

EXHIBIT A

Section 9-5.128. - Marijuana Cultivation, Manufacturing, Testing, Transportation and Distribution.

(a) *Purpose.* The purpose of this section is to adopt local regulations applicable to commercial marijuana operations as may be permitted under the California Medical Marijuana Regulation and Safety Act ("MMRSA"), adopted on October 9, 2015, with legislative bills AB 243, AB 266, and SB 643, or subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.

(b) *Definitions.* Except as set forth herein, or where a different meaning is clearly intended by the language, the definitions set forth in MMRSA shall apply to interpretations under this section.

"*Applicant*" means a person who is required to file an application for a permit under this section.

"*Business Owner*" means the owner(s) of the Marijuana Operations. For corporations and limited liability companies, Business Owner means the President, Vice President, and any shareholder owning a 10% or greater share of the corporation or company. For partnerships, Business Owner means all general partners and managing partners.

"*City*" means the City of Coalinga.

"*Commercial Marijuana Operation*" or "*Marijuana Operation*" means any commercial marijuana activity allowed under MMRSA and the implementing regulations, as MMRSA and the implementing regulations may be amended from time to time, and all uses permitted under any subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.

"*Commercial Marijuana Permit*" means the blanket permit to operate deemed to have been granted upon completion of Registration.

"*Employee Permit*" means the permit required under this section for every employee or independent contractor working at a Commercial Marijuana Operation or involved in transportation/delivery related services for a Commercial Marijuana Operation.

"*Non-Commercial and Recreational Marijuana Activity*" means all uses not included within the definition of Commercial Marijuana Operation, including the personal use, cultivation, or consumption of marijuana, whether medical or recreational.

"*Operator*" means the Business Owner and any other person designated by the Business Owner as responsible for the day to day Marijuana Operations.

“*Ordinance*” means the ordinance adopting this section, and including the terms of this section, which may be commonly referred to as the City’s “Commercial Marijuana Ordinance”.

“*Police Chief*” means the Police Chief of the City of Coalinga or his or her designee.

“*Premises*” or “*Site*” means the actual building(s), and/or designated units/suites, as well as any accessory structures, parking areas, or other immediate surroundings, and includes the entire parcel of property.

“*Premises Owner*” means all owners of the Premises where Marijuana Operations are occurring.

“*Registration*” means completion of the requirements of this section to open a Commercial Marijuana Operation in the City.

“*Responsible Party*” shall mean the Business Owner, Operator, manager(s), and any employee having significant control over the Marijuana Operations.

(c) *Permitted Uses and Zoning.* Businesses meeting the requirements of this section shall be allowed to conduct the following Commercial Marijuana Operations in the MBL - Light Manufacturing/Business zone district of the City:

- Cultivation.
- Processing.
- Extraction.
- Manufacturing.
- Testing.
- Distribution.
- Transportation.

The Commercial Marijuana Operation shall at all times be in compliance with this section as it may be amended from time to time or repealed and replaced by another section governing the Commercial Marijuana Operation.

Dispensaries are expressly prohibited unless approved by the voters of the City of Coalinga.

(d) *Operational Requirements and Restrictions.* The following operational requirements and restrictions shall apply to all Commercial Marijuana Operations:

(1) *MMRSA and Other State Laws.* The Marijuana Operations shall at all times be in compliance with MMRSA and the implementing regulations, as well as all required State license(s) under MMRSA, and any other applicable State law. The Operator shall obtain required MMRSA licenses prior to opening for business, or if the State is not ready to issue MMRSA licenses prior to the time of opening, within twelve (12) months of the State being ready to issue the required license(s). Provided, however, that the Operator shall at all times be in compliance with all other requirements of MMRSA and implementing regulations, and any other applicable State law, regardless of the timing of the issuance of a license under MMRSA.

If recreational cannabis becomes lawful in California, and the Operator uses the approved Marijuana Operations for commercial recreational cannabis, the Operator shall meet or exceed the health and safety requirements of MMRSA in any operations relating to recreational marijuana.

(2) *Register of Employees.* The Operator shall maintain a current register of the names of persons required to have Employee Permits. The register shall be available to the Police Chief at all times immediately upon request.

