



COMMERCIAL MARIJUANA CULTIVATION (COMC) REGULATORY PERMIT MUNICIPAL CODE 9.28B

(Chapter 9.28 – Attachment A)

Check one as appropriate:

- COMMERCIAL MARIJUANA CULTIVATION – OUTDOOR** (May include greenhouses but cannot include the manufacture of marijuana products.) Only permitted as a legal non-conforming use (17.705.070) in the City west of Sanderson Avenue and north of Cottonwood Avenue) – **ATTACHMENT B**
- COMMERCIAL MARIJUANA CULTIVATION – INDOOR** (Permitted in IL – Light Industrial Zone located south of Cottonwood Avenue and south of North Brinton Street only) – **ATTACHMENT C**

TAXATION – COLLECTED QUARTERLY, IN ARREARS, AFTER CULTIVATION BEGINS (Municipal Code Section 3.32 – Attachment D) – Check all that will apply to your request as you understand it.

- Ten dollars (\$10) per square foot of space utilized in connection with the distribution, transport, and any other commercial activity licensed under Division 10 of the Business and Professions Code, whether related to cannabis, cannabis-infused products, or other cannabis-related products (as defined in Section 3.32.030(E) Attachment D), other than retail sale of said products.
- Fifteen dollars (\$15) per square foot of space utilized in connection with the outdoor cultivation of cannabis within the jurisdiction.
- Fifteen dollars (\$15) per square foot of space utilized in connection with the testing of any type of marijuana within the jurisdiction
- Twenty-five dollars (\$25) per square foot of space utilized in connection with the indoor cultivation of cannabis within the jurisdiction.
- Twenty-five dollars (\$25) per square foot of space utilized in connection with the manufacturing of marijuana of any type within the jurisdiction.

FEES – COLLECTED AT TIME OF PERMIT REQUEST (Resolution 3666 – Attachment E)

- Initial Commercial Marijuana Cultivation (COMC) Permit – \$16,500.00

THIS FEE IS NON-REFUNDABLE.

FOR CITY OFFICE USE, ONLY

Case Number

Date Submitted

Received By

Fee Submitted

BUSINESS INFORMATION

Business Name or Proposed Fictitious Business Name

Tax Identification Number

Street Address of COMC Regulatory Permit

Telephone Number

E-mail Address

COMC REGULATORY PERMIT PROPERTY INFORMATION

Assessor's Parcel Number(s)

Approximate Gross Acreage/Net Acreage

Current Zoning

Current General Plan Designation

Property Address

Describe Property Location

Provide a copy of the current legal description for each property involved as recorded in the Office of the County Recorder. A copy of a grant deed of each property will suffice.

APPLICANT INFORMATION

Property Owner

Lessee
Check One

Prospective Owner

Contact Name

Contact E-mail

Company Name

Company E-mail

Street Address

City

State

Zip

Phone

Fax

Check if the applicant is 21 years or older.

CHECK APPROPRIATE AND PROVIDE ANY ADDITIONAL REQUIRED INFORMATION, USING A SEPARATE SHEET IF NECESSARY

- If the applicant is an individual, the individual shall state his or her legal name, including any aliases, and the permanent address and use address of the applicant.
- If the applicant is a partnership, the partners shall state the partnership's complete name, address, the names of all partners, whether the partnership is general or limited, and attach a copy of the partnership agreement, if any.
- If the applicant is a corporation, the corporation shall provide its complete corporate name, the date and state of its incorporation, evidence that the corporation is in good standing under the laws of the State, the names and capacity of all officers and directors, and principal stockholders (with 10 percent or more of all outstanding shares of stock), the name of the registered corporate agent and the address of the registered office for service of process.

See attached sheet. Check if the above information is provided on a separate sheet.

In the event the applicant is not the legal owner of the property; the application must be accompanied with a notarized acknowledgment from all legal owners of the property or properties that a commercial marijuana cultivation facility will be operated on his or her property.

PROJECT MANAGER INFORMATION

Contact Name

Contact E-mail

Company Name

Company E-mail

Street Address

City

State

Zip

Phone

Fax

PROPERTY OWNER INFORMATION

If different than the Applicant Information above.

_____	_____	
Contact Name	Contact E-mail	
_____	_____	
Company Name	Company E-mail	

Street Address		
_____	_____	_____
City	State	Zip
_____	_____	_____
Phone	Fax	

See attached sheet. If the property is owned by more than one person, attach a separate page that references the facility location and lists the names, mailing addresses, and phone numbers of all persons having an interest in the real property or properties involved in this application.

PROSPECTIVE PROPERTY OWNER INFORMATION

If applicable

_____	_____	
Contact Name	Contact E-mail	
_____	_____	
Company Name	Company E-mail	

Street Address		
_____	_____	_____
City	State	Zip
_____	_____	_____
Phone	Fax	

ON-SITE MANAGER

This person shall have the responsibility for the management or supervision of the facility and shall be the person to contact when the public has concerns or complaints about the operation.

_____	_____	
Contact Name	Contact E-mail	
_____	_____	
Company Name	Company E-mail	

Street Address		
_____	_____	_____
City	State	Zip
_____	_____	_____
Phone	Fax	

NOTICING & RESPONSIBILITY

Which person and address listed above should the City use to notice the action on this application?

- APPLICANT PROJECT MANAGER ON-SITE MANAGER
- PROPERTY OWNER PROSPECTIVE PROPERTY OWNER

Which person above will be responsible for providing access to the proposed site for inspection purposes?

- APPLICANT PROJECT MANAGER ON-SITE MANAGER
- PROPERTY OWNER PROSPECTIVE PROPERTY OWNER

APPLICANT ACKNOWLEDGEMENT

I HAVE READ, UNDERSTAND AND AGREE TO THE REQUIREMENTS AND RESTRICTIONS FOR OBTAINING AND MAINTAINING A VALID COMC PERMIT, AND CERTIFY UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IN THIS APPLICATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I EXECUTE THIS STATEMENT WITH THE KNOWLEDGE AND UNDERSTANDING THAT ANY FALSE STATEMENT, MISREPRESENTATION, OR FAILURE TO REVEAL OR PROVIDE REQUESTED INFORMATION MAY BE CAUSE FOR REFUSAL TO ISSUE, OR SUSPENSION OR REVOCATION, OF ANY PERMIT ISSUED UNDER CHAPTER 9.28B.

I ACKNOWLEDGE I AM 21 YEARS OF AGE OR OLDER. **I ALSO ACKNOWLEDGE THAT THE FEES PAID FOR THIS APPLICATION ARE NON-REFUNDABLE**, EVEN IF MY APPLICATION IS DEEMED INCOMPLETE, DENIED, OR IS NOT ONE OF THE FIRST THREE COMPLETE APPLICATIONS SUBMITTED. BY APPLYING FOR THIS PERMIT, I HAVE CONSENTED TO THE PROVISIONS OF THE MUNICIPAL CODE, AND TO THE EXERCISE OF AUTHORITY BY THE CITY MANAGER, THE POLICE CHIEF, AND ALL OTHER CITY EMPLOYEES AND AGENCIES CHARGED WITH ENFORCING THE LAWS, ORDINANCES, AND CODES APPLICABLE IN THE CITY. I ALSO ACKNOWLEDGE THAT AFTER SUBMITTING THIS APPLICATION AND PRIOR TO APPROVAL, I WILL HAVE TO REQUEST A NATION-WIDE FINGERPRINT BASED CRIMINAL HISTORY RECORDS CHECK AS REQUIRED UNDER §9.28B.050 OF THE SAN JACINTO MUNICIPAL CODE. I ACKNOWLEDGE THAT THE GRANTING OF THIS PERMIT **DOES NOT GIVE LAND USE AUTHORITY** TO BEGIN THE BUSINESS AND I WILL SUBMIT A COMPLETE COMMERCIAL MARIJUANA CULTIVATION PERMIT (CMCP) LAND USE PURSUANT TO THE DEVELOPMENT CODE.

COMPLETION OF THESE FORMS AND SUBMISSION WITH THE NON-REFUNDABLE FEE DOES NOT IMPLY ANY OBLIGATION ON THE PART OF THE CITY OF SAN JACINTO TO GRANT THE REQUESTED PERMIT. ISSUANCE OF THIS PERMIT DOES NOT RELIEVE ME FROM THE OBLIGATION TO MEET ALL OTHER APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS.

