannabis” shall also have the same meaning as set forth in Business & Professions Code § 26001 (f), as may be amended from time to time. “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. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

Certificate of accreditation: means a document issued by an accreditation body that attests to the laboratory's competence to carry out specific testing analysis and is required for issuance of a state license pursuant to 16 Cal. Code Regs. § 5702.

Commercial cannabis activity: "Commercial Cannabis Activity" shall have the same meaning as set forth in Business & Professions Code § 26001, as may be amended from time to time. Commercial Cannabis Activity includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, delivery or sale of cannabis and cannabis products.

Cannabis testing laboratory or lab: shall have the same meaning as set forth in Business & Professions Code section 26001(as), as may be amended from time to time.

Cannabis testing lab permit: means a regulatory permit issued by the City of Irvine pursuant to this Division to a cannabis testing lab, and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a cannabis testing lab permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Division and any regulations adopted by the City governing the commercial cannabis activity at issue.

License or State License: means a state license issued by the State of California, or one of its departments or divisions, under the MAUCRSA and any subsequent State of California legislation, relating to commercial cannabis activities.

Licensee: means any person holding a license under this division, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

Licensing authority: means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

Local jurisdiction: means a city, county, or city and county.

Owner: shall have the same meaning as set forth in Business and Professions Code section 26001(a1).

Section 4-22-106. Cannabis Testing Lab Permit Required to Operate Cannabis Testing Lab.

No person may engage in any cannabis laboratory testing unless the person has obtained all of the following: (1) a valid cannabis testing laboratory permit issued by the City of Irvine; (2) a valid temporary or permanent cannabis testing laboratory license issued by the State of California; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis activities, including the duty to obtain any state or local licenses or permits. Any person who is an employee or who otherwise works within a cannabis testing laboratory must be legally authorized to do so under applicable state law. Any person who has a valid temporary cannabis testing laboratory license issued by the State must demonstrate that he/she has applied for a permanent cannabis testing laboratory license within thirty (30) days of the date of approval of the City permit or the City permit shall automatically be deemed null and void.

Section 4-22-107 Cannabis Testing Laboratory Permit Application and Renewal Requirements.

1. An application for a cannabis testing laboratory permit or permit renewal shall be made to the City Manager or his/her designee on a form provided for by the City Manager or his/her designee. Failure to disclose information fully and accurately could lead to the denial, revocation, or failure to renew a proposed application. To be deemed complete and submitted for City Manager review, an application must contain at least the following information:
 - a. Evidence that applicant has paid all fees established by resolution of the City Council, to cover all costs incurred by the City in the application process.
 - b. Evidence that the applicant has provided notice of the permit application to all property owners located within three hundred (300) feet of the proposed laboratory location.
 - c. Certification from the Community Development Director or his/her designee(s) certifying that the proposed laboratory is located on a site that meets all of the requirements of the City's Zoning Code, General Plan, and further that the applicant has complied with all requirements of the California Environmental Quality Act.
 - d. Certification from the Community Development Director or his/her designee(s) that the proposed laboratory is located at least 600 feet away from any parcel zoned for residential purposes and at least 600 feet away from any school (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12), commercial day care center, or youth center.

- e. Evidence that the cannabis testing laboratory is authorized by the landowner to operate in the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Division and consents to the operation of the cannabis testing lab on the owner's property.
- f. A storage and transportation plan approved by the Chief of Police or his/her designee, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
- g. A site inspection, and security and safety plan approved by the Chief of Police or his/her designee, that is sufficient to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis testing lab.
- h. A cannabis waste and discharge plan that ensures that cannabis sample remnants are disposed of in a manner that is consistent with state law, and is approved by the Chief of Police or his/her designee.
- i. A description of business structure of the applicant (i.e., corporation, partnership, etc.), a copy of all business formation documents and all documents filed with the secretary of state, and a list of every fictitious name business is operating under.
- j. The name of the primary contact for the Applicant, as well as the mailing & physical address of property, federal Employer Identification Number, and the legal business name of applicant.
- k. For all Owners: his or her name, percent ownership in the applicant as well as his or her title, mailing address, phone number, email address, copy of government issues identification, percent ownership in any other commercial cannabis activity, and social security number.
- l. For all Owners: a detailed description of any and all criminal convictions, the date of the criminal conviction(s), the date(s) of incarceration, probation, and/or parole. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Convictions dismisses under Penal Code section 1203.4 or equivalent non-California law must also be disclosed. In addition, the applicant and all owners must complete a live scan and submit to a

criminal background check, which shall be reviewed and approved by the Chief of Police.