(3) *Signage.* There shall be no signage or markings on the Premises, or off-site, which in any way evidences that Marijuana Operations are occurring on the property. Interior building signage is permissible provided the signage is not visible outside of the building.

(4) *Marijuana Consumption.* No marijuana shall be smoked, ingested or otherwise consumed on the premises of the Marijuana Operations. Adequate signage of this prohibition shall be displayed throughout the facility.

(5) *Alcoholic Beverages.* No Marijuana Operation shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol for personal consumption shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the Marijuana Operations.

(6) *Transportation.* Transportation shall only be conducted according to activity permitted by State law.

(7) *Deliveries.* There shall be no deliveries from the premises except to a State or local licensed or permitted cannabis business.

(8) *Non-Commercial Marijuana Activity.* No Non-Commercial or Recreational Marijuana Activity shall occur on the premises.

(9) *Retail Sales.* The retail sale of marijuana is expressly prohibited.

(10) *Public Access.* There shall be no public access to the premises.

(11) *Minors.* It shall be unlawful for any Operator, Responsible Party, or other person in charge of any Marijuana Operations to employ any person who is not at least eighteen (18) years of age, or any older age if set by the State.

(12) *Distance separation from schools.* Marijuana Operations shall comply with the distance separation requirements from schools as required by State law.

(13) *Hours of Operation.* Commercial Marijuana Operations shall be allowed to operate per the requirements of the underlying zone district and subject to the City's noise and nuisance ordinances.

(14) *Building and Related Codes.* The Marijuana Operation shall be subject to the following requirements:

a. The Premises in which the Marijuana Operations occur shall comply with all applicable local, state and federal laws, rules, and regulations including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the Building Official of the City. The Operator shall obtain all required building permits and comply with all applicable City standards.

b. The Responsible Party shall ensure that the Premises has sufficient electrical load for the Marijuana Operations.

c. Butane and other flammable materials are permitted to be used for extraction and processing provided the Operator complies with all applicable fire and building codes and any other requirements of the Coalinga Fire Department to ensure the safety of that operation.

e. The Operator shall comply with requirements pertaining to use of commercial kitchen facilities for the Marijuana Operations.

f. The Operator shall comply with all environmental regulations pertaining to the Marijuana Operations, including the use and disposal of water and pesticides, and shall otherwise use best practices to avoid environmental harm.

(15) *Odor control.* Marijuana Operations shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility that is distinctive to its operation is not detected outside the outside the Premises, outside the building housing the Marijuana Operations, or anywhere on adjacent property or public rights-of-way. As such, Marijuana Operations must install and maintain the following equipment or any other equipment which the City's Building Official 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 cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.

(16) *Consumable Products.* Marijuana Operations that manufacture products in the form of food or other comestibles shall obtain and maintain the appropriate approvals from the State Department of Public Health for the provision of food or other comestibles, unless otherwise governed by MMRSA and licensed by the State.

(17) *Secure Building*. All Marijuana Operations shall occur entirely inside of a building that shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures (including, without limitation, commercial greenhouse structures) and include material strong enough to prevent entry except through an open door. Notwithstanding the foregoing, the roof may be of solid non-opaque material provided other security measures exist to ensure that the Marijuana Operation cannot be seen, heard or smelled beyond the property line. The precise building construction and material to be used shall be identified and provided to the City prior to construction and provided with the Registration.

(18) *Premises Security*. The following security conditions shall apply:

- a. Alarm System (both perimeter, fire and panic).
- b. Remote monitoring of alarm systems.
- c. Perimeter lighting systems (motion sensor) for after-hours security.
- d. Perimeter fencing with constantina wire and lighting around the property perimeter.
- e. Use of drive gates with card key access or similar to access the facility.
- f. Entrance areas to be locked at all times areas, and under the control of a designated Responsible Party.
- g. Use of access control systems to limit access to grow and processing areas.
- h. Camera systems (360 degree perimeter, interior monitoring of all access points of the site from the interior) minimum 5 mega pixel in resolution.
- i. All security systems at the site are attached to an uninterruptable power supply that provide 24 hour of power.
- j. 24 hour armed security patrols by a recognized security company licensed by the California Department of Consumer Affairs, or otherwise acceptable to the Police Chief.
- k. All current contact information regarding the security company shall be provided to the Police Chief.
- l. Law enforcement access to all security systems.
- m. IP access for remote monitoring of security cameras by the Police Department.