NAME: _____

SIGNATURE: _____

DATE: _____

PROPERTY OWNER NOTARIZED ACKNOWLEDGEMENT

I CERTIFY UNDER THE PENALTY OF THE LAWS OF THE STATE OF CALIFORNIA THAT I AM THE PROPERTY OWNER OF THE PROPERTY THAT IS THE SUBJECT MATTER OF THIS APPLICATION AND I AM AUTHORIZING AND DO HEREBY CONSENT TO THE FILING OF THIS **COMMERCIAL MARIJUANA CULTIVATION FACILITY** PERMIT APPLICATION AND ACKNOWLEDGE THAT THE FINAL APPROVAL BY THE CITY OF SAN JACINTO, IF ANY, MAY RESULT IN RESTRICTIONS, LIMITATIONS AND CONSTRUCTION OBLIGATIONS BEING IMPOSED ON THIS REAL PROPERTY.

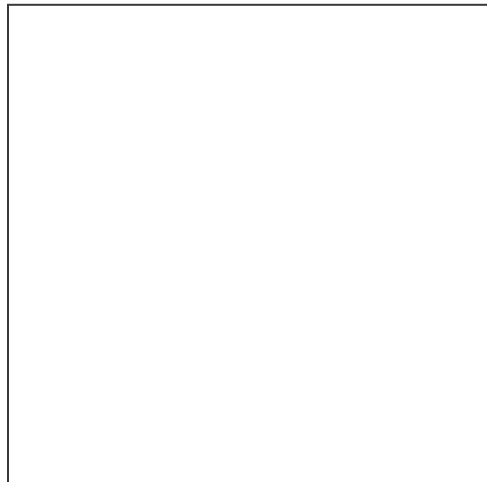
All signatures must be originals (“wet-signed”). Photocopies of signatures are **not** acceptable.

Printed Name of Owner

Signature of Owner

Printed Name of Owner

Signature of Owner



Notary Signature

Notary Name Printed

Notary Commission Number

Notary Commission Expiration Date

Written authorization from all legal property owners is required. An authorized agent for the owner must attach a notarized letter of authorization from the legal property owner.

If the property is owned by more than one person, attach a separate page that references the application case number and lists the names, mailing addresses, and phone numbers of all persons having an interest in the real property or properties involved in this application.

See attached sheet(s) for other property owner’s signatures.

**INDEMNIFICATION AGREEMENT
BY AND BETWEEN THE CITY OF SAN JACINTO AND APPLICANT**

THIS INDEMNIFICATION AGREEMENT (“Agreement”) is entered into this _____ day
of ____, 20_____ by and between the City of San Jacinto (“City”) and
_____ (“Applicant”).

RECITALS

WHEREAS, the Applicant has a legal and/or equitable interest in the certain real property located at _____ in the City of San Jacinto, with Assessor Parcel Number(s): _____ (“Property”); and

WHEREAS, the Applicant has submitted an application to the City for a Commercial Marijuana Cultivation permit for the commercial cultivation, manufacture, distribution, testing, or transportation of marijuana on the Property, pursuant to section 9.28B.040 of Chapter 9.28B of the City of San Jacinto’s Municipal Code, hereafter referred to as the “Project.”

TERMS

NOW, THEREFORE, pursuant to section 9.28B.060 of Chapter 9.28B of the City of San Jacinto’s Municipal Code, and in consideration of the promises, covenants and provisions set forth herein, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Nothing in this Agreement shall be construed to limit, direct, impede or influence the City’s review and consideration of the Project.
2. Applicant shall defend, indemnify, save and hold harmless the City, its elected and appointed officials, officers, employees, agents and volunteers from any and all claims, actions, proceedings or liability of any nature whatsoever (including, but not limited to: any approvals issued in connection with any of the above described application(s) by the City; any action taken to provide related environmental clearance under the California Environmental Quality Act (“CEQA”) by City’s advisory agencies, boards or commissions, appeals boards, or commissions, Planning Commission, or Board of Supervisors; and attorneys’ fees and costs awards) arising out of, or in connection with the City’s review or approval of the Project or arising out of or in connection with the acts or omissions of the Applicant, its agents, employees or contractors.

With respect to review or approval, this obligation shall also extend to any effort to attack, set aside, void, or annul the approval of the Project, including any contention the Project or its approval is defective because a City ordinance, resolution, policy, standard or plan is not in compliance with local, state or federal law. With respect to acts or omissions of the Applicant, its agents, employees or contractors, its obligation, hereunder shall apply regardless of whether the City prepared, supplied or approved plans, specifications or both.

3. The obligations of the Owner and Applicant under this Indemnification shall apply regardless of whether any permits or entitlements are issued.
4. The City will promptly notify Owner and Applicant of any such claim, action, or proceeding that is or may be subject to this Indemnification and will cooperate fully in the defense. The City may, within its unlimited discretion, participate in the defense of any such claim, action, or proceeding if the City defends the claim, action, or proceeding in good faith.

5. The City Attorney shall have the absolute right to approve any and all counsel employed to defend the City. To the extent the City uses any of its resources to respond to such claim, action or proceeding, or to assist the defense, the Applicant will reimburse the City upon demand. Such resources include, but are not limited to, staff time, court costs, the City Attorney's time at its regular rate for non-City agencies, or any other direct or indirect cost associated with responding to, or assisting in defense of, the claim, action or proceedings.
6. For any breach of this obligation the City may rescind its approval of the Project.
7. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved in writing by the Applicant, which approval shall not be unreasonably withheld. The City must approve any settlement affecting the rights and obligations of the City.
8. The parties agree that this Agreement shall constitute a separate agreement from any Project approval, and that if the Project, in part or in whole, is invalidated, rendered null or set aside by a court of competent jurisdiction, the parties agree to be bound by the terms of this Agreement, which shall survive such invalidation, nullification or setting aside.
9. This Agreement shall be construed and enforced in accordance with the laws of the State of California.
10. In any legal action or other proceeding brought by either party to enforce or interpret this Agreement, the appropriate venue is the Riverside County Superior Court.
11. The Applicant shall pay all court ordered costs and attorney fees.
12. The defense and indemnification of the City set forth herein shall remain in full force and effect throughout all stages of litigation including appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, the Applicant, with his or her signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

Dated: _____

Applicant(s):

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

Printed Name

Signature

FILING INSTRUCTIONS FOR

COMC REGULATORY PERMIT

The following instructions are intended to provide the necessary information and procedures to facilitate the processing of COMC Regulatory Permit application. Your cooperation with these instructions will insure that your application can be processed in the most expeditious manner possible.

COMC REGULATORY PERMIT APPLICATION SUBMITTAL REQUIREMENTS		
ITEMS TO SUBMIT	Applicant Check if You Submitted	For Office Use Only
Completed COMC Regulatory Permit Application pages 1 – 10.	<input type="checkbox"/>	<input type="checkbox"/>
Appropriate fees for the COMC permit.	<input type="checkbox"/>	<input type="checkbox"/>
Does the COMC Regulatory permit request involve at least 10,001 square feet of growing space? <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/>	<input type="checkbox"/>
A letter of authorization for the City to seek verification of the information contained in this application.	<input type="checkbox"/>	<input type="checkbox"/>
A written description of the extent of transportation of the marijuana to any location outside the marijuana facility.	<input type="checkbox"/>	<input type="checkbox"/>
Two (2) copies of a site plan of the facility denoting the use of all areas of the facility, including but not limited to storage, cultivation, and exterior lighting. The site plan to be submitted for the Commercial Marijuana Cultivation Permit (CMCP) Land Use Permit may be used for this requirement.	<input type="checkbox"/>	<input type="checkbox"/>
Two (2) copies of the floor plan of all buildings to be use for the facility denoting the use of each room, including but not limited to storage, cultivation, processing and manufacturing.	<input type="checkbox"/>	<input type="checkbox"/>
A written description of the security program that will be prepared, implemented, and maintained at all times throughout the operation of the facility.	<input type="checkbox"/>	<input type="checkbox"/>
Does the application include a written description of the project? Including: <ul style="list-style-type: none"> • Proposed hours of operation, number of employees and hours of shifts and employees per shift? <input type="checkbox"/> Yes <input type="checkbox"/> No • A detailed description of the type of commercial marijuana cultivation use for which the permit is requested, and the nature of commercial marijuana cultivation activities that are to occur on site? <input type="checkbox"/> Yes <input type="checkbox"/> No • A detailed description of all manufacturing and processing activities as indicated on the site plan? <input type="checkbox"/> Yes <input type="checkbox"/> No • Information on any delivery service of marijuana included with the project? <input type="checkbox"/> Yes <input type="checkbox"/> No 	<input type="checkbox"/>	<input type="checkbox"/>
Copies of all State licenses for the commercial marijuana cultivation use, including copies of the application materials submitted in application for the State license. If issuance of a State license is contingent upon first obtaining the City's approval, then the application shall include a detailed description of the State licenses to be obtained. If the COMC permit application is submitted before the State establishes requirements for marijuana-related licenses, then the COMC permit application shall be supplemented with a copy of any State license application and State license	<input type="checkbox"/>	<input type="checkbox"/>