- m. A copy of the testing laboratory's certificate(s) of accreditation and/or application(s) for certificate(s) of ISO/IEC 17025 accreditation, in compliance with state law. In the event the applicant only provides evidence of an ISO/IEC application, the applicant must demonstrate a good faith effort towards receiving final accreditation approval within a reasonable amount of time. Failure to do so may be a basis for permit suspension or revocation, or denial of a request for permit renewal.
 - n. Whether the applicant or any of the testing lab owners has been denied a license or had a license suspended or revoked by the state or any other local jurisdiction. In the event a license has been denied, suspended or revoked, the applicant shall provide details relating to the type of license applied for, the name of the licensing authority denied, suspended or revoked, and the date of denial, suspension, or revocation.
 - o. A detailed list of all loans to, gifts to, and investments in the applicant, along with a list of all funds belonging to the applicant held in savings, checking or other accounts maintained by a financial institution.
 - p. A detailed list of every individual who has a financial interest in the cannabis testing laboratory, as defined by state law, who is not an owner as defined by Business and Professions Code 26001(a1).
 - q. For each and every owner, as that term is defined under Business & Professions Code section 26001(a1), as may be amended from time to time, attestation to the following: "Under penalty of perjury, I hereby do declare that the information contained within the application is complete, true, and accurate. I understand that any misrepresentation on this application is cause for its rejection, denial of a license, or revocation of a license."
 - r. Any other additional information requested by the City Manager or his or her designee.
2. The City Manager or his/her designee shall either deny or approve, conditionally approve, or deny the application within 60 days of the application being deemed complete. The City Manager's decision shall be final. The City Manager or his/her designee shall provide the applicant with written notice of his/her decision.
- a. If an application is denied, a new application may not be filed for one (1) year from the date of the denial.

- b. If a cannabis testing laboratory permit is approved or conditionally approved, it shall only be valid for a term of twelve (12) months, and shall expire at the end of the twelve (12) month period unless it is renewed as provided in Section 4-22-11. The cannabis testing lab permit shall not run with the land and shall not create any rights to continue with the use of the property as a cannabis testing laboratory, except as specifically set forth herein.
 - c. City Manager retains full authority to deny application for a permit or renewal in the event that he/she determines any of the following: (i) the applicant has not provided the information required on the application form pursuant to this Division; (ii) the application has falsified or misrepresented any part of the application; (iii) the applicant has previously failed to comply with the operating procedures set forth in Section 4-22-0008; or (iv) there is an overconcentration of testing lab facilities in the area which the applicant has proposed to locate the facility.
 - d. The City Manager, in his/her discretion, may refer the decision to permit, conditionally permit or deny any application for a permit or renewal to the City Council.
3. Prior to commencing operations, the cannabis testing laboratory and its owners and operators shall:
- a. Obtain any and all required land use entitlements and approvals and comply any California Environmental Quality Act requirements related thereto.
 - b. Be subject to a mandatory building inspection, and obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), certificates of occupancy, Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.
 - c. If the City Manager or his/her designee determines it is necessary, enter into a community benefit agreement with the City setting forth the terms and conditions under which the cannabis testing lab facility will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety and welfare.
 - d. Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the

City of Irvine, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance or failure to issue a cannabis testing laboratory permit, the City's decision to approve or its refusal to approve the operation of the cannabis testing lab or activity, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the cannabis testing lab or any of its officers, employees or agents.

- e. Obtain and consistently maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney.
- f. Reimburse the City of Irvine for all costs and expenses, including but not limited to attorney fees and costs, which the City of Irvine may be required to pay as a result of any legal challenge related to the City's approval or refusal to approve the applicant's cannabis testing lab permit, or related to the City's approval or failure to approve of a cannabis testing lab activity. The City of Irvine may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.
- g. Pay all fees and charges required by the City or any other local or State agency required for the operation of a cannabis testing laboratory.
- h. Comply with all state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit.
- i. Obtain a valid state license allowing for the operation of a cannabis testing laboratory.
- j. Apply for and obtain a City of Irvine business license.