n. Any and all video or audio tape recordings made for security or other purposes shall be marked with the date and time made and shall be kept, in an unaltered state, for a period of thirty (30) days and must be made available to any law enforcement agency for duplication upon demand. In addition, upon request by any law enforcement agency, the Responsible Party shall duplicate the records for that agency.

o. Hardened bullet resistant windows for exterior windows as part of any new construction.

p. Accounting software systems need to be in place to provide audit trails of both product and cash, where applicable.

q. Electronic track and trace systems for product.

r. Premises may be audited by the City for compliance on a quarterly basis.

s. City may conduct random spot checks of product inventories, and cash, where applicable.

t. State of the art network security protocols and equipment need to be in place to protect computer information.

u. The foregoing requirements shall be approved by the Police Chief prior to commencing operations. The Police Chief may supplement these security requirements once operations begin.

Confidentiality Statement

The City, Police Chief, Police Department employees, and any other law enforcement official acting under the direction of the Police Chief who access the premises and video and/or audio feeds or recordings of the premises ("Recipients") may receive or be provided with confidential information relating to the Marijuana Operations, which may include the following: data, records, plans, concepts and matters relating to customers, vendors and tenants, agreements, business records including, without limitation, business records relating to intellectual property, marketing and sales plans, pricing and other business strategies (whether or not implemented); research and development plans or projects; computer materials such as programs, instructions and printouts; software including, without limitation, any source codes, object codes, algorithms and other engineering information; formulas; business improvements and processes; information regarding the skills and compensation of executives; intellectual property rights and strategies including, without limitation, any work on patents, trademarks or tradenames, prior to any filing or the use thereof in commerce; financing terms and strategies; in each case together with all reports, summaries, studies, notes, compilations, analyses and other documentation which contain or otherwise reflect or are generated from any of the foregoing, and in each case regardless of the media in which the information is maintained (collectively "Confidential Information").

To the extent Confidential Information is acquired without a warrant from access to the premises and video and/or audio feeds or recordings as authorized under this section, the Recipients shall, to the maximum extent possible, keep such Confidential Information confidential and not disclose the Confidential Information to any third parties. Provided, however, that the Recipients may disclose Confidential Information to the State or Federal courts in California in connection with any criminal law enforcement action against the Premises owner, Operator, Responsible Party or business (including its employees, contractors and agents conducting business within the premises) arising from or related to the Marijuana Operations, but only to the extent it is necessary and relevant to such criminal prosecution, and the Recipients shall file any such documents under seal to the extent they contain any Confidential Information.

Notwithstanding the foregoing, City may disclose Confidential Information:

1. As may be required by the California Public Records Act or pursuant to a civil subpoena, provided however, the City shall notify the Operator and provide the Operator with a reasonable opportunity to obtain a protective order before disclosing the Confidential Information.
2. In connection with any City enforcement proceeding relating to compliance with City's Municipal Code and this section, but only to the extent the Confidential Information is relevant to the proceeding.

(19) *Deliveries of Supplies and Transportation of Product.* The following rules apply to the deliveries and transportation:

a. Deliveries to the Premises of supplies shall only occur as provided for in diagram and floor plan on file with the City as part of the Registration process. Delivery vehicles shall not have any markings indicating that deliveries are being made to a Marijuana Operation.

b. The transportation of marijuana samples and product to and from the Premises shall be in unmarked vehicles with no indication that the vehicles are transporting marijuana samples and products. The Responsible Party shall stagger transportation times, vary routes from the facility, and take other security measures as requested by the Police Chief.

(20) *Premises Maintenance.* The Business Owner, Operator, and all Responsible Parties shall continually maintain the Premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety and general welfare of employees, patrons, surrounding properties, and the general public. The Premises or Commercial Marijuana Operation shall not be maintained in a manner that causes a public or private nuisance.

(e) *Owner/Operator Restrictions.* No Business Owner or Operator shall not open or operate a Marijuana Operation in the City if any of the following exist:

(1) The Business Owner or Operator has been issued a local or state permit related to Marijuana Operations at any other location in California, or another state, and that permit was

suspended or revoked, or the Business Owner or Operator has had disciplinary action relating to the permit.