COMC REGULATORY PERMIT APPLICATION SUBMITTAL REQUIREMENTS

ITEMS TO SUBMIT	Applicant Check if You Submitted	For Office Use Only
thereafter submitted. The COMC permit application may only be granted conditional upon obtaining the identified State licenses. The applicant must be the holder of the State license. Not applicable until January 1, 2018.		
Results of the nation-wide fingerprint-based criminal history records check will be sent to the attention of the Chief of Police for internal processing. The request will be made to an official California State fingerprinting and Live Scan service for the applicants and any management personnel who are responsible for the day-to-day operations and activities of the marijuana facility. Results of the fingerprint-based criminal history records check must be sent to the attention of the Chief of Police for internal processing. To Be Performed After Application Submitted.	<input type="checkbox"/>	<input type="checkbox"/>
Provide PDF's or Word documents of all items submitted (plans, reports, photos, applications, etc.). Provide the electronic files on a CD.	<input type="checkbox"/>	<input type="checkbox"/>

Note: Additional information may be required during review of the proposed land use application, including information not specifically required by this checklist.

ATTACHMENT A – MUNICIPAL CODE CHAPTER 9.28 – REGULATION OF MARIJUANA USES

9.28.010 - Purpose.

The purpose of this Section is to regulate personal, medical, and commercial marijuana uses. Nothing in this Section shall preempt or make inapplicable any provision of state or federal law. No marijuana use will be permitted except as expressly stated under this Code.

9.28.020 - Definitions.

For purposes of this chapter, the following definitions shall apply:

- A. “Commercial marijuana activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products.
- B. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
- C. “Delivery” means the commercial transfer of marijuana or marijuana products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.
- D. “Distribution” means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.
- E. “Licensee” means the holder of any state issued license related to marijuana activities, including but not limited to licenses issued under Division 10 of the Business & Professions Code.
- F. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
- G. “Marijuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include:
 - 1. Industrial hemp, as defined in Section 11018.5 of the California Health & Safety Code; or
 - 2. The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.
- H. “Marijuana accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

- I. "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.
- J. "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- K. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.
- L. "Sale" includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.
- M. Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified. Terms defined in chapter 9.28A and 9.28B shall have the same meanings in this chapter.

9.28.030 - Personal Use.

- A. For purposes of this subsection, personal recreational use, possession, purchase, transport, or dissemination of marijuana shall be considered unlawful in all areas of the City to the extent it is unlawful under California law.
- B. Outdoor Cultivation. A person may not plant, cultivate, harvest, dry, or process marijuana plants outdoors in any private residence or accessory structure in the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.
- C. Indoor Cultivation.
 - 1. A person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.
 - 2. To the extent a complete prohibition on residential indoor cultivation is not permitted under California law, a person may not plant, cultivate, harvest, dry, or process marijuana plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, or inside any enclosed structure within any zoning district of the City, unless the person is issued and maintains a residential indoor marijuana cultivation permit pursuant to chapter 9.28A.
 - 3. The city manager or his or her designee will issue application and processing guidelines for the indoor cultivation permit. No indoor cultivation permit shall be issued prior to the release of these guidelines, and no permit shall be granted which has not complied fully with the application and processing requirements.

9.28.040 - Medical Use.

- A. There are no exceptions for medical marijuana from the general terms of this code. Cultivation of medical marijuana pursuant to Section 11362.777 of the California Health & Safety Code is subject to the cultivation requirements laid out in Section 9.28.030 of this chapter. Commercial or industrial cultivation of medical marijuana shall not be permitted unless the person cultivating medical marijuana obtains a commercial marijuana cultivation permit under chapter 9.28B.
- B. The establishment or operation of any medical marijuana collective, cooperative, dispensary, delivery service, operator, establishment, or provider shall be prohibited. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, or provider, and no person shall otherwise establish such businesses or operations in the city.

9.28.050 - Commercial Use.

- A. The establishment or operation of any business of commercial marijuana activity, other than a permitted activity associated with a valid Commercial Marijuana Cultivation Permit and a business license, is prohibited. The establishment or operation of any business of commercial marijuana activity is prohibited unless both a Commercial Marijuana Cultivation Permit and a business license have been issued. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:
 - 1. The transportation, delivery, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;
 - 2. The manufacturing or testing of marijuana, marijuana products, or marijuana accessories; or
 - 3. Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time, except those businesses explicitly permitted under this Code.

9.28.060 – Taxes and Fees.

Nothing herein shall prevent the city from establishing any lawful fees, taxes, or other charges related to marijuana uses or the permits for such uses.

9.28.070 - Penalty for Violation.

No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this section. Every act prohibited or declared unlawful, and every failure to perform an act made mandatory by this section, shall be a misdemeanor, which may be reduced to an infraction at the discretion of the City Attorney or the District Attorney. In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of any of the provisions of this section is declared a public nuisance and may be abated as provided in Chapter 1.28 and/or under state law.

9.28.080 – Construction.

This chapter, chapter 9.28A, chapter 9.28B, and any other subsequent chapters related to marijuana are intended to establish a comprehensive system of marijuana regulation within the city. Each chapter shall be construed consistently, and terms defined in one chapter shall have the same meaning in the other chapters. Issuance of a regulatory permit related to marijuana shall not create or establish any vested rights for the development or use of a property.

9.28.090 – Permit revocation.

In addition to any other grounds for permit revocation, any regulatory permit for any marijuana-related activity may be deemed revoked if Federal or State law prohibits cities from permitting, taxing, and/or regulating marijuana-related activities.

Chapter 9.28B – COMMERCIAL MARIJUANA CULTIVATION PERMIT

9.28B.010 - Purpose and intent.

The purpose of this subchapter is to prescribe the requirements and process for the Commercial Marijuana Cultivation (COMC) permit. Medical and commercial marijuana cultivation, manufacturing, distribution, testing, or transportation facilities shall only be permitted in accordance with the criteria and procedures set forth in this Code, upon application and approval of a COMC permit pertaining to the operation of the facility. Prior to obtaining a COMC permit under this Chapter, all applicants must obtain and maintain all relevant land use entitlements as further enumerated in the Development Code. Nothing in this Chapter shall be deemed to permit or allow marijuana cultivation as a use in any particular zone.

9.28B.020 – Commercial marijuana cultivation facilities.

Commercial marijuana cultivation facilities permitted under this chapter include facilities where marijuana is planted, grown, and harvested. Commercial marijuana cultivation permits may allow for marijuana to be dried, cured, graded, trimmed, manufactured into marijuana products, tested, distributed, or transported, or all or any combination of those activities, provided that the activities occur on the same site where the marijuana was planted, grown, and harvested. Permits shall not allow for any on-site sale or consumption of marijuana or marijuana products and shall not authorize the operation of any dispensaries, shops, cafes, tasting rooms, or similar activities. All commercial marijuana cultivation facilities shall comply with zoning and development standards established by the city for such facilities. Failure to comply with any provision of this Code may result in revocation of a COMC permit. No commercial marijuana cultivation facility shall be permitted under this chapter unless the facility holds all necessary and valid land use entitlements and is in compliance with all State laws pertaining to cultivating marijuana.

9.28B.030 - Scope of permitted marijuana cultivation facilities.

COMC permits shall only be issued for cultivation involving of at least 10,001 square feet of growing space. No commercial marijuana cultivation activities may take place outside of the identified land area that is subject to the COMC permit.