Section 4-22-008 Operational Requirements

Each cannabis testing laboratory shall comply with each of the following operational requirements. Failure to do so may be grounds for permit suspension or revocation pursuant to Section 4-22-010, and/or denial of a permit renewal application.

1. Conform with the City's general plan, any applicable specific plans, master plans, and design requirements.
2. Comply with all applicable zoning and related development standards.

3. Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.
4. Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
5. Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
6. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.
7. Continue to maintain sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis testing lab, consistent with state law and subject to the approval of the Chief of Police.
8. The cannabis testing lab shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, upon reasonable notice to the cannabis testing lab, to inspect or audit the effectiveness of any security plan or of any other requirement of this Division.
9. A cannabis testing lab shall notify the Chief of Police or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Chief of Police or his/her designee(s).
 - b. Diversion, theft, loss, or any criminal activity involving the cannabis testing lab or any agent or employee of the cannabis testing lab.
 - c. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the cannabis testing lab.
 - d. Any other breach of security.
10. Pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each cannabis testing lab shall cooperate with City with respect to any reasonable request to audit the cannabis testing lab's books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

11. Maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. Each cannabis testing lab shall allow City of Irvine officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.
12. Prohibit the consumption or sampling of cannabis by any testing lab employee, visitor, operator or vendor on the premises of the cannabis testing lab.
13. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a cannabis testing lab permit, or on any of the vehicles owned or used as part of the cannabis testing lab. No outdoor storage of cannabis or cannabis products is permitted at any time. Any and all signage and notices at the property must be consistent with state law and the City's Zoning Code.
14. Create a management inventory tracking system to track and report on all aspects of the cannabis testing lab including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The cannabis testing lab shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Any system selected must be consistent with state law.
15. Provide the City Manager or his/her designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
16. Prohibit any person under the age of twenty-one (21) years old from entering upon the cannabis testing laboratory premises or be employed by the laboratory. The entrance to the cannabis testing lab shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the cannabis testing lab.
17. Display the original copy of the cannabis testing lab permit issued by the City and the State, as well as the City Business License inside the cannabis testing lab in a location readily-visible to the public.

18. Prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
19. Conduct all testing in a manner pursuant to Business and Professions Code 26100 and subject to state and local law.
20. Prohibit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis testing lab, and prohibit the sale of all tobacco products on the premises of the cannabis testing lab.
21. The City Manager or his/her designee may develop other cannabis testing lab operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

Section 4-22-009. Expiration of Cannabis Testing Lab Permits.

Each cannabis testing lab permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Cannabis testing lab permits may be renewed as provided in Section 4-22-011.

Section 4-22-010. Suspension or Revocation of Permits.

Cannabis testing lab permits may be suspended or revoked by the City Manager for any violation of any State or local law, rule, regulation and/or standard, including but not limited to the requirements set forth in this Division, the City's Municipal Code, and the City's Zoning Code. Cannabis testing lab permits may be suspended or revoked by the City Manager if it is determined that the Applicant falsified or misrepresented information on its cannabis testing lab permit application and/or for its failure to comply with the operating requirements set forth in Section 4-22-008.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis testing lab to operate within the City. The City may, in its sole and absolute discretion, reinstate the testing laboratory permit if the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis testing lab, such revocation or termination shall also revoke or terminate the ability of a cannabis testing lab to operate within the City of Irvine.

The City Manager's determination to suspend or revoke a permit may be appealed pursuant to Section 4-22-012 et seq.

Section 4-22-011. Renewal Applications.

- (a) An application for renewal of a cannabis testing lab permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (b) The renewal application shall contain all the information required for new applications, and shall be subject to the same site inspection and city staff approvals required for new applications.
- (c) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Division.
- (d) An application for renewal of a cannabis testing lab permit may be rejected for any reason, including but not limited to the following:
 - (1) The application is filed less than sixty (60) days before its expiration.
 - (2) The cannabis testing lab permit is suspended or revoked at the time of the application.
 - (3) The cannabis testing lab has not been in regular and continuous operation in the four (4) months prior to the renewal application.
 - (4) The cannabis testing lab has failed to conform to the requirements of this Division, or of any regulations adopted pursuant to this Division.
 - (5) The permittee fails or is unable to renew its State of California license.
 - (6) The City or State has determined that the permittee or applicant is in violation of the requirements of this Chapter, of the City's Municipal Code, or of the State rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the cannabis testing lab permit.
- (e) The City Manager or his/her designee(s) is authorized to make all decisions concerning the issuance and/or renewal of a cannabis lab permit. In making the decision, the City Manager or his/her designee(s) is authorized to impose additional conditions to any permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his/her designee(s) shall be handled pursuant to Section 4-22-012 *et seq.*

- (f) If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

Section 4-22-012. Appeals

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Division from a decision of the City Manager or his/her designee(s), the appeal shall be conducted as prescribed in this Division.