(2) The Business Owner or Operator has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the Registration.

(3) The Business Owner or Operator, or any Responsible Person, has been:

- a. Convicted of a serious or violent offense as listed under California Penal Code sections 667.5 and 1192.7(c); or
- b. Convicted of any of the offenses listed in Business and Professions Code section 19323; or
- c. Convicted of a misdemeanor involving moral turpitude as defined under State law (generally crimes relating to theft and dishonesty) within the five (5) years preceding the date of the application; or
- d. Convicted of a crime involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act; or
- e. Has engaged in misconduct related to the qualifications, functions or duties of a permittee.

A conviction within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(4) The Business Owner or Operator has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(5) The Business Owner or Operator is under eighteen (18) years of age, or any older other age set by the State.

(6) The Marijuana Operation does not comply with the zoning ordinance standards of the City of Coalinga or the development standards set forth in this Title.

(7) The required annual business license fee, annual regulatory fee or revenue raising fee has not been paid.

(f) *Registration and Responsible Party Designation.* Any person desiring to open a Commercial Marijuana Operation in the City shall first comply with the requirements of this subsection.

(1) *Registration.* Not less than sixty (60) days prior to the planned opening of any Marijuana Operation in the City, the Operator shall register their business with the Coalinga

Police Department and provide information on a form approved by the Police Chief to ensure compliance with this Section. Within thirty (30) days of Registration, the Police Chief shall inform the Operator whether it has satisfied the requirements of this subsection, in which case the Registration process shall be completed and the Business Owner shall be deemed to have a permit to operate (Commercial Marijuana Permit). If the requirements of this subsection are not satisfied, the Registration shall be incomplete and Police Chief shall inform the Operator of the reasons for non-compliance, at which time the Operator will have an opportunity to correct any deficiencies. The Police Chief shall have thirty (30) days to review any new information and make a determination. No Marijuana Operation shall commence until the Registration is complete.

(2) *Registration Fee.* The Business Owner shall pay a fee set by Resolution of the City Council to cover the costs of Registration.

(3) *Registration Information and Responsible Party Designation.* The information required to be submitted under this subsection shall be submitted with a certification under penalty of perjury that all of the information is true and correct, and shall include at a minimum the following:

- a. The full name, present address, and telephone number of the Premises Owner, Business Owner, Operator, and Responsible Parties.
- b. Date of birth of the Business Owner, Operator, and Responsible Parties.
- c. Tax identification number of the Business Owner, Operator, and Responsible Parties.
- d. The address to which notices relating to the Registration is to be mailed.
- e. Previous addresses for the five (5) years immediately preceding the present of the Business Owner, Operator, and Responsible Parties.
- f. The height, weight, color of eyes and hair of the Business Owner, Operator, and Responsible Parties.
- g. Photographs for identification purposes (photographs shall be taken by the Police Department) of the Business Owner, Operator, and Responsible Parties.
- h. All business, occupation, or employment of the Business Owner, Operator, and Responsible Parties for the five (5) years immediately preceding the date of submittal of the registration form.
- i. The Marijuana Operation business history of the Business Owner, Operator, and Responsible Parties, including whether the Business Owner, Operator, and Responsible Parties while previously operating in this or another city, county or state has had a marijuana related

license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation.

j. Complete property ownership and lease details, where applicable. If the Business Owner is not the legal owner of the property, the registration from must be accompanied with a notarized acknowledgment from the owner that Marijuana Operations will occur on his or her property.

k. A descriptive business plan for the Marijuana Operation, including a detailed list of all Marijuana Operations proposed to occur on the Premises.

l. A diagram and floor plan of the entire premises, denoting all the use of areas proposed for Marijuana Operations, including, but not necessarily limited to, cultivation, processing, manufacturing, testing, transportation, deliveries, and storage. The diagram and floor plan need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

m. The name or names of the person or persons having the management or supervisory responsibilities for the Marijuana Operations. The Operator shall designate one or more Responsible Parties, one of which shall at all times be available as a point of contact for the City, 24 hours per day. The contact information and schedule of the Responsible Parties shall be provided to the Police Chief and updated within two (2) hours of any changes.

n. Whether the person or persons having the management or supervisory responsibilities for the Marijuana Operation have been convicted of a crime, the nature of such offense, and the sentence received therefore.

o. The names of all employees, independent contractors, and other persons who will work at the Marijuana Operation or be involved in transportation/delivery related services for the Marijuana Operation.

p. The proposed security arrangements for insuring the safety of persons and to protect the premises from theft.

q. An accurate straight-line drawing prepared within thirty (30) days prior to the application depicting the building and the portion thereof to be occupied by the Marijuana Operation and the property line of any school as set forth in the Operational Requirements.

s. Authorization for the City, its agents and employees to seek verification of the information submitted.