9.28B.040 – Commercial marijuana cultivation permit required.

A. Prior to initiating operations and as a continuing requisite to operating a commercial marijuana cultivation facility, the legal representative of the persons wishing to operate a commercial marijuana cultivation facility shall first obtain all necessary land use entitlements as further enumerated in the Development Code. The legal representative shall then obtain a COMC permit from the city manager or designee under the terms and conditions set forth in this chapter. The legal representative shall file an application with the city manager or designee upon a form

provided by the city and shall pay an application fee as established by resolution adopted by the city council as amended from time to time. Throughout the period in which a COMC permit remains active, a commercial marijuana cultivation facility shall remain in full compliance with the provisions of this Code, including the further requirements enumerated in the Development Code. An application for a COMC permit shall include, but shall not be limited to, the following information:

1. Whether delivery service of marijuana to any location outside the marijuana facility will be provided and the extent of such service.
2. The address of the location of the marijuana facility.
3. A site plan and floor plan of the commercial marijuana cultivation facility denoting all the use of areas of the commercial marijuana cultivation facility, including but not limited to storage, cultivation, and exterior lighting. If a site plan is submitted for a land use entitlement, a single site plan may be utilized.
4. An on-site security program for operations shall be prepared, implemented, and maintained at all times throughout the operation of any facility. The security operations plan shall remain confidential. The applicant shall submit the plan to the Chief of Police and the City Manager at the time of application and annually thereafter, which shall include:
 - a. The security site plan required by section 17.435.060(R) of the Development Code, and any updates thereto.
 - b. A description of how security data from security cameras will be collected and maintained. All security cameras on-site shall operate in an on-going manner with at least two hundred forty (240) concurrent hours of digitally recorded documentation in a format approved by the city manager or designee. The cameras shall be in use twenty-four (24) hours per day, seven days per week.
 - c. A plan for implementation of security alarming and monitoring. All security alarms shall be operated and monitored by a recognized security company, deemed acceptable by the city manager or designee. Any change in the security company shall be subject to the approval of the city manager or designee. All current contact information regarding the security company shall be provided to the city manager or designee and the chief of police.
 - d. A plan for restricting entrance to all secured areas and securely storing all marijuana and marijuana products.
 - e. A description of security personnel to be utilized on site. All security personnel shall be licensed security guards, licensed by the California Department of Consumer Affairs. At least one licensed security guard shall be present at the commercial marijuana cultivation facility during all hours of operation. If any security guard is to be armed, then the security guard shall possess at all times a valid security guard card and firearms permit issued by the California Department of Consumer Affairs.
 - f. The applicant shall prepare and implement a procedure for performing background checks on all employees and workers, including any subcontractors or independent contractors working on site. All subcontractors and independent contractors shall be identified, along with the duties to be performed. No person

who has been convicted of a drug-related felony within the past 10 years shall be allowed within a secured area at any time.

- g. A description of the transportation and delivery of all marijuana and marijuana products from the secured area and through city streets. The description shall include the mode and method of transportation, identification of any subcontractors performing transportation services, identification of transportation frequency, identification of the end point where the transportation leaves the City. The plan shall indicate how the marijuana products will be secured during transportation.
 - h. The city manager and chief of police shall be given advanced notice of any operational changes affecting the security plan. The annual update shall indicate any measures taken in response to any security incidents or public safety concerns.
- 5. The name and address of the owner and lessor of the real property upon which the commercial marijuana cultivation facility is to be operated. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a commercial marijuana cultivation facility will be operated on his or her property.
 - 6. Authorization for the city manager or designee to seek verification of the information contained within the application.
 - 7. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
 - 8. A complete commercial marijuana planning permit application as enumerated in the Development Code.
 - 9. All state licenses for the commercial marijuana cultivation use, including copies of the application materials submitted in application for the state license. If issuance of a state license is contingent upon first obtaining the City's approval, then the application shall include a detailed description of the state licenses to be obtained. If the COMC permit application is submitted before the state establishes requirements for marijuana-related licenses, then the COMC permit application shall be supplemented with a copy of any state license application and state license thereafter submitted. The COMC permit application may only be granted conditional upon obtaining the identified state licenses. The applicant must be the holder of the state license.
 - 10. Any such additional and further information as is deemed necessary by the city manager or designee to administer this section.
- B. The City Council may, by resolution, establish defined periods of time where applications for permits will be accepted, establish a system for prioritizing or scoring permit applications, or establish any other rules to determine how permits will be allocated. The City Council may, by resolution, limit the total number of permits, or the total number of sites receiving permits, or the total city-wide acreage subject to permits.

9.28B.050 - Background check.

All applicants for a COMC permit for a marijuana facility, including any management personnel who are responsible for the day-to-day operations and activities of the marijuana facility shall be required

to submit to a fingerprint-based criminal history records check conducted by the San Jacinto Police Department.

9.28B.060 - Grounds for denial.

The city manager or designee shall reject an application upon making any of the following findings:

- A. The applicant made one or more false or misleading statements or omissions on the application or during the application process;
- B. The applicant is not the legal representative of the commercial marijuana cultivation facility;
- C. The marijuana facility is not permitted in the proposed area, is not an authorized use in the proposed area, or has not obtained a conditional use permit or other entitlement for the use;
- D. The applicant, or any person who is managing or is otherwise responsible for the activities of the commercial marijuana cultivation facility has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, with the exception of medical marijuana related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996;
- E. If a license is required by state law, the applicant does not hold a state license for the proposed commercial marijuana cultivation or, if issued conditionally, does not obtain a state license as required.
- F. The applicant's application failed to meet the requirements of this Chapter or of any other legal requirement that is a prerequisite to issuance of an application.

9.28B.060 - Limitations on city's liability.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any COMC permit pursuant to this chapter or the operation of any commercial marijuana cultivation facility approved pursuant to this chapter. As a condition of approval, a COMC permit as provided in this chapter, the applicant or its legal representative shall:

- A. Execute an agreement indemnifying the city from any claims, damages, etc., associated with the operation of the commercial marijuana facility;
- B. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee;
- C. Name the city as an additionally insured on all city required insurance policies;
- D. Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a COMC permit; and
- E. Agree 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 the city's approval of a COMC permit. 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 operator of its obligation hereunder.

9.28B.070 - Additional terms and conditions.

Based on the information set forth in the application, the city manager or designee may impose reasonable terms and conditions on the proposed operations of the commercial marijuana cultivation facility in addition to those specified in this chapter.

9.28B.080 - Compliance with state and local law.

- A. All commercial marijuana cultivation facilities shall comply fully with all of the applicable restrictions and mandates set forth in state law. Any documents, reports, filing, financial statements, applications, or other records that are required to be maintained or prepared under any state law regulating commercial marijuana cultivation, manufacture, transportation, distribution, or other activities authorized by the permit shall be maintained by the applicant and made available to the City. At all times that a permit is required by state law for commercial marijuana cultivation, the COMC permit holder shall be the named holder of all relevant state licenses.

- B. All commercial marijuana cultivation facilities shall comply fully with all laws of the City of San Jacinto. Retail sales of marijuana products are strictly prohibited. Facilities shall not supply, sell, or deliver marijuana products to dispensaries, shops, or other retail locations within the City of San Jacinto. Facilities shall not supply, sell, or deliver any marijuana products to any industrial, cultivation, manufacture, processing, or other facilities within the city unless the other facility is permitted under this chapter, and both facilities' permits allow for the supply, sale, or delivery.

9.28B.100 - Marijuana secured.

All marijuana and marijuana products shall be kept in a secured manner during business and non-business hours.

9.28B.110 - Consumable marijuana products.

If consumable marijuana products (including, but not limited to, lollipops, brownies, cookies, ice cream, etc.) are present on-site or offered for distribution, then the marijuana facility shall secure any approval from the County of Riverside Department of Health Services required for handling food products.

9.28B.120 - Sales taxes.

All commercial marijuana cultivation facilities must pay any applicable sales tax pursuant to federal, state, and local law.

9.28B.130 - Point of sale system.

Commercial marijuana cultivation facilities shall have an electronic point of sale system that produces historical transactional data for review by the city manager or designee for auditing purposes.

9.28B.150 - Records.