Section 4-22-013. Written request for Appeal.

- (a) Within ten (10) calendar days after the date of a decision of the City Manager or his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, the applicant may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- (b) At the time of filing, the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

Section 4-22-014. Appeal Hearing.

- (a) 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.
- (b) The appeal shall be held within a reasonable time after the date of filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- (c) At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- (d) At the conclusion of the hearing the City Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be final.

Section 4-22-015 Change in information; updated registration form.

Within ten (10) calendar days of any other change in the information provided in the cannabis testing lab permit application form or any change in status of compliance with the provisions of this Division, the applicant shall file an updated application form with

the City Manager or his/her designee(s) for review along with an application amendment fee.

Section 4-22-016. Transfer of Cannabis Business Permit and Changes in Ownership Prohibited.

- (a) The owner of a cannabis testing lab permit shall not transfer ownership or control of the cannabis testing lab permit to another person or entity.
- (b) Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51 percent of the original ownership) are prohibited.
- (c) A permittee may change the form of business entity, provided that either the membership of the new business entity is substantially similar to original permit holder business entity (at least 51 percent of the membership is identical), provided the permit holder is required to notify the City Manager in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.
- (d) Any attempt to transfer a cannabis testing lab permit or change the ownership of the permittee's business structure either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

Section 4-22-017. Promulgation of Regulations, Standards and Other Legal Duties.

In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of cannabis testing lab permits, the ongoing operation of cannabis testing labs and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.

Section 4-22-018. Fees Deemed Debt to City of Irvine.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Irvine that is recoverable via an authorized administrative process as set forth in the Municipal Code, or in any court of competent jurisdiction.

Section 4-22-019. Permit Holder, Owners, Operators Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter, as well as each and every owner and operator of a cannabis testing laboratory shall be responsible for all

violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Irvine, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the cannabis testing lab whether or not said violations occur within the permit holder's presence.

Section 4-22-020. Inspection and Enforcement.

- (a) The City Manager, Chief of Police or his/her designee(s) charged with enforcing the provisions of the Irvine Municipal Code, or any provision thereof, may enter the location of a cannabis testing lab at any time, without notice, and inspect the location of any cannabis testing lab as well as any recordings and records required to be maintained pursuant to this Division or under applicable provisions of State law.
- (b) It is unlawful for any person having responsibility over the operation of a cannabis testing lab, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis testing lab under this Division or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis testing lab under this Division or under state or local law.

Section 4-22-021. Violations declared a public nuisance.

Each and every violation of the provisions of this Division is hereby deemed unlawful and a public nuisance.

Section 4-22-022. Each violation a separate offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Irvine Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Irvine may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis testing lab or persons related to, or associated with, the cannabis testing lab activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, Chief of Police or his/her designee(s), may take immediate action to temporarily suspend a cannabis testing lab permit issued by the City, pending a hearing before the City Council.

Section 4-22-023. Criminal Penalties.

Each and every violation of the provisions of this Chapter may in the discretion of the District Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the county jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 4-22-024. Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

SECTION 3: CEQA Determination. In adopting this Ordinance, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Title 14 California Code of Regulations Sections 15061(b)(3) and 15378, in that it can be seen with certainty that the Municipal Code amendments propose no activity that may have a significant effect on the environment and will not cause a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In addition, the adoption of the proposed ordinance is exempt under the California Environmental Quality Act pursuant to Business & Professions Code section 26055(h), because, if approved, it will require all applicants to comply with CEQA prior to the issuance of the cannabis testing lab permit.

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

PASSED AND ADOPTED by the City Council of the City of Irvine at a regular meeting held on the _____ day of _____ 2018.

MAYOR OF THE CITY OF IRVINE

ATTEST:

CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, Molly McLaughlin, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was introduced for first reading on the 23rd day of January 2018, and duly adopted at a regular meeting of the City Council of the City of Irvine held on the ____ day of _____ 2018.

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

CITY CLERK OF THE CITY OF IRVINE