(4) *Criminal History Records Check.* In addition to the registration information, the Business Owner, Operator, and Responsible Parties shall submit to a fingerprint-based criminal history records check conducted by the Coalinga Police Department

(5) *Changes in Information.* Except as may otherwise be provided, the information provided in this subsection shall be updated upon any change within ten (10) days.

(g) *Location of Uses.* The Commercial Marijuana Operation permitted by this section shall only be allowed in the locations designated on the diagram and floor plan of the Premises submitted with the Registration. The Commercial Marijuana Operation shall not operate at any place other than the address of the Marijuana Operation stated in the Registration.

(h) *Employee Permits.*

(1) *Permit Required.* Every employee or independent contractor working at a Commercial Marijuana Operation or involved in transportation/delivery related services for a Marijuana Operation shall obtain an Employee Permit. It shall be the duty of the Operator to ensure that Employee Permits are obtained from the Police Department prior to the employee or independent contractor commencing work.

(2) *Application.* Each employee and independent contractor shall be required to provide the following information under penalty of perjury, so that the Police Department can perform a background check:

- a. Name, current resident address, and telephone number.
- b. Date of birth.
- c. Tax identification number.
- d. Height, weight, color of eyes, and hair.
- e. Photographs for identification purposes (photographs shall be taken by the Police Department).
- f. Be fingerprinted by the Police Department.
- g. Such other identification and information as deemed necessary by the Police Chief.
- h. Authorization for the City, its agents and employees to seek verification of the information contained within the application.

(3) *Application Fees.* Every application for a Employee Permit, or renewal shall be accompanied by a nonrefundable fee, as established by resolution of City Council. This fee shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks as well as general review and processing of the application.

(4) *Investigation and Action on Application.*

a. Upon the filing of a properly completed application and the payment of the fee, the Police Chief shall conduct an investigation of the application, including a background check. All applicants shall be required to submit to a fingerprint-based criminal history records check conducted by the Coalinga Police Department.

b. After the background checks and investigation are complete, and in no case later than thirty (30) days after receipt of a properly completed application, the Police Chief shall either approve or deny an Employee Permit. At the discretion of the Police Chief, Employee Permits may be conditionally approved pending the background investigation.

(5) *Term of Permit and Renewals.* Employee Permits issued under this section shall expire one (1) year following the date of issuance. Applications for renewal shall be made at least forty-five (45) days prior to the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in this section. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on similar to applications for permits except that the Police Chief shall renew annual permits for additional one year periods if the circumstances and information provided with the initial application have not materially changed.

(6) *Grounds for Denial of Employee Permit.* The grounds for denial of an Employee Permit shall be one or more of the following:

a. The applicant has been issued a local or state permit related to Marijuana Operations at any other location in California, or another state, and that permit was suspended or revoked, or the applicant has had disciplinary action relating to the permit.

b. The applicant has been:

(i) Convicted of a serious or violent offense as listed under California Penal Code sections 667.5 and 1192.7(c); or

(ii) Convicted of any of the offenses listed in Business and Professions Code section 19323; or

(iii) Convicted of a misdemeanor involving moral turpitude as defined under State law (generally crimes relating to theft and dishonesty) within the five (5) years preceding the date of the application; or

(iv) Convicted of a crime involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act; or

(v) Has engaged in misconduct related to the qualifications, functions or duties of a permittee.

c. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

d. The applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocation of a permit.

e. An applicant is under eighteen (18) years of age, or any older age set by the State.

(7) *Notice of Decision and Final Action.* The Police Chief shall cause a written notice of his or her determination on the issuance or denial of an Employee Permit to be personally delivered or mailed to the applicant by certified U.S. mail, postage prepaid. The Police Chief's decision on an Employee permit shall be final.