All Commercial marijuana cultivation facilities shall perform an inventory on the first business day of each month and shall record the total quantity of each form of marijuana on the premises. These records shall be maintained for two years from the date created and shall be made available to the city manager or designee upon request.

9.28B.160 - Community relations.

Each commercial marijuana cultivation facility shall provide the city manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the commercial marijuana facility or refer members of the public who may have any concerns or complaints regarding the operation of the commercial marijuana facility. Each commercial marijuana facility shall also provide the above information to its business neighbors located within

five hundred (500) feet of the property line of the facility as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

9.28B.170 - Inspections and enforcement.

- A. Recordings made by security cameras at any commercial marijuana cultivation facility shall be made immediately available to the city manager or designee upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.
- B. The city manager or designee shall have the right to enter all Commercial marijuana cultivation facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.
- C. Operation of the commercial marijuana cultivation facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this code. Operation of the commercial marijuana cultivation facility in non-compliance with any conditions of approval or the provisions of this Chapter may result in revocation of a COMC permit pursuant to Section 9.28B.170(D).
- D. The city manager or designee may summarily suspend or revoke a COMC permit if any of the following, singularly or in combination, occur:
 - 1. The city manager or designee determines that the commercial marijuana cultivation facility has failed to comply with this chapter or any condition of approval or a circumstance or situation has been created that would have permitted the city manager or designee to deny the permit under the terms of this chapter;
 - 2. Operations cease for more than ninety (90) calendar days, including during change of ownership proceedings;
 - 3. Ownership is changed without securing a COMC permit;
 - 4. The commercial marijuana cultivation facility fails to maintain two hundred forty (240) continuous hours of security recordings;
 - 5. The commercial marijuana cultivation facility fails to allow inspection of the security recordings, the activity logs, or the premises by authorized city officials;
 - 6. The marijuana facility has engaged in the supply, sale, delivery, or distribution of marijuana products to individuals or retail establishments in the City of San Jacinto or has otherwise violated an ordinance or law established by the City of San Jacinto; or
 - 7. The commercial marijuana cultivation facility has failed to remit or pay any tax, fee, or other consideration owed to the city.

9.28B.180 - Appeals.

Any decision regarding the denial, suspension or revocation of a COMC permit may be appealed to the City Council pursuant to the provisions set forth in Chapter 2.08. Said appeal shall be made by a notice of appeal from the person appealing within thirty (30) days from the date of the decision. The City Council may, in its sole discretion, delegate consideration of the appeal to one or more hearing officers.

9.28B.190 - Cessation of operations.

- A. In the event a qualified commercial marijuana cultivation facility that receives a COMC permit ceases to operate for any reason, the city manager or designee shall consider the next qualified applicant on the waiting list placed in order of application and provide an opportunity for new applicants to be considered for a permit. This section shall apply to any portion of a facility where operations cease.
- B. The legal representative of the facility may apply to the city manager or designee for a waiver to allow the cessation of operations for a defined period. A waiver may only be issued upon the applicant's showing of good cause that operations should be ceased for a limited period of time, not to exceed six months, and that operations are likely to resume within the waiver period. Any waiver issued under this section shall be conditioned upon the facility's continued payment of all taxes, fees, and other charges due the City.

9.28B.200 - Permits not transferable.

COMC permits issued pursuant to this chapter are not transferable. Applicants who are successors to an existing permit shall have priority over all other permit applications. Nothing herein shall prohibit the City from requiring new or additional terms or conditions related to an application for a successor permit.

9.28B.210 - Violations.

- A. Any violation of any of the provisions of this chapter is unlawful and a public nuisance.
- B. Any violation of any of the provisions of this chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.
- C. The city may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars (\$1,000.00) for each violation of this chapter.
- D. The city shall be entitled to civil penalties of not less than ten thousand dollars (\$10,000) for each willful, wanton, or reckless violation of a COMC permit or this chapter.
- E. A separate offense occurs for each day any violation of this chapter is continued and/or maintained. A separate offense occurs for each marijuana plant that is cultivated without a permit.
- F. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law.

9.28B.220 – Medical marijuana cultivation facilities.

The provisions of this chapter shall apply to both commercial and medical marijuana cultivation facilities. To the extent that only medical, not commercial, marijuana facilities are authorized under State law, then in addition to the requirements of this chapter:

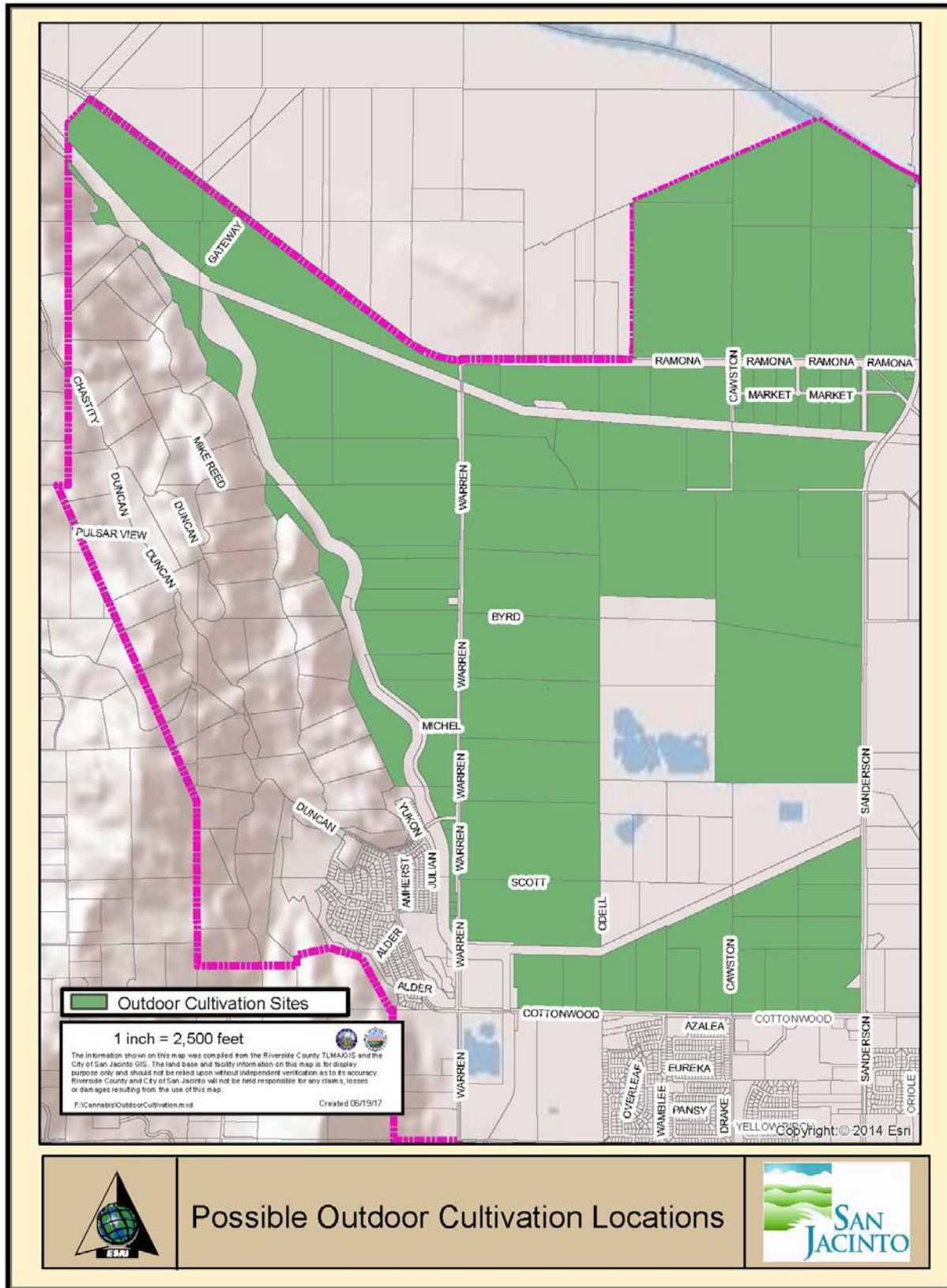
- A. All medical marijuana facilities shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, and the Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643).