(i) *Suspension and Revocation of Registration or Employee Permit.*

(1) *Registration.* The Planning Commission may suspend or revoke the Registration of a Commercial Marijuana Operation when any of the following occur.

a. The Business Owner, Operator, or Responsible Party, or their agents have committed any one or more of the following acts: (i) any act which would be considered grounds for not opening in the first instance; (ii) engages in or permits misconduct substantially related to the qualifications, functions or duties of the Business Owner, Operator, or Responsible Party; (iii) conducts the business in a manner contrary to the health, safety, or welfare of the public; (iv) fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the Premises, traffic control problems, or obstruction of the operation of another business.

b. The Marijuana Operation is conducted in violation of any provision of this section or any local or State law, statute, rule or regulation relating to the Marijuana Operation.

c. The Marijuana Operation is conducted in such a manner as to create a public or private nuisance.

d. The Marijuana Operation results in excessive calls for public safety services (police and fire). Excessive calls for service shall mean calls for service which substantially exceed the average calls for service generated by similar businesses in similar areas. During any six-month period, a ten percent (10%) excess in calls for service will be presumed to be a violation of this condition.

e. Failure to pay the Regulatory Fee or Revenue Raising Fee required by this section.

(2) *Employee Permit.* The Police Chief may suspend or revoke an Employee Permit when the permittee or the employee has committed any one or more of the following acts:

- a. Any act which would be considered a ground for denial of the permit in the first instance.
- b. Violates any other provision of this section or any local or State law, statute, rule or regulation relating to his or her permitted activity.
- c. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.
- d. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
- e. Fails to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.
- f. Violates or fails to comply with the terms and conditions of the permit.

(3) *Procedures for Revoking Registration.* For Registration, the procedures for revoking conditional use permits shall be utilized.

(4) *Procedures for Revoking Employee Permits.* Prior to suspension or revocation of an Employee Permit, the Police Chief shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid. Any permittee aggrieved by the decision of the Police Chief in suspending or revoking an Employee Permit shall have no appeal rights and the Police Chief's decision shall be final, subject to judicial review as set forth in this section.

(5) *Immediate Suspension.* The Police Chief may immediately suspend or revoke a Registration and an Employee Permit without notice or a hearing, subject to the appeal rights set forth herein, under the following circumstances:

- a. The Business Owner or Operator is convicted of a public offense in any court for the violation of any law which relates to the Marijuana Operation, or in the case of an Employee Permit, the employee is convicted of a public offense in any court for the violation of any law which relates to the permit.
- b. The Police Chief determines that immediate suspension is necessary to protect the public health, safety, and welfare of the community. The Police Chief shall articulate the grounds for the immediate suspension in writing and the suspension shall only be for as long as necessary to address the circumstances which led to the immediate suspension.

(6) *Effect of Denial or Revocation.* When the Planning Commission has revoked a Registration, or the City Council upon appeal, or the Police Chief shall have denied or revoked an Employee Permit, no new registration and no new application for an Employee Permit shall be accepted and no Registration shall be deemed complete or Employee Permit issued to such person or to any corporation in which he or she shall have any beneficial interest for a period of one (1) year after the action denying or revoking the Registration or Employee Permit.

(j) *Abandonment.* In addition to the suspension or revocation of a Registration, a Registration shall be deemed abandoned if Marijuana Operations cease for a period of more than ninety (90) consecutive days. Before restarting operations, a new Registration shall be secured. The 90 day period shall be tolled during periods of force majeure, which shall be defined as follows: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the “public enemy”; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; or any other causes beyond the reasonable control of the permittee.

(k) *Water Availability.* As a condition of opening for business, the Premises Owner, Business Owner, Operator, and all Responsible Parties shall be deemed to have acknowledged and agreed to the following if the Marijuana Operation is connected to the City’s water system.

The City's source of water comes through a contract with the Bureau of Reclamation ("Bureau"). The Bureau has indicated that it will report the use of City water for Marijuana Operations to the Department of Justice. While the City believes that supplying water to the site does not impair the Bureau contract, should the Bureau, Department of Justice, or other governing agency take actions affecting the City's Bureau contract because of the Marijuana Operation, the City may be forced to curtail or commingle water supply to the Site. Under those circumstances, the Marijuana Operation may be required to find alternative sources of water supply. If that happens, the City agrees to work with the Premises Owner, Business Owner, and Operator to find an alternative water source, which may include the commingling of water, accessing a well, or having water delivered to the Site by separate contract, but the City cannot provide any guarantees. The Premises Owner, Business Owner, and Operator assume all risk associated with water supply to the Site, including all costs associated therewith. The Premises Owner, Business Owner, Operator, and all Responsible Parties shall hold harmless, release, indemnify, and defend the City, its officers, employees, and agents, from any liability associated with the curtailment of water because of the foregoing. This release includes any damages to the Premises Owner, Business Owner, Operator, and all Responsible Parties, its employees and contractors, and third parties, and includes the risk of lost revenue, profits and consequential damages.

(l) *Fees and taxes.* All Marijuana Operations shall pay applicable fees and taxes, which may include one or more of the following.

(1) *Business License Fee.* The Business Owner shall at all times maintain a current and valid business certificate and pay all business taxes required by Title 3, Chapter 1, of the Coalinga Municipal Code pertaining to Business Licensing.

(2) *Regulatory License Fee.* The Business Owner shall pay an annual regulatory license fee (“Regulatory Fee”) to cover the costs of anticipated enforcement relating to the Marijuana Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the Marijuana Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.

(3) *Revenue Raising Fee.* An annual revenue raising fee (“Revenue Fee”) for the privilege of having the right to operate in the City.

Revenue Fee Finding

The City Council specifically finds that it is approving this Ordinance allowing Commercial Marijuana Operations to open in the City on the express understanding that the business will pay the Revenue Fee to the City as set forth herein, and that without the Revenue Fee, the City Council would not have adopted this Ordinance allowing Commercial Marijuana Operations to open in the City. By opening a Commercial Marijuana Operation in the City, the Premise Owner, Business Owner, Operator, and all Responsible Parties agree that if the Revenue Fee is challenged by any one of them or a third party and set aside, the business must cease operations.

a. *Amount of Fee and Terms of Payment.* The Revenue Fee shall be an annual fee of twenty-five (\$25.00) per square foot for the first 3,000 square feet and ten dollars (\$10.00) per square foot for the remaining space utilized in connection with each Commercial Marijuana Operation. The square footage calculation shall be determined by including all portions of the Premises under the control of the Business Owner and deducting therefrom driveways, sidewalks, landscaping, vacant unused space, areas used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the Commercial Marijuana Operation (such as a janitorial closet).

If more than one Commercial Marijuana Operation operates on the Premises, each Business Owner shall be responsible for paying the fee. The Fee shall be payable in advance, in not less than quarterly installments, with the first quarterly payment due prior to opening. The first payment shall be prorated so that future payments coincide with calendar year quarters, but in no event shall the first payment be less than the equivalent of one full quarterly payment. Except for the first quarterly payment, all quarterly payments shall be received by the City before the end of the quarter.

b. *Alternative Voter Approved Tax.* If the voters of the City approve a tax rate which is equivalent to the Revenue Fee, the Business Owner shall pay the tax in lieu of the Revenue Fee once the City begins to receive the tax revenue.

c. *Accounting.* The Business Owner shall maintain accounting books governing the entire operation of the Premises, in accordance with generally accepted accounting principles or other methods approved by the Finance Director or his/her designee. The books shall, at a minimum, contain information in sufficient detail, as determined by the Finance Director or his/her designee, necessary for the City to verify payment of the Revenue Fee.

The books should be open for inspection by the Finance Director or his/her designee during regular business hours Monday through Thursday, 7 a.m. to 6 p.m., excluding City recognized holidays, and at all other times within a reasonable time upon request. The books and supporting data shall be maintained for not less than a period of five (5) years following the calendar year in which they were generated.

The books, documents, records and accounts relating to the Revenue Fee shall be audited at the end of the business fiscal year by a certified public accountant. The report of such accountant and all work papers utilized in the preparation of such audit shall be submitted to the Finance Director. The Finance Director shall review the report and work papers and may require any further information from the Business Owner. The Finance Director may submit such documents and information to a certified public accountant selected by the City for review.