- B. The application for a COMC permit shall include an estimate of the size of the group of primary caregivers and/or qualified patients who will be served by the medical marijuana facility. A cultivation permit application shall be denied if the medical marijuana facility's related cooperative or collective is not properly organized in strict compliance pursuant to the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), and any other applicable law, rules and regulations.

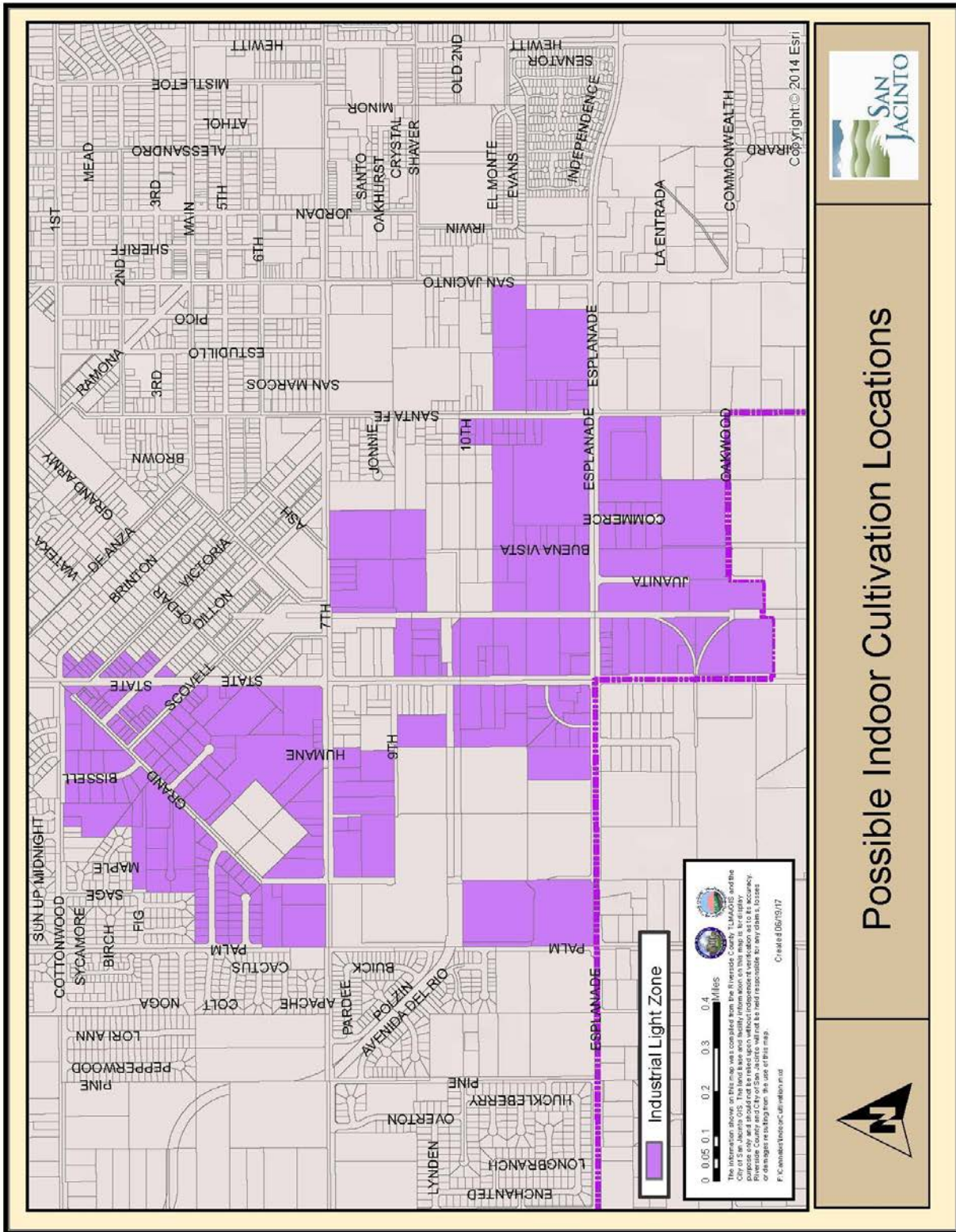
9.28B.230 – Conformance with State law.

No COMC permit shall be issued unless the cultivation of commercial and/or medical marijuana is legal under the laws of the State of California and the permit holder is in compliance with such laws.

ATTACHMENT B – POSSIBLE OUTDOOR CULTIVATION LOCATIONS



ATTACHMENT B – POSSIBLE INDOOR CULTIVATION LOCATIONS



Possible Indoor Cultivation Locations

ATTACHMENT D – CHAPTER 3.32 – CANNABIS/MARIJUANA TAX.

3.32.010 – Imposition of Tax.

- A. In the event that any cannabis business, (as defined herein) or cannabis activity should be permitted in the City of San Jacinto, every person engaged in operating or otherwise conducting a cannabis business, and/or operating a space utilized in connection with the cultivation/manufacturing of cannabis or cannabis-infused products within the City of San Jacinto shall pay the following cannabis taxes:
1. Up to a maximum of fifteen (15) cents for each \$1.00 of gross receipts or fractional part thereof; subject to adjustment by the City Council pursuant to Section 3.32.050; and
 2. Up to a maximum of fifty dollars (\$50.00) per square foot of space utilized in connection with the cultivation/manufacturing of cannabis or cannabis-infused products; subject to adjustment by the City Council pursuant to Section 3.32.050.
- B. No cannabis business shall be deemed to be exempt from the payment of the taxes identified above by any other provision of this Code, unless expressly exempted under this Chapter.

3.32.020 – Purpose of Tax.

The purpose of this tax is to raise revenue to fund general government services.

3.32.030 – Definitions.

For purposes of this Chapter:

- A. “Cannabis” 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.
- B. A “Cannabis business” means any business, organization or facility, regardless of form, whether operating for profit or not for profit, where cannabis is planted, grown, harvested, dried, cured, graded, trimmed, stored, tested, manufactured, compounded, converted or processed into cannabis-infused products (including but not limited to tinctures, oils, creams, candies and “medibles”), packaged, prepared, labeled, distributed, delivered, sold at retail or wholesale, or transported, or that does all or any combination of those activities.
- C. “Gross receipts” means the total amount of monetary consideration actually received or receivable by a cannabis business for providing, at wholesale or retail, cannabis and cannabis-infused products, overhead costs, operating expenses, or related services whatsoever, including, but not limited to: membership dues, the value of monetary and in-kind contributions, payments, reimbursement of fees for cultivation, manufacturing, distribution, dispensing, storing, exchanging, processing, delivering, making available, or transmitting of cannabis or cannabis-infused products, any payments made, and anything else of value obtained by a cannabis business. Included in “gross receipts” shall be all receipts, cash, credits, and property of any kind without deduction of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever.

- D. "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, which is conducting itself as a cannabis business.
- E. "Space utilized in connection with the cultivation/manufacturing of cannabis or cannabis-infused products" means any space or ground, floor or other surface area (whether horizontal or vertical) which is used for either or both of the following:
1. Cannabis germination, seeding, vegetation, pre-flowering, flowering and harvesting; including without limitation activities such as growing, planting, lighting, warming, cooling, aerating, fertilizing, watering, irrigating, topping, pinching, cropping, curing or drying cannabis, as well as storing any products, supplies or equipment related to any such activities, no matter where such storage may take place or such storage space may be located.
 2. The manufacture or processing of cannabis for wholesale or retail sale or into cannabis-infused products (including but not limited to tinctures, oils, creams, candies and "medibles") for wholesale or retail sale, including compounding, converting, testing, packaging, preparing, labeling, distribution or transport, or all or any combination of those activities.

3.32.040 – Payment Obligation.

All taxpayers subject to this Chapter must pay the full tax imposed by this Chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this Code, except as required by California or Federal law. Failure to pay the tax shall be subject to penalties, interest charges, and assessments as the City Council may establish and the City may use any or all other code enforcement remedies provided in this Code. No provision in this Code can lower the tax rate set forth in this Chapter or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

3.32.050 – City Council Authorization to Adjust Tax Rate and/or Methodology.

The City Council may impose the tax authorized by this Chapter at a lower rate and may otherwise repeal or amend this Chapter without a vote of the People. However, as required by California Constitution Article XIII C (Proposition 218), voter approval is required for any amendment that would increase the maximum rate or methodology of any tax levied pursuant to this Chapter. The people of the City of San Jacinto affirm that the following actions shall not constitute an increase of the maximum rate or methodology of the tax requiring subsequent voter approval:

- A. The restoration of the rate of the tax to a rate that is no higher than the maximum set by this voter-approved Chapter, if the City Council has previously acted to reduce the rate of the tax;
- B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter;
- C. The establishment of a class of person or service that is exempt or excepted from the tax or the discontinuation of any such exemption or exception; and

- D. Resuming collection of the tax imposed by this Chapter, even if the City had, for some period of time, either suspended collection of the tax or otherwise failed to collect the tax, in whole or in part.

3.32.060 – Payment of Tax Does Not Authorize Illegal Activity.

The payment of the tax required pursuant to this Chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Chapter implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed in strict and full conformance to the provisions of this Code.

3.32.070 – Cannabis Cultivation/Manufacturing Tax Is Not a Sales Tax.

The tax provided for under the provisions of this Chapter is not a Sales, Transactions or Use Tax and shall not be calculated or assessed as such. The tax established under this Chapter shall not be separately identified or otherwise specifically assessed or charged to any client of a cannabis business.

3.32.080 – Amendments and Administration.

- A. This Chapter was submitted to the voters for approval. Any amendment to this Chapter to increase the tax above the maximum rate expressly provided in Section 3.32.010 shall not become effective until such amendment is approved by the voters. The voters expressly authorize the City Council to amend, modify, change, or revise any other provision of this Chapter as the City Council deems in the best interest of the City, as set forth in Section 3.32.050.
- B. The City Manager or the City Manager's designee shall promulgate rules, regulations and procedures to implement and administer this Chapter to ensure the efficient and timely collection of the tax imposed by this Chapter, including without limitation, formulation and implementation of penalties and interest to be assessed for failure to pay the tax as provided.
- C. The City Manager or the City Manager's designee shall annually audit the taxes imposed by this Chapter to verify that tax revenues have been properly expended in accordance with the law.
- D. Pursuant to California Constitution Article XIIIB, the appropriation limit for the City is increased to the maximum extent over the maximum period of time allowed under law consistent with the revenues generated by the tax established by this Chapter.

3.32.090 – Returns and Remittances.

The Tax shall be due and payable as follows:

- A. The tax established by this Chapter shall be collected quarterly. Each person owing tax shall prepare and file a tax return to the City Manager setting out the total amount of tax owed for the preceding calendar quarter during which the tax was in effect. The return shall be filed not later than thirty (30) calendar days following the last day of the preceding each calendar quarter. At the time the tax return is filed, the full amount of the tax owed for the preceding calendar quarter shall be remitted to the City Manager.
- B. All tax returns shall be completed on forms provided by the Director of Finance.

- C. Tax returns and payments for all outstanding taxes owed the City are immediately due to the City Manager upon cessation of business for any reason.
- D. Whenever any payment, statement, report, request or other communication received by the City Manager is received after the time prescribed by this Section for the receipt thereof, but is in an envelope bearing a postmark showing that it was mailed on or prior to the date prescribed in this Section for the receipt thereof, or whenever the City Manager is furnished substantial proof that the payment, statement, report, request, or other communication was in fact deposited in the United States mail on or prior to the date prescribed for receipt thereof, the City Manager may regard such payment, statement, report, request, or other communication as having been timely received. If the due date falls on Friday, Saturday, Sunday, or a holiday, the due date shall be the next regular business day on which the City Hall is open to the public.
- E. Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not paid on or before the due date specified in Subsection A of this Section.
- F. The City Manager is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter and failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

3.32.100 – Failure to Pay Tax.

- A. Any person who fails or refuses to pay any tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:
 - 1. A penalty equal to twenty-five percent (25%) of the amount of the tax in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at a rate established by resolution of the City Council; and
 - 2. An additional penalty equal to twenty-five percent (25%) of the amount of the tax if the tax remains unpaid for a period exceeding one calendar month beyond the due date, plus interest on the unpaid tax and interest on the unpaid penalties calculated at the rate established by resolution of the City Council.
- B. Whenever a check is submitted in payment of a tax and the check is subsequently returned unpaid by the bank upon which the check is drawn, and the check is not redeemed prior to the due date, the taxpayer will be liable for the tax amount due plus penalties and interest as provided for in this Section plus any amount allowed under State law.
- C. The tax due shall be that amount due and payable from January 1, 2017 or the first date on which the cannabis business, or cannabis activity, first operated in the City, whichever date occurred last, together with applicable penalties and interest calculated in accordance with Subsection A of this Section.
- D. The City Manager may waive the first and second penalties of twenty-five percent (25%) each imposed upon any person if:
 - 1. The person provides evidence satisfactory to the City Manager that failure to pay timely was due to circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, and the person paid

the delinquent tax and accrued interest owed the City prior to applying to the City Manager for a waiver.

2. The waiver provisions specified in this Subsection shall not apply to interest accrued on the delinquent tax and a waiver shall be granted only once during any twenty-four month period.

3.32.110 – Refunds.

- A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in this Section.
- B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a cannabis business.
- C. Whenever the amount of any tax, penalty, or interest has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City under this Chapter, such amount may be refunded to the person who paid the tax provided that a written claim for refund is timely filed with the City Manager, pursuant to Chapter 2.64 of this Code. The period for filing a claim for refund shall be one (1) year from the time the tax was paid or erroneously or illegally collected; provided however, that in no event shall the period to file such claim expire prior to the shortest period allowable for filing a tax refund claim under Government Code Section 911.2. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto, and must clearly set forth the facts and legal theories under which the claimant believes he or she has right to a refund. Where the amount of any individual refund claim is in excess of the amount set by ordinance or resolution of the City Council relating to the settlement of general liability claims against the City by the City Manager, City Council approval shall be required.
- D. The filing of a written claim pursuant to Government Code Section 935 is a prerequisite to any suit thereon.
- E. The City Manager shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the City Manager to do so.
- F. Any person entitled to a refund of taxes paid pursuant to this Chapter may elect in writing to have such refund applied as a credit against a cannabis business's taxes for the next calendar quarter.
- G. In the event that the tax was erroneously paid and the error is attributable to the City, the amount of the tax erroneously paid shall be refunded to the claimant. If the error is attributable to the claimant, the City shall retain the amount set forth in this Chapter from the amount to be refunded to cover expenses.
- H. The City Manager shall initiate a refund of any tax which has been overpaid or erroneously collected whenever the overpayment or erroneous collection is uncovered by a City audit of tax revenues.

3.32.120 – Enforcement.

- A. It shall be the duty of the City Manager to enforce each and all of the provisions of this Chapter.
- B. For purposes of administration and enforcement of this Chapter generally, the City Manager, with the concurrence of the City Attorney, may from time to time promulgate administrative rules and regulations.
- C. The City Manager shall have the power to audit and examine all books and records of cannabis businesses as well as persons engaged in the operation of cannabis businesses, including both state and federal income tax returns, California sales tax returns, or other evidence documenting the gross receipts of or the transaction prices charged by a cannabis business or persons engaged in the operation of a cannabis business, for the purpose of ascertaining the amount of tax, if any, required to be paid by the provisions of this Chapter, and for the purpose of verifying any statements or any item thereof when filed by any person pursuant to the provisions of this Chapter. If such cannabis business or person, after written demand by the City Manager, refuses to make available for audit, examination or verification such books, records, or equipment as the City Manager requests, the City Manager may, after full consideration of all information within the City Manager's knowledge concerning the cannabis business and its business and activities of the person so refusing, make an assessment in the manner provided in Section 3.32.130.
- D. The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any State law requiring the payment of all taxes.
- E. Any person violating any of the provisions of this Chapter or any regulation or rule passed in accordance herewith, or knowingly or intentionally misrepresenting to any officer or employee of the City any material fact in procuring a certificate or permit from the City as provided for in this Chapter shall be deemed guilty of a misdemeanor.

3.32.130 – Debts; Deficiencies; Assessments and Appeals.

- A. The amount of any tax, penalties, and interest imposed by the provisions of this Chapter shall be deemed a debt to the City and any person operating a cannabis business, without having paid any applicable tax, penalties, and interest shall be liable in an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such cannabis business.
- B. If the City Manager is not satisfied that any statement filed as required under the provisions of this Chapter is correct, or that the amount of tax is correctly computed, the City Manager may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a cannabis business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, notice shall be given to the person con-

cerned in the same manner as notices of assessment are given under Subsections C, D, and E of this Section.

- C. Under any of the following circumstances, the City Manager may make and give notice of an assessment of the amount of tax owed by a person under this Chapter:
1. If the person has not filed any statement or return required under the provisions of this Chapter;
 2. If the person has not paid any tax due under the provisions of this Chapter;
 3. If the person has not, after demand by the City Manager, filed a corrected statement or return, or furnished to the City Manager adequate substantiation of the information contained in a statement or return already filed, or paid any additional amount of tax due under the provisions of this Chapter;
 4. If the City Manager determines that the nonpayment of any tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter.
 5. The notice of assessment shall separately set forth the amount of any tax known by the City Manager to be due or estimated by the City Manager, after consideration of all information within the City Manager's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.
- D. The notice of assessment shall be served upon the person either by handing it to him or her personally, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the cannabis business appearing on the face of the business license issued under Chapter 5.04 of this Code, or to such other address as he or she shall register with the City Manager for the purpose of receiving notices provided under this Chapter or Chapter 5.04; or, should the person have no business license issued and should the person have no address registered with the City Manager for such purpose, then to such person's last known address. For the purposes of this section, a service by mail is complete at the time of deposit in the United States mail.
- E. Within ten (10) days after the date of service the person may apply in writing to the City Manager for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the City Manager shall become final and conclusive. Upon receipt of any such application for hearing, the City Manager shall cause the matter to be set for hearing before a hearing officer pursuant to the provisions of Section 1.28.090. At such hearing said applicant may appear and offer evidence why the assessment as made by the City Manager should not be confirmed and fixed as the tax due. Based upon the submission of such evidence and the review of the City's files, the hearing officer shall issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice shall be given within fourteen (14) calendar days after the conclusion of the hearing and shall state the reasons for the decision. The notice shall specify that the decision is final and that any petition for judicial review shall be filed within ninety (90) days from the date of the decision in accordance with Code of Civil Procedure Section 1094.6. If the hearing officer fails or refuses to act on an appeal within the fourteen (14) day period, the

appeal shall be deemed to have been denied by the hearing officer on the fifteen (15th) calendar day.

3.32.140 – No Injunction/Writ of Mandate.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this Chapter of any tax or any amount of tax required to be collected and/or remitted.

3.32.150 – Future Amendment to Cited Statute.

Unless specifically provided otherwise, any reference to a state or federal statute in this Chapter shall mean such statute as it may be amended from time to time; provided, that such reference to a statute herein shall not include any subsequent amendment thereto, or to any subsequent change of interpretation thereto by a state or federal agency or court of law, to the extent that such amendment or change of interpretation would require voter approval under California law, or to the extent that such change would result in a tax decrease. Only to the extent voter approval would otherwise be required or a tax decrease would result, the prior version of the statute (or interpretation) shall remain applicable. For any application or situation that would not require voter approval or would not result in a decrease of a tax, provisions of the amended statute (or new interpretation) shall be applicable to the maximum possible extent. To the extent that the City's authorization to collect or impose any tax imposed under this Chapter is expanded or limited as a result of changes in state or federal law, no amendment or modification of this Chapter shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the authorization up to the full amount of the tax imposed under this Chapter.

3.32.160 – Application of Tax to Medical Cannabis and Recreational Cannabis Businesses.

- A. As of the effective date of this Chapter, the San Jacinto Municipal Code prohibits all forms of cannabis businesses, within the City, both medical and recreational. However, a Statewide initiative measure has qualified for the November 8, 2016 ballot known as the "Adult Use of Marijuana Act" (Proposition 64). If passed by California voters, this measure would legalize the personal use of cannabis/marijuana for recreational purposes, but would allow local agencies to reasonably regulate and tax activities tied to recreational cannabis/marijuana. Further, Proposition 64 would require cities to permit indoor cultivation of recreational and medical cannabis/marijuana, subject to reasonable local regulation. Therefore, to a certain extent, Proposition 64 would override the City's current prohibition on cannabis businesses, operating within the City.
- B. Should Proposition 64 or any similar State law regarding cannabis be passed, or should the San Jacinto Municipal Code be amended to authorize the operation of cannabis businesses, within the City, whether to provide recreational or medical cannabis, at wholesale or retail, the People of San Jacinto expressly intend for the tax imposed herein to apply to such operations, on the same terms and conditions as set forth in this Chapter.
- C. No provision of this Chapter shall be construed to authorize the operation of any cannabis businesses, within the City unless mandated by future State law or further

ATTACHMENT E – RESOLUTION 3666

AN URGENCY RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JACINTO, CALIFORNIA, ESTABLISHING A FEE FOR COMMERCIAL MARIJUANA CULTIVATION PERMITS AND THE ANNUAL RENEWAL FEE OF COMMERCIAL MARIJUANA CULTIVATION PERMITS

WHEREAS, the City of San Jacinto (City) was incorporated on April 1, 1888, as a general law city and encompasses an area of approximately 26 square miles with a population of approximately 48,000; and

WHEREAS, as a general law city, the City has broad police powers and desires to properly regulate all commercial marijuana cultivation activities in the City to protect the health, safety, and welfare of its citizens and to reduce the potential for negative secondary effects of establishing commercial cultivation in San Jacinto; and

WHEREAS, the City passed Ordinance No. 16-10 on February 7, 2017 establishing Chapter 9.28B of the San Jacinto Municipal Code creating the permit requirements for commercial marijuana cultivation; and

WHEREAS, Section 9.28B.030 of the San Jacinto Municipal Code authorizes the City Council to establish an application fee; and

WHEREAS, the City passed Ordinance No. 17-02 on June 6, 2017 amending Title 17 of the San Jacinto Municipal Code to regulate the establishment of commercial marijuana cultivation in the light industrial zone, create development standards for commercial marijuana cultivation and amend the loss of non-conforming status section regarding commercial marijuana cultivation as an agricultural use; and

WHEREAS, Ordinance No. 17-02 establishes an administrative review process for issuance commercial marijuana cultivation use permits; and

WHEREAS, the administrative procedures related to the review of commercial marijuana cultivation regulatory and use permit applications include, but are not limited to, review by Planning staff, Code Enforcement staff, Building and Safety staff, the City Attorney, the Police Department, the Fire Department, the City Manager and special consultants that may be required to perform verification of applicant information; and

WHEREAS, Ordinance No. 17-02 will become effective on July 7, 2017, at which point City staff will incur costs in reviewing and processing application for commercial marijuana cultivation regulatory and use permits; and

WHEREAS, adopting an application fee, with immediate effect, is necessary to protect the public health, safety and welfare because upon the effective date of Ordinance 17-02, commercial marijuana cultivation businesses may submit applications, commercial marijuana cultivation businesses will provide significant tax revenue to the City upon commencement of operations, industrial and agricultural sites that are currently underutilized may be put into productive use upon commencement of commercial marijuana cultivation operations, resulting in increased property values and potentially removing blight and nuisance conditions, and the fee is necessary to recoup administrative costs incurred by the City in review of applications.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Jacinto does hereby find and determine as follows:

Section 1. The City Council hereby finds that the above-stated recitals are true and correct.

Section 2. The City Council hereby establishes a combined commercial marijuana cultivation regulatory and use permit application fee to be \$16,500 to offset the cost of the administrative procedures required by the City to review applications for commercial marijuana cultivation

Section 3. The City Council hereby establishes an annual fee for approved Commercial Marijuana Cultivation regulatory permits to be \$6,000 to offset the costs to perform regular inspections of commercial marijuana cultivation business.

Section 4. The City Council hereby establishes a fee of \$10,000 to offset the cost of the administrative procedures required by the City to review applications for a commercial marijuana cultivation regulatory permit, pursuant to chapter 9.28B, in instances where a commercial marijuana cultivation land use permit is already active.

Section 5. If any term, condition, or provision of this Resolution shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

Section 6. The City Council directs that a public hearing shall be noticed and held at its regular meeting on July 18, 2017, in accordance with Government Code section 66016.

Section 7. The City Clerk shall attest and certify to the passage and adoption of this Resolution and it shall become effective immediately upon its approval.