The City may require, at any time, an audit of the books, documents, records and accounts relating to the Revenue Fee by a certified public accountant. Such audit shall be in addition to the annual audit. Any inaccuracy found in the revenues previously reported to the City shall be adjusted accordingly. If such additional audit shall disclose an inaccuracy of greater than two percent (2%) error with respect to the revenues reported by the Business Owner for the period of the audit, the cost thereof shall be paid to the City by the Business Owner. Otherwise, the cost of the audit shall be borne by the City.

Any information obtained pursuant to the provisions of this subsection shall be deemed confidential and shall not be subject to public inspection except in connection with the enforcement of the provisions of this subsection, as may be required to comply with the Public Records Act, or pursuant to the order of any court or administrative agency of competent jurisdiction.

(m) *Record Keeping.* The Responsible Party shall make and maintain complete, accurate and legible records of the permitted Marijuana Operations evidencing compliance with the requirements of this section which shall be subject to audit in accordance with this section.

(n) *Access to records.* Each Marijuana Operation shall allow the Police Chief to have access to the books, records, accounts, and any and all data relevant to its Marijuana Operation for the purpose of conducting a financial audit or diversion examination. Books, records, accounts, and any and all relevant data will be produced no later than 24 hours after receipt of the Police Chief's written request(s).

(o) *Inspection.* Marijuana Operations shall be open for inspection by any City law enforcement officer or City code enforcement officer at any time the Marijuana Operation is operating, at any other time upon responding to a call for service related to the property where the Marijuana Operations is occurring, or otherwise upon reasonable notice. Recordings made by security cameras at any Marijuana Operation shall be made immediately available to the Police Chief upon verbal request. No search warrant or subpoena shall be needed to view the recorded materials.

(p) *Indemnification.* In authorizing Commercial Marijuana Operations under this section, the City makes no guarantees or promises as to the lawfulness of the approved activity under State or Federal law, and the Business Owner, Operator and all Responsible Parties are obligated to comply with all applicable laws. To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to the adoption of this Ordinance or the operation of any Commercial Marijuana Operation approved pursuant to this Ordinance or under State or federal law. The Business Owner, Operator and all Responsible Parties shall defend, hold harmless, release, and indemnify the City, its agents, officers, and employees, from any liability associated with the approved use or adverse determinations made by the State or Federal government. An adverse determination could include cessation of operations.

The Business Owner agrees to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to Commercial Marijuana Operations operating under the authority of this Ordinance. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the permittee of its obligation hereunder.

If requested by the City Attorney, the Business Owner shall execute an agreement memorializing the requirements of this subsection.

(q) *Insurance.* The Business Owner shall at all times carry a comprehensive general liability policy in the minimum amount of Five Million Dollars (\$5,000,000) combined single limit policy, and for automobiles, a comprehensive automobile liability policy in the minimum amount of Two Million Dollars (\$2,000,000), combined single limit, as shall protect the Business Owner and City from claims for such damages, and which policy shall be issued by an "A" rated insurance carrier. Such policy or policies shall be written on an occurrence form. The City Manager, in consultation with City's Risk Manager, may allow the Business Owner to obtain lesser amounts of insurance where multiple Business Owners are operating on the Premises, provided at all times the minimum insurance set forth herein is applicable to the Marijuana Operations.

The Business Owner shall furnish a notarized certificate of insurance countersigned by an authorized agent of the insurance carrier on a form approved by City setting forth the general provisions of the insurance coverage. This countersigned certificate shall name City and its respective officers, agents, employees, and volunteers, as additionally insured parties under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain

a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination.

Coverage provided hereunder by the Business Owner shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of City.

(r) *Violations: Enforcement.*

(1) Any person that violates any provision of this section shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(2) Any use or condition caused or permitted to exist in violation of any of the provisions of this section shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the City of Coalinga Municipal Code.

(3) Any person who violates, causes, or permits another person to violate any provision of this section commits a misdemeanor.

(4) The violation of any provision of this section shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

(5) In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this section may be subject to an administrative fine of up to one thousand dollars (\$1000.00) for each violation and for each day the violation continues to persist.

(s) *Severability.* The provisions of this section are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this section or of the Regulatory Permit issued pursuant to this section, or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this section.

(t) *Judicial review.* Judicial review of a decision made under this section or any actions taken pursuant to this section, may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions.