



Regular Meeting Agenda

City Council

Rich Constantine - Mayor
Rene Spring - Mayor Pro Tem
Yvonne Martinez Beltran - Council Member
Larry Carr - Council Member
John McKay - Council Member

Wednesday, February 27, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

CALL TO ORDER

Mayor Constantine

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Bigelow

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
Deputy City Clerk Michelle Bigelow

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ADOPTION OF AGENDA

OTHER BUSINESS

1. CANNABIS POLICY DISCUSSION

Recommendation:

Provide direction to staff regarding Cannabis policy.

Since the passage of Proposition 64 in 2016, legalizing marijuana use in California, the City Council has had several conversations and workshops about cannabis use in Morgan Hill. The Council placed a measure on the November 2018 ballot asking the voters if they would approve taxing cannabis uses should they be allowed. With the passage of that measure, staff is bringing forward this workshop for the Council to discuss cannabis policy.

Estimated Time:

FUTURE COUNCIL INITIATED AGENDA ITEMS

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to: Government Code Section 54956.9(d)(2)

Number of Cases: One (1)

RECONVENE

CLOSED SESSION ANNOUNCEMENT

ADJOURNMENT

NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

SUSTAINABLE MORGAN HILL



Vision:

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community

Choose Morgan Hill:

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility ·
Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational
Culture · Preserving and Cultivating Public Trust · Preserving Our Community History ·
Enhancing Diversity and Inclusiveness · Advancing Regional Initiatives

2019-2020 STRATEGIC PRIORITIES

Agricultural Preservation
Cannabis Policy
Community Engagement and Messaging
Economic Development
Financial Stewardship
High Speed Rail
Homelessness
Housing Infrastructure
Telecommunications
Traffic/Transportation



CITY COUNCIL STAFF REPORT

MEETING DATE: February 27, 2019

PREPARED BY: David Swing, Police Chief

APPROVED BY: City Manager

CANNABIS POLICY DISCUSSION

RECOMMENDATION(S)

Provide direction to staff regarding Cannabis policy.

Since the passage of Proposition 64 in 2016, legalizing marijuana use in California, the City Council has had several conversations and workshops about cannabis use in Morgan Hill. The Council placed a measure on the November 2018 ballot asking the voters if they would approve taxing cannabis uses should they be allowed. With the passage of that measure, staff is bringing forward this workshop for the Council to discuss cannabis policy.

LINKS/ATTACHMENTS:

1. Morgan Hill Regulatory Ordinance Presentation
2. Cannabis Background Document
3. Morgan Hill Buffer Maps
4. Example Ordinances
5. January 26, 2019 Goal Setting Workshop Cannabis – Prop 64 Presentation
6. February 7, 2018 Cannabis Update and Community Survey Staff Report (web link)
7. April 18, 2018 Cannabis and Transient Occupancy Tax Community Survey Results Staff Report (web link)
8. July 18, 2018 Approve Proposed Ballot Measure Regarding the Taxation of Cannabis Staff Report (web link)
9. email from public

CANNABIS POLICY DISCUSSION

City of Morgan Hill

HdL Cannabis



AGENDA

- Introductions
- Background
- Overview of Regulatory Ordinance
- Application Process
- Economic Development
- Estimated Timeline
- Council Direction
- Questions



BACKGROUND

Current Law

- Proposition 64 allows for the possession and recreational use of cannabis for those age 21 and older
- Local jurisdictions must allow for indoor cultivation up to six plants
- Cannabis must be consumed indoors and not in public places
- New regulations permit local delivery – without local control
- Local jurisdictions can regulate or prohibit other uses
 - sales, cultivation, manufacturing, and testing





BACKGROUND

Current Morgan Hill Status

- April 2012 – Amended MHMC 8.44 which strengthened secondhand smoke ordinance – which applies to cannabis
- January 2016 – Amended MHMC 9.16 to prohibit cultivation, manufacturing, delivery services, and dispensaries
- Only Proposition 64 permissible activities are allowed
- Indoor cultivation of six plants and local delivery





BACKGROUND

Voice of Morgan Hill Voters

- Voters in Morgan Hill supported Proposition 64 at 58%
- Voters passed Measure I (Cannabis Tax) at 79%
- Measure I taxes cannabis activities at the following rates:
 - Retail Sales – starting at 6% up to 10%
 - Cultivation – starting at \$10 per square foot up to \$15
 - Manufacturing – starting at 4% up to 10%
 - Testing – starting at 2% and up to 10%



OVERVIEW OF LOCAL REGULATORY PROCESS

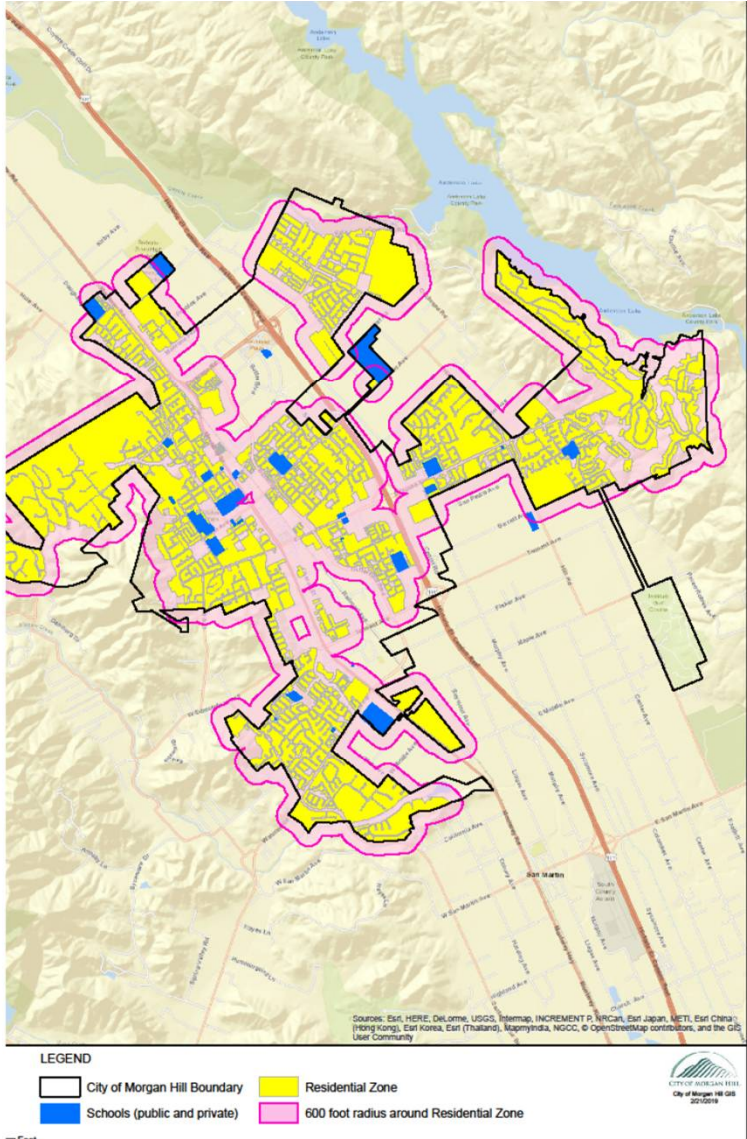
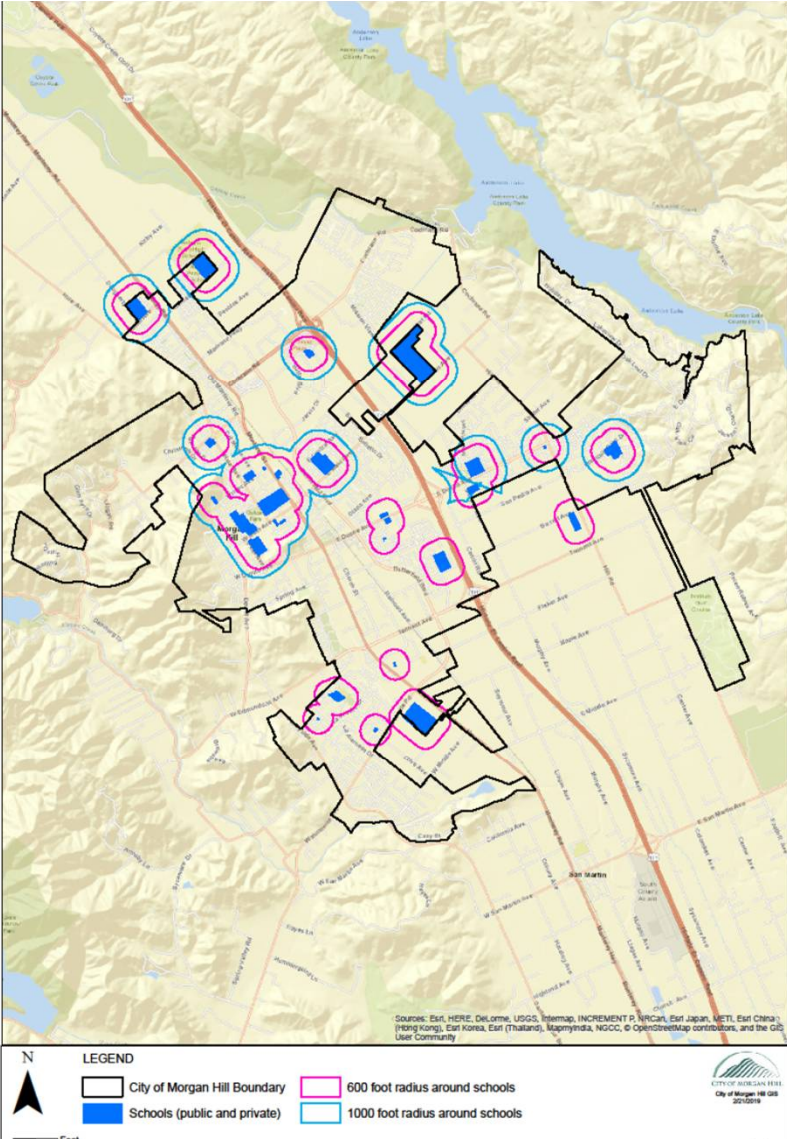
- Goal: Effective Local Control of Cannabis Businesses
- The City can prohibit or regulate any cannabis businesses licensed by the State.
- Examples:
 - Regulation of all permitted activities.
 - Prohibition of outdoor cultivation for commercial and personal use.
 - Prohibition of Type 5 (large) Permits or Microbusinesses
 - Prohibition or additional regulations of a variety of land uses such as distances from sensitive areas.



State Mandated Buffer Zone and Local Rules

- Cities can designate a greater buffer zone than 600 feet, but it should be codified in an ordinance. The state would defer to such rules.
- Per state law, distances must be measured from parcel to parcel, boundary line to boundary line – not structure to structure.





OVERVIEW: PROPOSED REGULATORY ORDINANCE

5.48-XXX: Authority and Purpose, and Intent

5.48.XXX: Definitions

5.48.XXX Cannabis Business Permits Required

5.48.XXX: Application Evaluation Process

5.48.XXX: Maximum Number of Permits and Types Authorized

5.48.XXX: Cannabis Owner and Employee Background Check

5.48.XXX: Fees and Charges

5.48.XXX: Location and Design-Zones and Sensitive Buffers



Cannabis Business Regulatory Program

Highlights

- Program to be run by the Police Chief (or his/her designee)
- Program would provide for a business permit and background check:
 - Cannabis Business Permit
 - Cannabis Owner and Employee Background Check
- The Police Chief (or his/her designee) would implement the Cannabis Business Permit and background check processes





Cannabis Business Regulatory Program

Highlights (continued)

- All cannabis businesses shall be required to comply with all state and local laws and rules, regulations, and standards
- This would include any additional regulations imposed by the Police Chief (or his/her designee)



Cannabis Business Permit

A cannabis business permit issued by the City would be required.

No one may operate a cannabis business in the City without obtaining all three* of the following:

- 1) A valid local Cannabis Business Permit
- 2) A valid State License to operate such a business
- 3) A valid State of California Seller's Permit

* As required by state law.



Application Evaluation Process

This process has three key components:

- 1) Departmental Evaluation
- 2) Public Hearing
- 3) Competitive Evaluation Process



Application Evaluation Process

Competitive Evaluation Process

- This would be conducted if the number of eligible applications for each cannabis activity type exceeds the maximum number allowed under the ordinance.
- Applicants would be scored and ranked by staff/third party which would provide recommendation to the City Council to issue Cannabis Business Permit to the highest ranked, eligible applicants that are deemed to be the best fit to conduct business in the City.



Fees and Charges

- Application, permit, and all other fees would be set by the City Council by Resolution
- Goal would be 100% cost recovery
- No cannabis business permittee could continue operations until/unless fees are timely paid
- Fees, costs or charges imposed under this ordinance shall be deemed a debt to the City of Morgan Hill, recoverable via an authorized administrative process



PERMIT FEES

Permit Fees – Total TBD

- Cost recovery to cover staff time for the City Manager's Office, Finance Department, City Attorney's Office, Police Department, Fire Department, Third-party Reviewer and inspections.
- Applicants pay separate fees by Phase.
- Provisions to allow nominal fee adjustments on a yearly basis to cover general increases.
- Ongoing monitoring and enforcement costs for cannabis businesses would be recovered via separate annual cannabis business permit on a cost-recovery basis would be set by the City Council at a future date.





Limitations on City's Liability

- The ordinance would expressly limit the City's liability, to the fullest extent permissible under the law, with respect to issuing Cannabis Business Permits pursuant to this Chapter, or otherwise authorizing a commercial business to engage in commercial cannabis activity
- Would include a finding by the City Council that the Ordinance is exempt from CEQA which needs to be done by July 1, 2019 under SB 94



REGULATORY ORDINANCE: Details

Regulated Business Environment

- Hours of operation
- Business location
- Signage/advertisement
- Physical security
- Smell, sight, noise
- Reporting requirements
- Employee badge requirements
- Unpermitted construction activity



REGULATORY ORDINANCE: Details

- Vendors and consultants
- Access control requirements
- Law enforcement access
- Record reporting/retention requirements (Track n Trace)
- Investigation and inspection protocols
- Good neighbor policy mitigation
- Suspension, fines, and revocation of the permit
- Criminal background check
- Regulation of deliveries

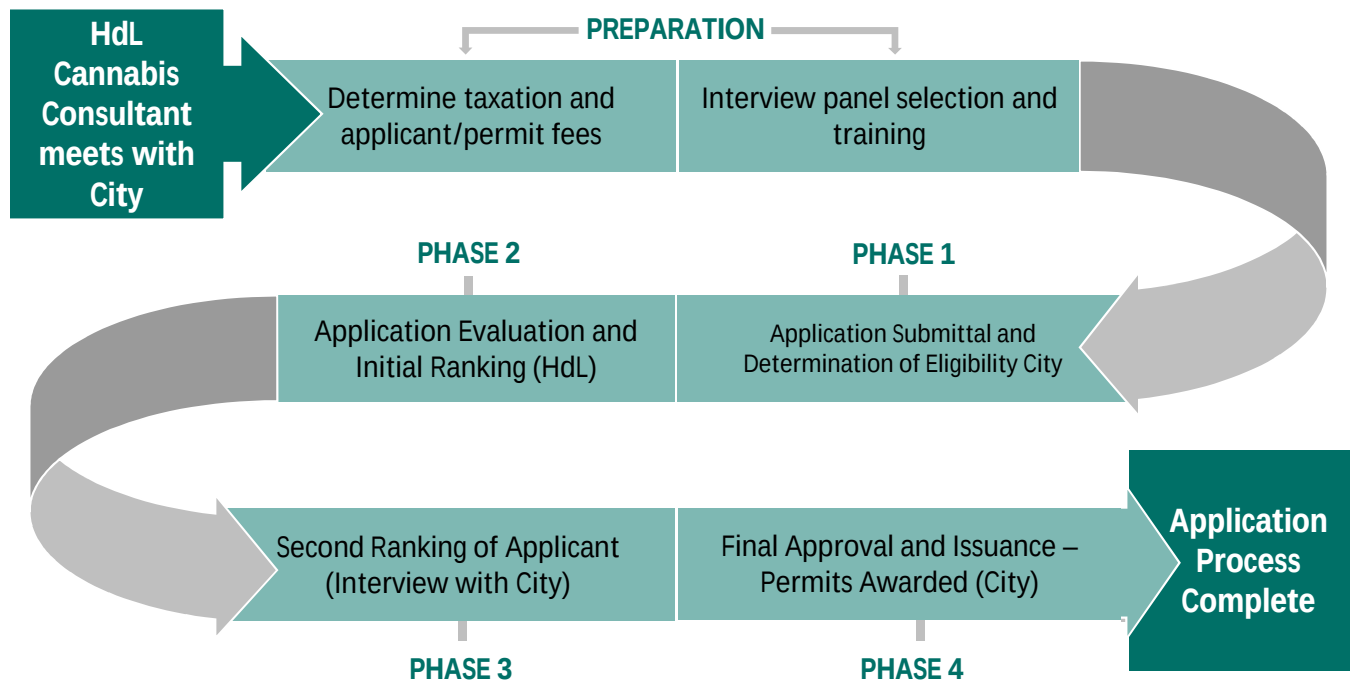


DELIVERY INFORMATION

- Taxation on delivery is covered through apportionment.
- Retailers and Non-Store Front Retailers can no longer be banned from delivering into a local agency.
- A delivery service can only carry up to \$5,000 in cannabis products and cash.
- The value of cannabis goods carried in the delivery vehicle for which a delivery order was not received may not exceed \$3,000.
- Delivery drivers would be required to obtain city permits.

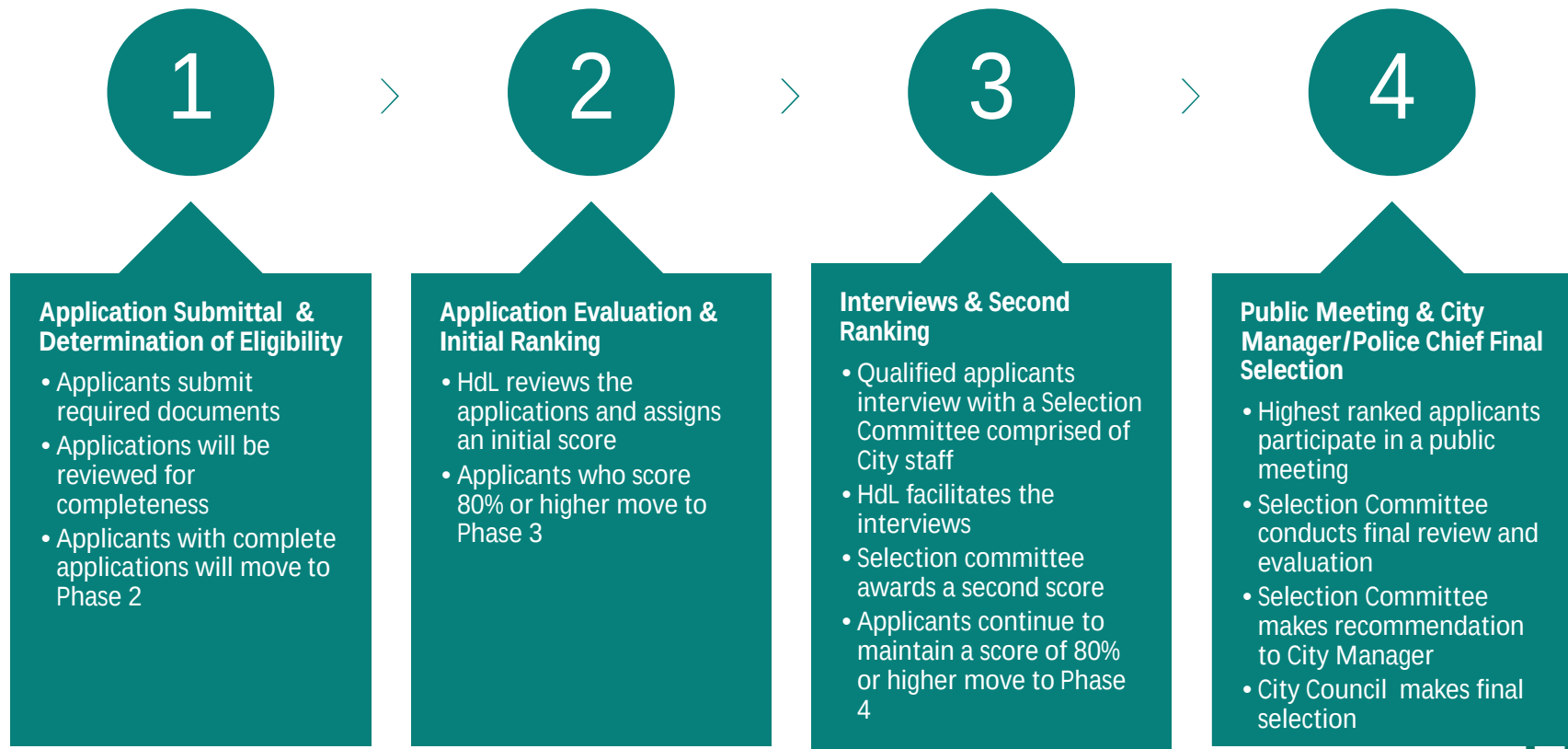


CANNABIS PERMIT APPLICATION PROCESS





CANNABIS PERMIT APPLICATION PROCESS BY PHASE





LOCAL TAX REVENUE PROJECTIONS

Emerging market makes it difficult to assess with total accuracy

Annual Revenue Estimates:

- Very Conservative: \$675,000
- Moderate: \$1,080,000
- Aggressive: \$1,620,000
 - Assumes 2 cultivation facilities with 10,000 sq. feet each of canopy space generating \$4 million gross receipts annually.
 - Assumes 2 manufacturers with an average of \$3 million in gross receipts.
 - Assumes 2 retailers with an average of \$2.5 million in gross receipts.
 - Assumes 2 testing labs with an average of \$2 million in gross receipts.
 - Assumes 2 distribution facilities with an average of \$2 million in gross receipts.





CANNABIS RELATED JOBS

- 8-12 new jobs at each facility
- Wages generally range between \$16.50 - \$30.00 per hour

CANNABIS TOP PAYING POSITIONS



GROW MASTER
(master cultivator)
\$100,000 - \$120,000



EXTRACTION SPECIALIST
(master extractor)
\$90,000 - \$120,000

MARIJUANA
.COM



DISPENSARY MANAGER
\$80,000 - \$120,000

HdL
Companies



BANKING INFORMATION

- What are the current standards for the Cannabis banking industry?
- What is the process for cash business and how is it regulated?
- Do Cannabis facilities accept credit cards?



HOW LONG WILL THE PROCESS TAKE

Estimated Timeline	
February 27, 2019	City Council workshop to provide policy direction
March 1 – March 31, 2019	Regulatory Ordinance and Land Use Ordinance Development
April 1 – April 30, 2019	Design Application Process and Cost Recovery Fees
May 1 – July 1, 2019	Window to Accept Applications
July 8 – August 16, 2019	Application Reviews, Backgrounds and Applicant Interviews
August 28, 2019	Present Staff Report Recommendations to City Council
Sept 9, – October 4, 2019	Award Issuance of Regulatory Permit Pending CUP approval or Operational Agreement



DECISION POINTS/POLICY QUESTIONS

Staff is seeking Council policy direction on the various uses of cannabis – to include desired location and number of uses if allowed.

- Retail/Medicinal Storefront
- Retail/Medicinal Non-storefront
- Cultivation
- Manufacturing
- Distribution
- Testing
- Microbusiness



RETAIL STOREFRONT - DISPENSARY

Should the City adopt an ordinance to allow a retail storefront - dispensary of Cannabis in Morgan Hill? If yes:

- Where?
- How many?
- What size?
- Age Requirement?



RETAIL NON-STOREFRONT/DELIVERY

Should the City adopt an ordinance to allow a retail non-storefront/delivery of Cannabis in Morgan Hill? If yes:

- Where?
- How many?
- Age Requirement?



CULTIVATION

Should the City adopt an ordinance to allow the cultivation of Cannabis in Morgan Hill? If yes:

- Where?
- How many?
- What size?



MANUFACTURING

Should the City adopt an ordinance to allow the manufacturing of Cannabis in Morgan Hill? If yes:

- Where?
- How many?
- What size?
- What type?



DISTRIBUTION

Should the City adopt an ordinance to allow the distribution of Cannabis in Morgan Hill? If yes:

- Where?
- How many?
- What size?
- What type?



TESTING

Should the City adopt an ordinance to allow the testing of Cannabis in Morgan Hill? If yes:

- Where?
- How many?



MICROBUSINESS

Should the City adopt an ordinance to allow a Microbusiness for Cannabis in Morgan Hill? If yes:

- Where?
- How many?
- What size?



Cannabis Policy Workshop

City Council Discussion and Direction



Regulatory Issues Cannabis License Types

CULTIVATION

Description:

Cannabis cultivation is generally divided into four basic categories: outdoor, indoor, mixed light (utilizing both natural and artificial light) and nursery. A combination of these cultivation techniques may occur at a site. Cultivation licenses allow for activities involving planting, growing, harvesting, drying, curing, grading and trimming. Depending on the cultivation method, the size, location, and setting of cannabis cultivation sites could vary. (See Figure A: State License Types and Allowable Growing Area/Quantity)

Figure A: State License Types and Allowable Growing Area/Quantity

State License Category	Allowed Growing Area/Quantity		
	Outdoor	Indoor	
	Natural Light	Artificial Light (A)	Mixed-Light (B) (Natural and
Specialty Cottage (1C)	Up to 25 Mature Plants	Up to 500 sf	Up to 2,500 sf
Specialty (1)	Up to 5,000 sf or 50 Mature Plants	Up to 5,000 sf	Up to 5,000 sf
Small (2)	5,001 - 10,000 sf	5,001 - 10,000 sf	5,001 - 10,000 sf
Medium (3)	10,001 sf – 1 acre	10,001 – 22,000 sf	10,001 - 22,000
Nursery* (4)	Up to 1 acre	Up to 1 acre	Up to 1 acre

Pros and Cons:

Controlling cultivation entails control of the supply of this lucrative product. A number of cities are planning large cultivation operations in anticipation of significant revenue. However, the State of California has to date licensed more than enough cultivation operations to meet current demand, without factoring in the pre-existing illicit operations. For this reason, a glut of cultivation capacity is anticipated. In addition, of all the license types, cultivation tends to generate the most public opposition. Odor, along with energy, water and pesticide use are the concerns most cited. Six years ago, when Colorado licensed their first commercial cannabis businesses, odor was the most common quality of life complaint for local jurisdictions. For this reason, many cities permit indoor cultivation to the extent that commercial cultivation is allowed at all. Key factors are whether sufficient water, electricity, odor control measures and security have been planned for.

Summary of Pros and Cons:

1. Revenue Potential
2. Odor
3. Theft/Criminal activity

4. Use of Water/Electricity
5. Pesticide use
6. Light pollution and light spill onto adjacent properties
7. Anticipated glut of cultivation capacity may limit revenue

Regulatory Considerations:

Since the legalization of commercial cannabis in Colorado and Washington, the cities of Denver and Seattle have created general nuisance odor ordinances that require cannabis businesses to submit an odor control plan. Jurisdictions in California are beginning to follow suit. The plan is used to identify the source of potential odors and the control technologies used to prevent such odors from leaving the licensed premises. The commercial cannabis industry has also made significant effort to increase energy and water efficiency.

Summary of Regulatory Tools

1. Require Odor Control Plans
2. Require Renewable Energy Plans
3. Require a Water Management Plan
4. Restrict visible artificial lighting
5. Require Security Plans
6. Establish distance requirements from sensitive uses, i.e. schools, daycare centers, churches, youth centers, residences, etc.
7. Limit cultivation to indoor only

Regulatory Framework Example:

1. Indoor – Artificial Light Only (warehouse operations)

- a. Allow in industrial zones
- b. Allow Up to 22,000 sq. ft. of canopy space
- c. Prohibit location within 600 ft of sensitive receptor (schools, day cares, youth centers, parks, residential)
- d. Prohibit location within ½ mile from another indoor cultivation operation
- e. Require Odor Control Plan
- f. Require Security Plan
- g. Require renewable energy plan that meets the South Coast Air Quality Management District (SCAQMD) requirements
- h. Require a Water Management Plan

2. Indoor Mixed-Light (greenhouse operations)

- a. Allow in limited agriculture zones
- b. Prohibit Artificial Lighting
- c. Up to 22,000 sq. ft. of canopy space
- d. Prohibit location within 600 ft of sensitive receptor (schools, day cares, youth centers, parks, residential)
- e. Require Odor Control Plan
- f. Require Security Plan
- g. Renewable energy plan that meets the South Coast Air Quality Management District (SCAQMD) requirements
- h. Require a Water Management Plan
- i. Require screened view of cultivation from public right-of-way

DISTRIBUTION

Description:

The Distribution model is a fundamental component of the cannabis supply chain. Under state law, distributors are the only licensed business type that can transport inventory between licensed cannabis businesses. In addition to transporting inventory between licenses, distribution companies will also be responsible for ensuring the examination of inventory at a testing laboratory and the collection of the State's Excise Taxes, before releasing the product to a retailer. Cultivators, manufacturers, and retailers also have the opportunity hold a distribution license as well, provided the distributor's licensed premises are "separate and distinct". This is to ensure that the various administrative privileges and inventory tracking requirements are strictly adhered to. Licensed Distributors will be required to establish comprehensive security measures to ensure the inventory is secured during transit and accounted for with manifest documentation. Distributors will be required to be licensed in a commercial or industrial building, requiring little to no signage or advertisement.

Pros and Cons:

Effective distribution of cannabis and cannabis goods is key to the survival of the regulated market, so distributors will have significant influence. Distribution licensees will be responsible for securing large quantities of inventory, while ensuring it is all properly tested and transported to licensed businesses. Distributors will also be required to collect taxes and will be expected to verify compliance with state packaging and labelling requirements. Inventory tracking and money handling are potential issues that will have to be addressed through regulatory oversight, due to the predominantly all-cash nature of the industry.

Summary of Pros and Cons:

1. Adequate security and control of inventory while being stored on-site
2. Adequate security and control of inventory while inventory is being transported
3. Cash handling procedures and availability to banking
4. Expertise in product movement required
5. Responsibility for checking packaging and labelling requirements
6. Responsibility for collecting state excise tax
7. Responsibility for collecting state cultivation tax

Regulatory Framework Example:

1. Allow in Industrial zones
2. Prohibit location within 600 ft of sensitive receptor (schools, day cares, youth centers, parks)
3. Require the entire distribution facility to be designated as a limited access facility, preventing visitor, contractors or non-employees from entering without an escort by a designated manager
4. Inspect and approve the safe, vault or secured room prior to issuance of license
5. Require that all vehicles used to transport inventory be equipped with GPS
6. Require that a computer-generated manifest occur prior to the transportation of inventory
7. Prohibit non-authorized employees within vehicles during deliveries to licensed businesses
8. Require that inventory should be locked and secured in an approved case, safe or cabinet, including when in transit
9. Require that all employees be subject to a criminal background check

MANUFACTURING

Description:

The Department of Public Health (DPH) defines Manufacturing as “all aspects of the extraction and/or infusion processes, including processing, preparing, holding, storing, packaging, or labeling of cannabis products”. Manufacturing also includes “any processing, preparing, holding, or storing of components and ingredients”. Manufacturing licenses are separated into two categories based upon the type of solvent used: Type 6 Manufacturing using non-volatile solvents, such as cold water, heat press and CO₂; and Type 7 Manufacturing using volatile solvents such as butane, propane and ethanol. Licensed cannabis manufacturing facilities are typically located in non-descript commercial buildings and require little to no signage or advertisement. As required by state law, manufacturers are expected to use professionally engineered, industrial hygienist-certified, closed-loop extraction equipment specifically designed to prevent any volatile solvents from being released into the atmosphere. When used by a trained extraction technician, the process is intended to be safe and environmentally responsible.

Infused products and edibles manufactured in these types of facilities are the fastest growing products in the cannabis industry. Currently, edible sales account for 47% of cannabis inventory sold, and that is expected to increase. For example, in Colorado, 63% of cannabis sales are derived from edible cannabis products.

Pros and Cons:

Manufacturing will likely be one of the most important licensed activities, since current use trends indicate that a growing number of users are not smoking cannabis, but rather consuming it in the form of edibles, oils, creams, tinctures, sprays and vaping. This means the demand for these manufactured products will be both high and sustained. Building and employee safety during extraction processes is a critical concern, as well as compliance with state requirements for the now legal form of butane extraction authorized as of 2016. Additionally, mechanisms preventing large quantities of unsecured inventory being removed from the licensed premises by employees will have to be devised.

Summary of Pros and Cons:

1. Manufacturing will be a key activity based on current use trends
2. Large quantities of volatile gases and industrial solvents are stored on-site
3. Diversion to the black market, often resulting from product theft by employees
4. Health and safety concerns: Products that are adulterated, or contaminated with mold, bacteria or pesticides, are harmful to consumers
5. Administrative holds and product recalls are resource intensive and time-consuming
6. Rigorous compliance with new laws critical to employee safety and continued ability to operate

Regulatory Considerations:

As required by state law, the use of professionally engineered, industrial hygienist inspected, and certified, closed-loop extraction equipment is intended to increase building and employee safety. It should be further required that all extraction activities take place in a room solely dedicated to the extraction process. If volatile gases are being used, the room must be constructed to meet National Fire Protection Association (NFPA) C1-D1 hazardous location classifications. In addition, all waste shall be disposed of in a manner so that it cannot be detected or used for any other purpose.

Regulatory Framework Example:

1. Allow in light Industrial and manufacturing zones
2. Prohibit location within 600 ft of sensitive receptor (schools, day cares, youth centers, parks)
3. Prohibit locations within 300 feet of residential properties
4. Require extraction room construction meet C1, D1 classification
5. Require installation of fire suppression systems and flammable gas detection devices
6. Require notification of any change to product line and use of extraction solvents
7. Require all extraction equipment be inspected by an industrial hygienist
8. Require all extraction technicians be trained and certified
9. Include required food handling safety training in Employee handbook
10. Require the establishment of clearly defined administrative hold and product recall procedures
11. Require that all employees be subject to a criminal background check
12. Require proper disposing of all waste per state law

MICROBUSINESS**Description:**

The Microbusiness is the newest and most complex license to be issued by the State. This type of license will be allowed to conduct cultivation of cannabis on an area of less than 10,000 square feet of canopy space and act as a licensed distributor, Level 1 manufacturer and retailer. The State will generally require microbusinesses to comply with standards applicable to cultivators, distributors, manufacturers and retailers, which means the City will have to take these activities into consideration when deciding on the appropriate zoning. The Microbusiness model was designed to create opportunities for small business owners to enter the cannabis market. Additionally, the model further helps social equity issues as they relate to economic and technical barriers. If efficiently run, the vertically integrated model of a microbusiness can be very profitable, as it reduces the overhead cost of operating multiple locations and paying various levels of taxes on the same product they own. The down side to the microbusiness model is that, if a business owner is unable to successfully manage all segments of the supply chain, they could ultimately become a compliance liability and a higher risk of failure, especially if they have no previous experience running a cannabis business in a regulated market.

Pros and Cons:

In this new era of regulation, many small cannabis operators fear they will be driven out of business by larger competitors. For those able to transition to a regulated market, the microbusiness is a license category that may compatible with their business model and assure their survival. This license type can also ease the burden of local regulation, since it is a model that tends to favor both vertical integration and location of all means of production at a single site. Microbusinesses incorporate multiple commercial cannabis business activities. As such, they will have to comply with standards applicable to cultivators, distributors, manufacturers and retailers. Because of the various activities that take place under one roof, local licensing agencies will have to consider the appropriate zoning, buffering and setbacks for microbusinesses. Microbusinesses will experience the same concerns and potential issues as the other stand-alone licensees. One of the most concerning issues with microbusinesses is the control of the inventory as it flows throughout the internal supply chain. Other states have experienced inventory control problems at locations that have multiple licenses under one roof.

Summary of Pros and Cons:

1. Microbusiness licensees must conduct at least three of the four following commercial activities:
 - a. Cultivation (Less than 10,000 sq. ft.)
 - b. Manufacturing (Level 1, Type 6)
 - c. Distribution
 - d. Retail
2. Appealing business model to small operators
3. Effective regulation requires knowledge of requirements of multiple license types
4. Appropriate zoning may be more challenging with this license type
5. Licensee must comply with all the rules and regulations that apply to the activities they are conducting

Regulatory Considerations:

A microbusiness license should incorporate all the mitigation measures listed for the other licenses. Robust security and inventory tracking should be the priority when establishing regulatory ordinances, as well as the review and approval of business plans.

Regulatory Framework Example:

1. Allow in Mix-Use, Light Industrial, Commercial zones
2. Allow only Indoor – Artificial Light only operations
3. Allow up to 10,000 sq. ft. of canopy space for cultivation
4. Prohibit location within 600 ft of sensitive receptor (schools, day cares, youth centers, parks)
5. Require all inventory (including edibles and concentrates) to be locked and secured in a safe, vault or secured room when the business is closed.
6. Standard Operating Procedures should require that all employees receive ongoing point of sale and inventory tracking data entry training
7. Limit the amount of inventory on display to the equivalent of two days sales (increases inventory accountability and reduces volume of odor)
8. Require the business to assign one individual to the position of inventory manager
9. Require that all inventory and sales transactions be reconciled by end of business
10. Consider security by environmental design when reviewing and approving site plans
11. Require that all employees be subject to a criminal background check
12. Require the entire distribution facility to be designated a limited access facility, preventing visitor, contractors or non-employees from entering without an escort by a designated manager
13. Inspect and approve the safe, vault or secured room before issuance of license
14. Require that all vehicles used to transport inventory should be equipped with GPS
15. Require that a computer-generated manifest occur prior to the transportation of inventory
16. Prohibit non-authorized employees within vehicles during deliveries to licensed businesses
17. Require that inventory should be locked and secured in an approved case, safe or cabinet, including when in transit
18. Require Odor Control Plan
19. Require Security Plan
20. Renewable energy plan that meets the South Coast Air Quality Management District (SCAQMD) requirements
21. Require a Water Management Plan
22. Limit visible artificial lighting
23. Require extraction room construction meet C1, D1 classification
24. Require installation of fire suppression systems and flammable gas detection devices

25. Require notification of any change to product line and use of extraction solvents
26. Require all extraction equipment be inspected by an industrial hygienist
27. Require all extraction technicians be trained and certified
28. Include required food handling safety training in Employee handbook
29. Require the establishment of clearly defined administrative hold and product recall procedures
30. Require that all employees be subject to a criminal background check
31. Require proper disposing of all waste per state law

RETAIL

Description:

As defined by the Bureau of Cannabis control, a Cannabis Retailer is a person licensed to sell cannabis goods to customers as “a retailer, microbusiness, or nonprofit.” The retail component of the supply chain is by design the most visible segment of the commercial cannabis industry. As such, retail sales locations have been subject to the most scrutiny. Retail sales locations should be thoughtfully zoned, designed, and constructed in a manner that is suitable for the neighborhood to create the least amount of impact on the surrounding businesses and neighborhood.

In addition to being highly visible to the public, the retailer is at the end of the cannabis supply chain and thus where the inventory is under the most stringent control. The final product has been tested, packaged, labeled and accounted for down to the gram. Also, retailers tend to employ the fewest number of staff members and have the highest rate of employee retention among the license types such as cultivation or manufacturing. Under robust security measures and accessible to the fewest number of employees, there is generally very little theft from a retail sale establishment. In the six years that Colorado has been overseeing commercial cannabis activities, there have only been 8 reported violent crimes at retail sales locations.

Based on the current demand for retailer locations (dispensaries), retail locations can generate substantial revenues compared to other retail establishments within jurisdictions. For example, cannabis retailers currently generate on average \$933 per square foot, which exceeds other retail stores such as Whole Foods (\$903), Walgreens (\$720), Wal-Mart (\$446), The Gap (\$334), Kohl’s (\$228) and Dick’s Sporting Goods (\$184). A reason for this that most retail stores take up much more space than dispensaries, cannabis retailers stock a lot of product into a relatively small amount of space, and the average price point for marijuana is attractive to consumers.

Pros and Cons:

When Colorado and Washington licensed their first commercial cannabis retail outlets, very little thought was given to their location. Shortly thereafter local agencies started experiencing a high concentration of cannabis activity in certain neighborhoods. While it is difficult to develop the right formula, well defined buffers, minimum distance requirements, and preventing oversaturation by limiting the number of permits should be considered when designing an ordinance. A well-regulated retail business with an appropriate tax measure in place can potentially net revenue for a city in the low millions, depending on a number of factors, including regional competition. The all-cash nature of retail outlets poses public safety hazards to employees, as well as challenges for the city in capturing an accurate accounting of all sales as well as sales tax revenue, assuming the existence of a local tax measure. Heightened security

measures such as interior and exterior video surveillance and security guards may be advisable, since customers may also be at risk while entering and leaving the premises.

Summary of Pros and Cons:

1. Control volume of inventory on display at any given time
2. Point of sales and inventory control data must be entered by employees properly
3. Poorly trained employees create inventory tracking problems
4. Significant revenue potential if well-regulated and taxed at appropriate level
5. Combination of all-cash business and significant product on site pose public safety hazard for employees and customers alike
6. Non-Store Front Retail could generate revenue without having traditional store fronts

Regulatory Considerations:

Although inventory is accounted for down to the gram, robust inventory tracking requirements should be required and strictly enforced to mitigate employee theft. Robust inventory control measures should be considered in order to increase accountability and deter diversion.

Regulatory Framework Example:

1. Allow in Commercial zones
2. Prohibit location within 600 ft of sensitive receptor (schools, day cares, youth centers, parks)
3. Require all inventory (including edibles and concentrates) be locked and secured in a safe, vault or secured room when the business is closed
4. Require that the Standard Operating Procedures provide ongoing point of sale and inventory tracking data entry training to all employees
5. Limit the amount of inventory on display to the equivalent of two days sales (increases inventory accountability and reduces volume of odor)
6. Require the business to assign one individual to the position of inventory manager
7. Require that all inventory and sales transactions be reconciled by end of businesses
8. Consider security by environmental design when reviewing and approving site plans
9. Require that all employees be subject to a criminal background check

TESTING LABORATORIES

Description:

As defined by the Bureau of Cannabis Control, Cannabis Testing Laboratories will be required to perform testing on cannabis goods to measure: cannabinoids, foreign material, heavy metals, microbial impurities, mycotoxins, moisture content and water activity, residual pesticides, residual solvents and processing chemicals and terpenoids. Additionally, edible cannabis products that contain more than one serving per unit will be tested for homogeneity to endure consistent concentrations of tetrahydrocannabinol (THC) or cannabidiol (CBD). Upon completion of the test, the laboratory will generate a certificate of analysis that contains the results of the testing and whether the tested batch passed or failed.

Testing laboratories are required to develop and implement a quality assurance program that is sufficient to ensure the reliability and validity of the analytical data produced by the laboratory. Testing requirements will be phased in throughout 2018. Testing laboratories will be required to test cannabis

goods for both A-licenses and M-Licenses. Owners of a testing laboratory are prohibited from conducting other commercial cannabis activities.

Concerns/Potential Issues:

Testing labs pose the fewest public safety challenges because they have so little cannabis on the premises compared to other license types that they are far less likely to attract criminal activity, or to become a source of diversion. Testing lab operators are prohibited by law from operating or having an ownership interest in any other license category. However, because testing labs are critical to enforcing the state's health and safety standards, they must have both rigorous chain-of-custody protocols and testing equipment that can consistently comply with state standards.

Summary of Concerns and Issues:

1. Adequate security and control of inventory while being stored on-site
2. Adequate security and control of inventory while inventory is being transported
3. Cash handling procedures and availability to banking
4. Periodic compliance checks for adherence to state standards for testing equipment

Regulatory Considerations:

Testing Laboratories should incorporate all the mitigation measures listed for the other licenses. Robust security and inventory tracking should be the priority when establishing regulatory ordinances, as well as the review and approval of business plans.

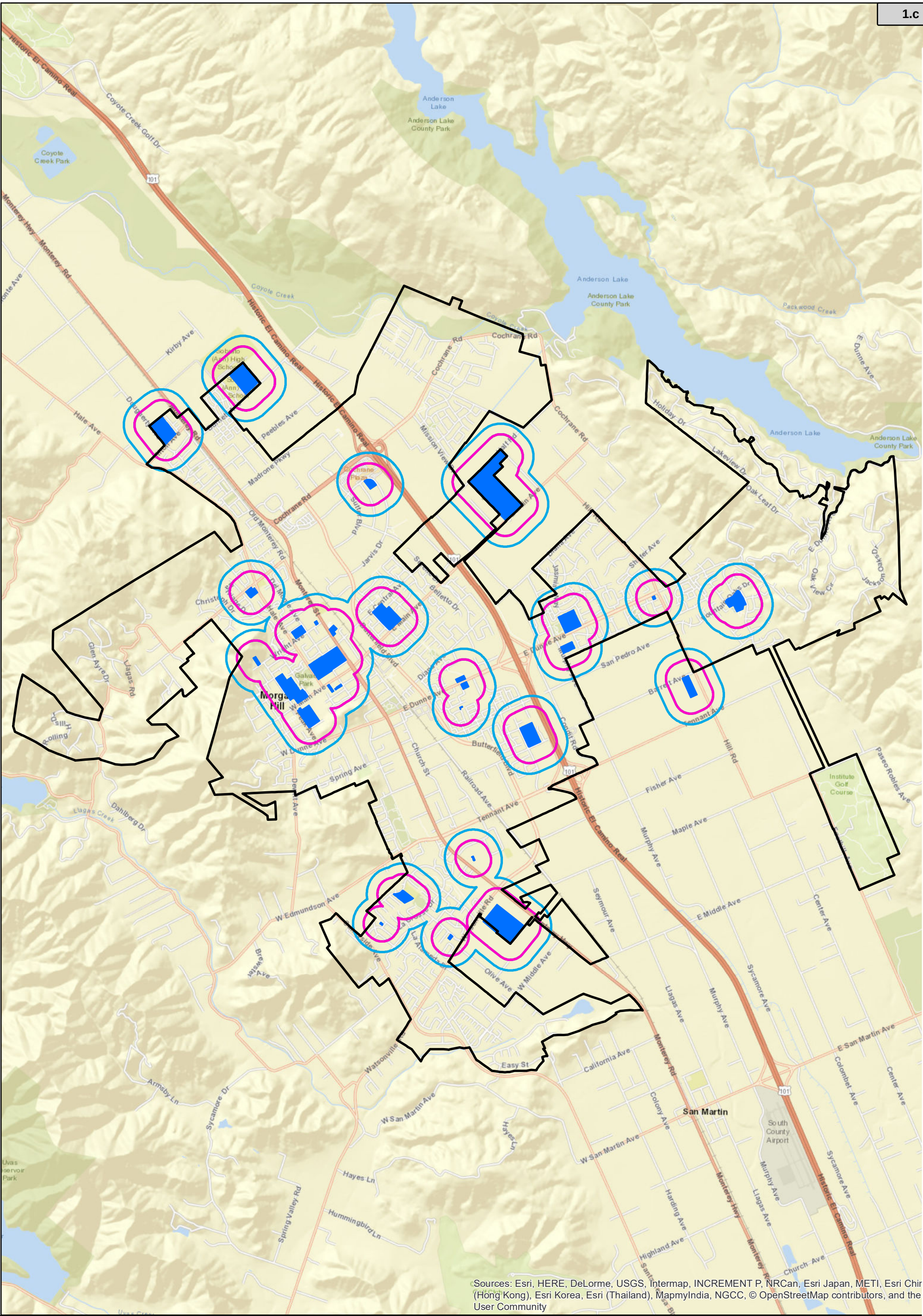
Regulatory Framework Example:

1. Allow in Light Industrial and Manufacturing zones
2. Prohibit location within 600 ft of sensitive receptor (schools, day cares, youth centers, parks)
3. Require the entire testing laboratory facility be designated as a Limited-Access facility, preventing visitor, contractors or non-employees from entering without an escort by a designated manager
4. Inspect and approve the safe, vault or secured room prior to issuance of license
5. Require that cannabis goods be locked and secured in an approved locked and secured room vault or safe when being stored
6. Require that all employees be subject to a criminal background check

The two maps included are examples of:

A 600-foot and 1000-foot buffer zone (comparison) from all schools located in Morgan Hill.

A 600-foot buffer zone from all residential locations in Morgan Hill.



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri Chir (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the User Community

N

LEGEND

	City of Morgan Hill Boundary		600 foot radius around schools
	Schools (public and private)		1000 foot radius around schools

Feet

0 1,000 2,000

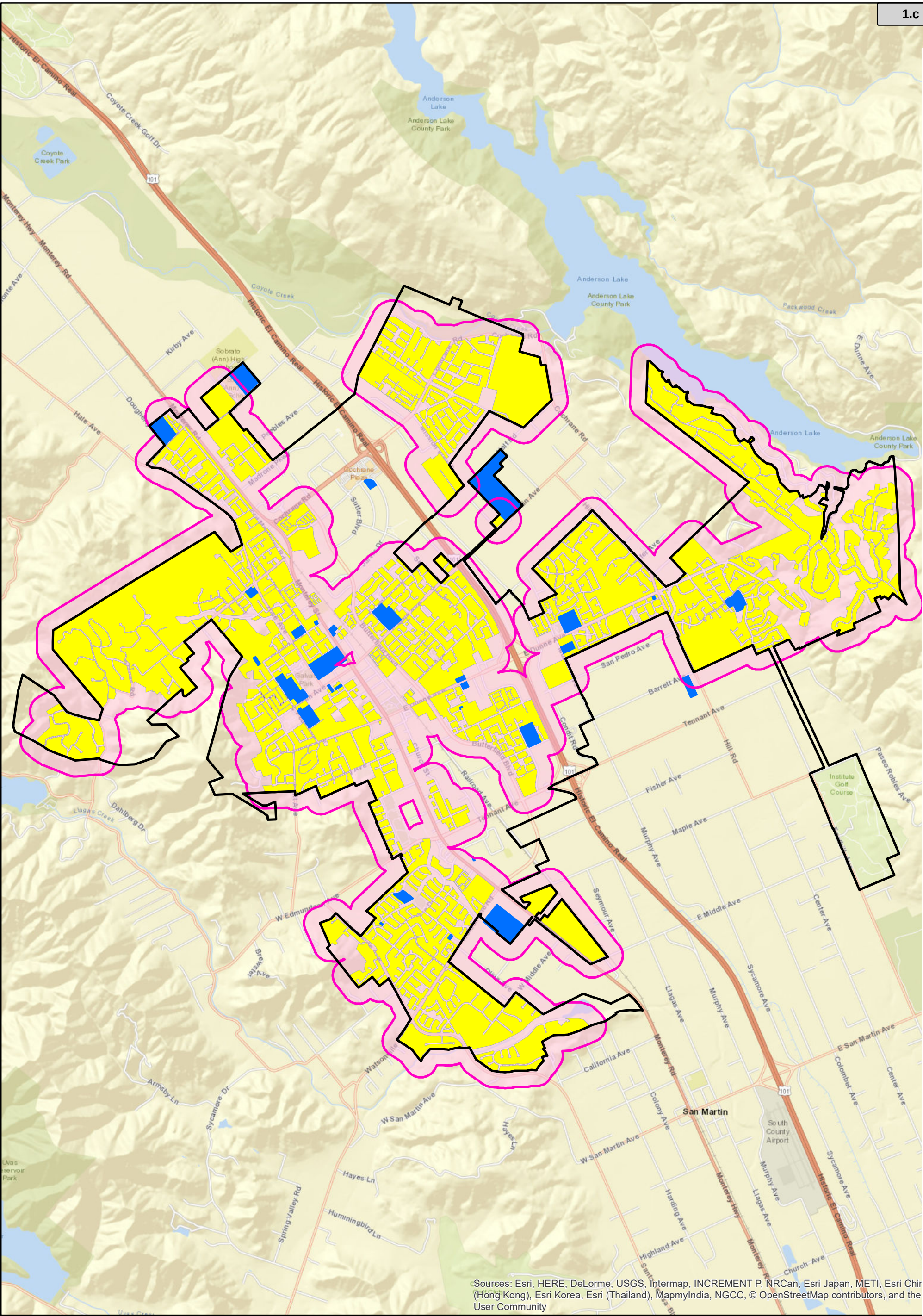
Miles

0 0.5 1

CITY OF MORGAN HILL
City of Morgan Hill
2/21/2019

600 foot and 1,000 foot radius around Schools

Packet Pg. 51



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri Chir (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the User Community

N

0 1,000 2,000 Feet

0 0.5 1 Miles

City of Morgan Hill Boundary

Schools (public and private)

Residential Zone

600 foot radius around Residential Zone

CITY OF MORGAN HILL
City of Morgan Hill
2/21/2019

600 foot radius around Residential Zone

Packet Pg. 52

Example Ordinances:

The City of Mountain View is currently proceeding with the adoption of an ordinance which includes two Storefront Retail (Dispensary) locations and two Non-Storefront Retail (Delivery).

The City of Grover Beach ordinance allows for a 12-permit cap (four Retail, four Manufacturing, and four cultivation).

The Union City ordinance allows four permits of each type. They went through a similar process as is included in the presentation.

ORDINANCE NO. 10.18

AN ORDINANCE REPEALING CHAPTER 9, ARTICLE IV
REGARDING MEDICAL MARIJUANA DISPENSARIES AND REPLACING IT
WITH A NEW CHAPTER 9, ARTICLE IV REGARDING CANNABIS BUSINESSES

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. Chapter 9, Article IV, of the Mountain View City Code is hereby repealed in its entirety and replaced by a new Chapter 9, Article IV, regarding cannabis businesses, to read as follows:

**"ARTICLE IV.
CANNABIS BUSINESSES.**

SEC. 9.90. Findings and purpose.

This ordinance is adopted to establish procedures to regulate operations of cannabis businesses in the City of Mountain View consistent with, and in furtherance of Chapter 36, Article IX of the Mountain View city code which establishes a zoning regulatory framework for cannabis businesses, and Chapter 43 of the Mountain View city code which establishes a cannabis business tax.

In accordance with state requirements for cannabis businesses to obtain city approval in order to obtain a state license, the city desires to create a registration system for certain cannabis-related businesses and to promulgate rules and regulations of cannabis businesses. It is the city's intent to register cannabis businesses in an orderly and transparent manner to eligible applicants according to the requirements of this article and applicable rules and regulations, and to mitigate the negative impacts brought by unregulated cannabis businesses, as well as to provide regulations to protect consumers from being vulnerable to the dangers inherent in ingesting and using a substance that was not subject to basic rules of safety for ingestible substances, and to hold businesses accountable to practices that protect consumers, as well as minimize potential adverse impacts and safety concerns to cannabis businesses, neighbors and the public at-large.

SEC. 9.91. Definitions.

The following definitions shall apply to this chapter:

a. **"Cannabis"** means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica* or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. "Cannabis" also means cannabis as defined by Business and Professions Code Sec. 26001, subdivision (f), Health and Safety Code Sec. 11018, and by other state law. For purposes of this chapter, "cannabis" and "marijuana" will be used interchangeably.

b. **"Cannabis business"** means the activity of any natural or legal person, business or collective in the city relating to cannabis, including, but not limited to, transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery and sales (including both wholesale and retail sales) of cannabis, cannabis products or any accessories for the use of cannabis or cannabis products, whether or not carried on for gain or profit, whether for medical or recreational use and whether or not such business is licensed by the state. A

cannabis business does not include any business the only relationship of which to cannabis or cannabis products is the production or sale of cannabis accessories.

c. **“City manager”** means the city manager of the City of Mountain View or his/her designee.

d. **“Delivery”** means the transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.

e. **“Employee”** means any person who renders any service to the cannabis business, including, but not limited to, an employee, independent contractor or volunteer.

f. **“Location”** means the lot or parcel or portion of a lot or parcel that is used by a cannabis business, dispensary or distribution facility.

g. **“Manager”** means an individual who, directly or indirectly, is engaged in the management of a cannabis business as may be evidenced by the individual being responsible for the cannabis business, organization, registration, supervision or oversight of the operation of the cannabis business and/or its employees, which oversight may include, but not be limited, to the following: performing the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, treasurer, supervisor or manager.

h. **“On-site designated representative”** means a manager that is designated by the cannabis business to be present, and who is present, at all times during the cannabis business’s hours of operation.

i. **“Owner”** means any person having more than a ten percent (10%) interest, legal or equitable, or otherwise, in a cannabis business.

j. **“Person”** means, without limitation, any natural individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, receiver, syndicate or other group or combination acting as a unit and includes the plural as well as the singular number.

k. **“Police chief”** means the Mountain View police chief or his/her designee.

l. **“Premises”** means each building or the portion of any building, on the location, where the cannabis business is located, including any site.

m. **“Rules and regulations”** means the City of Mountain View Rules and Regulations for Cannabis Business Procedures meant to implement and aid in the administration of this article, which are established by the police chief.

n. **“Transport”** means all activity involved in the movement of cannabis from one (1) location to another, including, but not limited to, loading, shipping and receiving. Transport does not include delivery to a qualified patient, caregiver or individual cannabis user age twenty-one (21) or older.

SEC. 9.92. Authority of the police chief.

a. It shall be the duty of the police chief to administer the provisions required by this chapter.

b. The police chief may, from time to time, promulgate such regulations and administrative guidelines consistent with the purpose, intent and terms of this chapter

as he or she deems necessary to implement or clarify it to aid in its enforcement. A copy of any such rules, regulations and administrative guidelines shall be on file and available for public examination in the police department and posted to the city's website.

c. The police chief may take such administrative actions as needed to administer the requirements of this chapter, including, but not limited to:

1. Registration, review, investigation, priority order and disqualification process for the cannabis businesses and forms necessary thereto.
2. Internal or external security requirements for the operation of the cannabis businesses.
3. Storage or display of cannabis.

SEC. 9.93. Registration requirements for cannabis businesses, and cannabis business owners, managers and employees.

a. **Cannabis business registration.** No person shall establish, operate or maintain a cannabis business within city limits without first obtaining from the police chief, and maintaining in effect, a notice of completed registration. It is unlawful to operate, establish or maintain a cannabis business while the cannabis business registration issued for such business has been suspended or revoked or has expired.

b. **Cannabis business owner, manager and employee registration.** No person shall participate in the ownership, management or operations of a cannabis business within city limits without first obtaining from the police chief, and maintaining in effect, a notice of completed registration. It shall be unlawful for a person to be an owner, manager or employee of a cannabis business or participate in the registered cannabis business unless the person obtains a notice of completed registration issued by the police chief.

SEC. 9.94. Applications for cannabis business registration.

a. **Submittal of cannabis business registration application.** After a proposed cannabis business obtains a valid Conditional Use Permit per Division 21 of Chapter 36 of the city code, each owner of a cannabis business shall file a written application with the police chief, on a form provided by the city, which contains information as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

b. **Submittal of cannabis business owners, managers and members registration application.** Each person participating in the ownership, managing or operations of a registered cannabis business within city limits shall file a written application with the police chief, on a form provided by the city, which contains information as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

c. **Other required information.** Applicants shall also submit other related information requested by the police chief in order to evaluate the background and qualifications of the applicant for registration.

d. **Payment of fees.** At the time of filing an application for registration, the applicant shall pay any applicable fee in an amount established by council resolution.

e. **Processing of application; Investigation.** Upon receipt of an application for registration, the police chief shall review the application and supplementary material

required by the city. If it is clear from the face of the application and supplementary materials that the applicant is not qualified for registration, the application may be disqualified without further investigation. If it appears from the face of the application and supplementary material that the applicant may be eligible for the registration sought, the police chief shall verify the information submitted by the applicant and shall further investigate the qualifications of the applicant as follows:

1. **Photographs/fingerprints/review of criminal history.** The police chief shall photograph the applicant and take a full set of the applicant's fingerprints and shall submit the fingerprints to the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) for evaluation. Upon receipt of the report from the DOJ and the FBI, the police chief shall review the criminal history (if any) of the applicant.

2. **Investigation of location and premises of cannabis business.** Upon receipt of an application for a cannabis business registration, the police chief shall refer the application to the city's community development department, who shall refer the application to the appropriate city departments to review the project for compliance with the city's zoning code, building code, fire safety standards and any other applicable city codes.

3. **Additional investigation.** The police chief may conduct additional investigation in a manner authorized by law when necessary to determine whether the applicant meets the qualifications for registration pursuant to this article.

SEC. 9.95. Grant or disqualification of application for registration.

a. **Time for grant or disqualification of applications.** The police chief shall grant or disqualify the application for registration within sixty (60) calendar days of the applicant's submission of the application and all required supplementary material. When necessary to conduct a complete investigation of an application, the police chief may extend this time to ninety (90) calendar days.

b. **Provisional approval of registration of managers and employees.** The police chief may grant provisional approval for a person's registration following initial review of the applicant's criminal history and pending completion of any additional investigation. The provisional approval is only valid until the registration is granted or disqualified.

c. **Grounds for disqualification from registration.** The police chief shall disqualify an application for a registration if any of the following circumstances exist:

1. The application is incomplete and/or required supplementary materials are not submitted on a timely basis;
2. The applicant denied the police chief or any other city official charged with enforcing the provisions of this code reasonable access to conduct an inspection, investigation or audit as provided for in this chapter;
3. The operation of the cannabis business at the proposed site would violate the city's zoning, building or fire regulations, or other provisions of the city code;
4. The applicant has previously had a cannabis business registration or similar license, or registration revoked by the city or any other public agency;

5. The applicant has made a false, misleading or fraudulent statement or omission of fact in his/her application or other materials submitted with the application;

6. The cannabis business violates or has violated the terms and conditions of any requirement of this code related to the operation of a cannabis business, other than solely because of its existence after the effective date of this chapter;

7. The cannabis business or any one (1) of its owners or managers have owned or leased a location or premises that has been the subject of an administrative, civil or criminal nuisance abatement action and court judgment or administrative determination finding the location or premises to be a nuisance within the past five (5) years;

8. The applicant was disqualified from the registration process under this chapter on one (1) or more of the grounds provided in this section within five (5) years prior to the date of the current attempt to register;

9. The cannabis business's registration, permit, license or any other authorization issued by the city or by any state or local agency and required to operate a cannabis business has been deemed null and void or has been suspended or revoked or otherwise nullified within the past five (5) years;

10. The cannabis business has conducted itself in a manner that creates or results in a public nuisance;

11. If the cannabis business is a corporation, the corporation is not in good standing or authorized to do business in the state;

12. The cannabis business fails to maintain a license issued by the State of California pursuant to Division 10 of the Business and Professions Code and the California Code of Regulations as currently defined or as may be amended;

13. The cannabis business conducted, conducts or anticipates conducting a cannabis business on a location or premises and such operation is prohibited under the terms of the lease for the location or premises or under the terms of another such document which memorializes the cannabis business's right to possess the location or premises;

14. The cannabis business has as an owner, manager or has individual members or persons participating in the processing, manufacturing, transporting or dispensing of cannabis, who holds office in, or is employed by, any agency of the State of California and any of its political subdivisions, including the city, when the person's duties include the enforcement and regulation of cannabis businesses or any other penal provisions of law of the State of California prohibiting or regulating cannabis businesses.

15. The applicant has a conviction that is substantially related to the qualifications, function, or duties of the business, to include:

i. A conviction of illegal volatile cannabis manufacturing under Health and Safety Code Section 11379.6 for a period of five (5) years from the date of conviction.

ii. A conviction of violating any law involving distribution of cannabis to minors for a period of five (5) years from the date of conviction.

iii. A conviction of conducting any illegal cannabis activity for a period of five (5) years from the date of conviction.

iv. A conviction of violating any State or local law involving distribution or sales of tobacco or alcohol to minors for a period of five (5) years from the date of conviction.

v. A violent felony conviction as defined in California Penal Code Section 667.5, a serious felony conviction as defined in California Penal Code Section 1192.7 or a felony conviction for violating any law involving violent crimes, sex trafficking, rape, crimes against children, gun crimes or hate crimes for a period of twenty (20) years from the date of conviction or completion of a term of imprisonment, supervised release or probation imposed as a sentence for the conviction, whichever is later.

vi. A conviction for a crime involving fraud, deceit, or embezzlement for a period of five (5) years from the date of conviction.

vii. The police chief may determine that a person may be disqualified due to previous noncannabis drug felonies.

viii. A conviction of violating any state or local law involving wage or labor for a period of five (5) years from the date of conviction.

ix. The police chief should base the determination of disqualification using the Criteria for Rehabilitation as described in Title 16, Division 42, Chapter 1, Article 3, Section 5017 of the State of California Code of Regulations.

d. **Notice to applicant of grant or disqualification of application.** The police chief shall give written notice to the applicant of the grant or disqualification of the application for registration by certified mail or in-person delivery. If the application is disqualified, the notice shall advise the applicant of the reasons for the disqualification and of his/her right to appeal the decision to the police chief through the procedures set forth in subsection (e) below.

e. **Appeal of denial of registration to city manager.** Upon the disqualification of an application for registration by the police chief, the applicant may appeal to the city manager through the following procedures:

1. **Request for appeal hearing.** The applicant shall file a written request for an appeal hearing, which states the specific grounds on which the decision of the police chief to disqualify the registration is contested, with the city manager's office within five (5) business days of the delivery of the police chief's decision to the applicant at the most recent home or business address on file with the police department or within ten (10) business days of service of the police chief's decision in the United States mail by certified mail.

2. **Notice of time and place of hearing.** Upon receipt of a timely request for an appeal hearing, the police chief shall notify the applicant in writing of the date, time and place of the hearing before the city manager, which shall not be less than five (5) business days after the service of such written notice on the applicant by in-person delivery at the most recent home or business address on file with the city or ten (10) business days after the deposit of the notice in an envelope addressed to the applicant in the United States mail by certified mail.

3. **Hearing before city manager.** At the hearing, both the applicant and the police chief shall have the right to appear and be represented by counsel, and to present

evidence and arguments relevant to the grounds on which the decision to disqualify the application is appealed. The burden of proof shall be on the applicant to show that he/she meets the qualifications for registration and is entitled to the granting of such registration.

4. **Decision of city manager.** Within ten (10) business days of the hearing, the city manager shall issue a written decision which states whether the decision to disqualify the application is upheld or reversed, and the reasons for this determination. The decision shall be served upon the applicant by in-person delivery or by certified mail. The decision of the city manager shall be final.

SEC. 9.96. Effect of completed registration – No vested right.

A registration deemed completed by the police chief is merely an acknowledgement of the cannabis business's compliance with the registration requirements of this chapter, and its ability to assert an affirmative defense to civil and criminal enforcement of the Mountain View city code based solely upon conduct which is in strict compliance with the provisions of this chapter. A completed registration does not grant the cannabis business any right to operate in the city. Any cannabis business submitting a registration form should have no expectation that a registration will ultimately be deemed complete, nor that once so deemed, that its registration will continue.

SEC. 9.97. Business license.

It is unlawful for any person to open or operate a cannabis business without obtaining and maintaining in effect a city business license.

SEC. 9.98. Operating requirements for cannabis businesses.

Unless otherwise specified herein, all cannabis businesses shall comply with the following operational requirements. The provisions of this part shall constitute terms and conditions applicable to each registration.

a. **Compliance with city code.** The cannabis business shall at all times comply with all provisions of Chapter 36 of the city code. All occupancies, construction and equipment used therein shall meet all conditions of the current state, local, building, fire and any other applicable provision of state or city code prior to the processing, manufacturing, transporting or dispensing of cannabis at or from the premises or location, and all taxes as required by Chapter 43 of the city code shall be paid.

b. **Compliance with rules and regulations.** Every cannabis business and registrant shall comply with all requirements in the rules, regulations and administrative guidelines promulgated by the police chief for the administration of this chapter.

c. **Transactions.** All transactions shall be in United States Currency, fully documented at the time of the sale or transfer, completed in compliance with state law and as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

d. **Accounting.** Each cannabis business shall account for all monetary contributions or payments. Monetary contributions or payments shall be made by cash, personal check, cashier's check or credit card in United States Currency. All accountings, billings, and contributions (whether in-kind, monetary or property) shall be fully documented, in writing and in accordance with this chapter, and shall be submitted to the finance and administrative services director as required by Chapter 43.

e. **Security.** Each cannabis business shall operate security systems, procedures and personnel in compliance with state law and as required by such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

f. **Storing, packaging and dispensing cannabis.** All cannabis processed, manufactured, obtained, purchased or distributed by the cannabis business must be stored and dispensed in strict accordance with state law and this chapter. All cannabis dispensed by a cannabis business must comply with all other provisions of this chapter, all regulations promulgated by the police chief and such procedures in rules and regulations governing the administration thereof as are adopted by the police chief.

g. **Maintenance of records.** All cannabis businesses shall maintain all records and documents required by this chapter, Chapter 43, and all the information and records listed in rules and regulations governing the administration thereof as are adopted by the police chief.

h. **Reasonable inspections.** Duly authorized city officials may conduct reasonable inspections of cannabis businesses to ensure compliance with state law, local law, and rules and regulations, including, but not limited to, annual inspections. An inspection, investigation or audit is a review of any books, records, accounts, inventory, vehicles, or on-site operations specific to the cannabis business.

1. Failure to cooperate fully with an inspection, investigation or audit is a violation of this chapter.

SEC. 9.99. Condition of premises.

The following requirements apply to cannabis businesses:

a. **Public safety and safety of location.** Each cannabis business shall operate in a manner such that the cannabis business does not adversely affect the health or safety of nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts, and does not create hazards due to the use or storage of materials, processes, products or wastes.

b. **Required maintenance of cannabis business.** All premises and facilities of the cannabis business shall be maintained in a clean and sanitary condition and shall be thoroughly cleaned after each day of operation. The premises and facilities shall meet applicable code requirements of the city, including, but not limited to, those related to the safety of the structure, adequacy of the plumbing, heating, ventilating, lighting, and requirements in such rules and regulations governing the administration thereof as are adopted by the police chief.

c. **Adverse impacts.** Otherwise operate in a manner that does not create or result in any significant adverse impacts upon its premises and location or adjacent to the premises and location.

SEC. 9.100. Prohibited acts.

a. **Alcohol and tobacco prohibited.** No cannabis business shall cause or permit the sale, dispensing or consumption of alcoholic beverages or tobacco products at the premises and/or location or in the parking area for the premises and/or location.

b. **Cannabis use prohibited.** Cannabis may not be inhaled, smoked, eaten, ingested, vaped or otherwise used or consumed at the premises and/or in any public place, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79, Section 26200 of the Business and Professions Code or other

applicable state law. A notice prohibiting smoking, ingesting and consuming cannabis shall be clearly and legibly posted in the cannabis business.

c. **Minors prohibited.** No persons under the age of twenty-one (21) shall be allowed on the premises. No cannabis shall be provided, sold or transferred to any person who is not age twenty-one (21) or older.

Violations of subsection (a), (b) and (c) above shall be grounds for the suspension or revocation of a cannabis business registration by the city, but shall not constitute criminal offenses under this code.

SEC. 9.101. Cannabis delivery.

The following requirements apply to cannabis businesses conducting deliveries:

a. Cannabis businesses are prohibited from delivering cannabis to any person or location within the city, except if they are a cannabis business permitted in accordance with the zoning code and registered with the city for delivery, or a cannabis business that is not located in the city limits, but is: (1) licensed with the State of California; (2) permitted, registered or otherwise authorized to deliver from another municipal or county jurisdiction; and (3) obtains a business license with the city.

b. The police chief shall promulgate regulations to establish an application process and procedures to allow cannabis businesses registered pursuant to this chapter to deliver cannabis within the city.

c. It is a violation of the city code for any cannabis business making deliveries in the city to fail to comply with state law, Chapter 9 and Chapter 43 of the city code and other applicable laws, ordinances and regulations from the jurisdiction where the delivery originates.

d. The fees associated with the registration process for delivery shall be as set forth in the schedule of fees and charges established by council resolution.

e. Delivery vehicle requirements.

1. The police chief shall promulgate regulations to establish security procedures, vehicle requirements, cannabis storage requirements, age verification requirements, hours of the day during which deliveries may be made, vehicle tracking requirements and any other requirements as deemed necessary by the police chief.

2. All delivery vehicles shall be subject to inspection by the police chief or any law enforcement officer;

3. The cannabis business shall obtain and maintain for each delivery vehicle and driver all of the insurance requirements as may be presently or in the future required by any financial responsibility laws of the State of California.

f. Delivery driver requirements.

1. Each driver making deliveries for a cannabis business shall carry a valid identification card issued by a registered cannabis business, or a copy of a valid City of Mountain View business license and a copy of a valid cannabis retail license required by the State of California.

2. The cannabis business is responsible for the conduct of its drivers and any city code violations that occur, and any such violation is grounds for revocation of the business's registration.

SEC. 9.102. Mobile dispensaries prohibited.

Except as provided in the city code, a cannabis business may only dispense from its sole dispensing location.

SEC. 9.103. Transfer of cannabis business registration.

No person shall assign or transfer any notice of completed registration issued under this chapter and any attempt to assign or transfer any notice of completed registration issued pursuant to this chapter shall render the notice of completed registration null and void.

SEC. 9.104. Expiration and renewal of cannabis business, owner, manager, and member registration, payment of renewal fee.

a. All cannabis business registrations shall expire one (1) year after the date of their issuance, unless revoked sooner by the police chief.

b. Applications for renewal of a registration must be submitted to the police chief by no later than sixty (60) calendar days before the expiration of such registration on a form provided by the police department, which shall require the applicant for renewal to update the information contained in his/her original application.

c. The applicant must pay the city a nonrefundable renewal fee, in the amount established by council resolution, at the time of filing his/her application for renewal.

d. After investigating the application for renewal, the police chief may renew the registration, if the applicant continues to meet the standards for the issuance of a registration, and none of the grounds for disqualification of a registration set forth in this chapter exist.

e. The police chief shall give the applicant for renewal written notice of his/her decision within sixty (60) calendar days of the submittal of the application for renewal to the police department by in-person delivery of the decision to the applicant at his/her most recent home or business address on file with the police department or deposit of the decision in the United States mail by certified mail. If the application is disqualified, the notice shall state the specific grounds for the disqualification and that the applicant may appeal to the city manager through the procedures set forth in Section 9.95(d).

f. If the holder of a registration does not file a timely application for renewal (sixty (60) calendar days before expiration of the registration), he/she shall be required to file an application and satisfy the additional requirements for a new registration pursuant to Sec. 9.94 and pay the applicable fees.

SEC. 9.105. Suspension and revocation of registration.

a. **Owner responsibility.** An owner of the cannabis business shall be responsible for the conduct of all employees while on the premises of the cannabis business providing delivery services.

b. **Grounds for suspension or revocation of registration.** The police chief may suspend for a period of up to nine (9) months or revoke a registration, according to procedures set forth in subsection (c) below, if there is probable cause to believe that:

1. Business is conducted by a person who does not have a valid registration.
2. The registered owner, manager or employee has operated or managed the cannabis business, or any employee at the cannabis business has acted in a manner which violates any provision of this article, rules and regulations or other applicable city code provisions or state law;
3. The applicant has made a materially false or misleading statement or omission of fact on his/her application for a registration or for renewal of registration, or in any supplementary materials submitted with the application;
4. The applicant is operating or managing the cannabis business in a manner which poses a danger to the health and safety of the public.

c. **Procedure for revocation or suspension of registration.**

1. **Suspension of registration pending hearing.** Whenever the police chief has probable cause to believe that grounds under Subsection 9.105(b)(4) or any offense set forth in Subsection 9.95(b)(15) giving rise to grounds under Subsection 9.105(b)(2) for the suspension or revocation of a registration exist, he/she may immediately suspend the registration by written notice pending the hearing process set forth in this subsection. If a registration is immediately suspended, the police chief shall give written notice of the hearing date, time and place to the registration holder within three (3) business days of the suspension and as set forth in Subsection 2 below. A hearing shall be scheduled in accordance with Subsection 3 below and shall be held within thirty (30) calendar days of delivery of the hearing notice. All other subsections in 9.105(c) shall apply unless where expressly stated otherwise.

2. **Notice to registration holder.** Whenever the police chief has probable cause to believe that grounds for the suspension or revocation of a registration exist, he/she shall give the registration holder written notice of the date, time and place of a hearing to be held before the police chief on whether the registration should be suspended or revoked. The notice shall state the alleged grounds for the proposed revocation or suspension of the registration, and the notice shall be served on the registration holder in person at the most recent home or business address on file with the police department or by deposit of the notice in the United States mail by certified mail.

3. **Hearing before police chief.** The hearing on the revocation or suspension of the registration shall be held before the police chief no less than five (5) business days after the in-person delivery of the notice to the registration holder at the most recent home or business address on file with the police department, or no less than ten (10) business days after deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

At the hearing, the registration holder and a representative of the city shall have the right to appear and to be represented by counsel, and to present evidence and arguments which are relevant to a determination of whether grounds for suspension or revocation of the registration exist.

4. **Decision of police chief.** Within ten (10) business days after the hearing, the police chief shall issue a written decision which states whether the registration is

suspended or revoked, the length of any suspension and the factual basis for the decision, and that the registration holder may appeal any suspension or revocation to the city manager through the procedures set forth in Paragraph 6, below. The decision of the police chief shall be served on the registration holder by in-person delivery at the most recent home or business address on file with the police department or deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

5. **Request for appeal hearing before city manager.** The registration holder may appeal the decision of the police chief by filing a written request for an appeal hearing, which states the specific grounds on which the decision of the police chief is contested, with the city manager's office within five (5) business days of the in-person delivery to the registration holder of the police chief's decision at the most recent home or business address on file with the police department, or within ten (10) business days of service of the decision by deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

6. **Appeal hearing before city manager.** Upon receipt of a timely request for an appeal hearing, the city manager's office shall notify the registration holder in writing of the date, time and place of the hearing before the city manager, which shall not be less than five (5) business days after service of such written notice on the registration holder by in-person delivery at the most recent home or business address on file with the police department, or ten (10) business days after service of the notice by deposit of the notice, addressed to the registration holder, in the United States mail by certified mail.

At the hearing, both the registration holder and the police chief shall have the right to appear and be represented by counsel and to present evidence and arguments which are relevant to the grounds for the appeal, as stated in the request for an appeal hearing. Within ten (10) days of the hearing, the city manager shall issue a written decision which states whether the decision of the police chief is upheld, modified or reversed, and the length of any suspension. The decision shall be served on the registration holder by in-person delivery or by certified mail. The decision of the city manager shall be final.

7. **Effective date of revocation or suspension.** Except when a registration is suspended pending a hearing, any suspension or revocation of a registration shall become effective immediately upon the in-person delivery of the written decision of the police chief, or, in the event of an appeal, the city manager, to the registration holder at the most recent home or business address on file with the city, or within five (5) business days of the deposit of such decision addressed to the registration holder into the United States mail by certified mail.

8. **Surrender of suspended or revoked registration to police chief.** Upon a written decision by the police chief, or in the event of an appeal, by the city manager, which suspends or revokes a registration the registration shall immediately be surrendered to the police chief. In the case of a suspension, the police chief shall return the registration after the period of suspension has ended.

SEC. 9.106. Cannabis business operated in violation of this article deemed a public nuisance.

Any cannabis business which is opened, operated or maintained contrary to the provisions of this article shall be deemed a public nuisance. In addition to or in lieu of any other available legal remedies, the city attorney or district attorney of Santa Clara County may commence a civil legal action or actions in a court of competent

jurisdiction to abate such nuisance and to enjoin the continued operation and maintenance of the cannabis business in a manner prohibited by this article.

SEC. 9.107. Release of liability and hold harmless.

The cannabis business and its owners, managers, members, agents, invitees, contractors and employees shall release the city and its agents, officers, elected officials and employees from any injuries, damages or liabilities of any kind that result from any arrest or prosecution of the cannabis business and its owners, managers, members, agents, invitees, contractors and employees for violation of federal or state laws and from any and all legal liability related to or arising from the registration of the cannabis business or the enforcement of the provisions of this chapter, in a form satisfactory to the city's risk manager. In addition, the cannabis business and its owners, managers, members, agents, invitees, contractors and employees shall indemnify and hold harmless the City of Mountain View and its agents, officers, elected officials and employees for any claims, damages, or liabilities arising from claims filed by third parties due to the operations at the location or premises or arising from claims filed by the cannabis business's owners, managers, members, agents, invitees, contractors and employees arising out of the possession, manufacturing or dispensing and/or on- or off-site use of cannabis provided at the location or premises, in a form satisfactory to the city attorney."

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly).

The foregoing ordinance was regularly introduced at the Special Meeting of the City Council of the City of Mountain View, duly held on the 2nd day of October 2018, and thereafter adopted at the Regular Meeting of said Council, duly held on the 23rd day of October 2018, by the following roll call vote:

AYES: Councilmembers Clark, McAlister, Showalter, and Mayor Siegel

NOES: Councilmember Abe-Koga and Vice Mayor Matichak

ABSENT: Councilmember Rosenberg

NOT VOTING: None

ATTEST:

APPROVED:



LISA NATUSCH
CITY CLERK



LEONARD M. SIEGEL
MAYOR

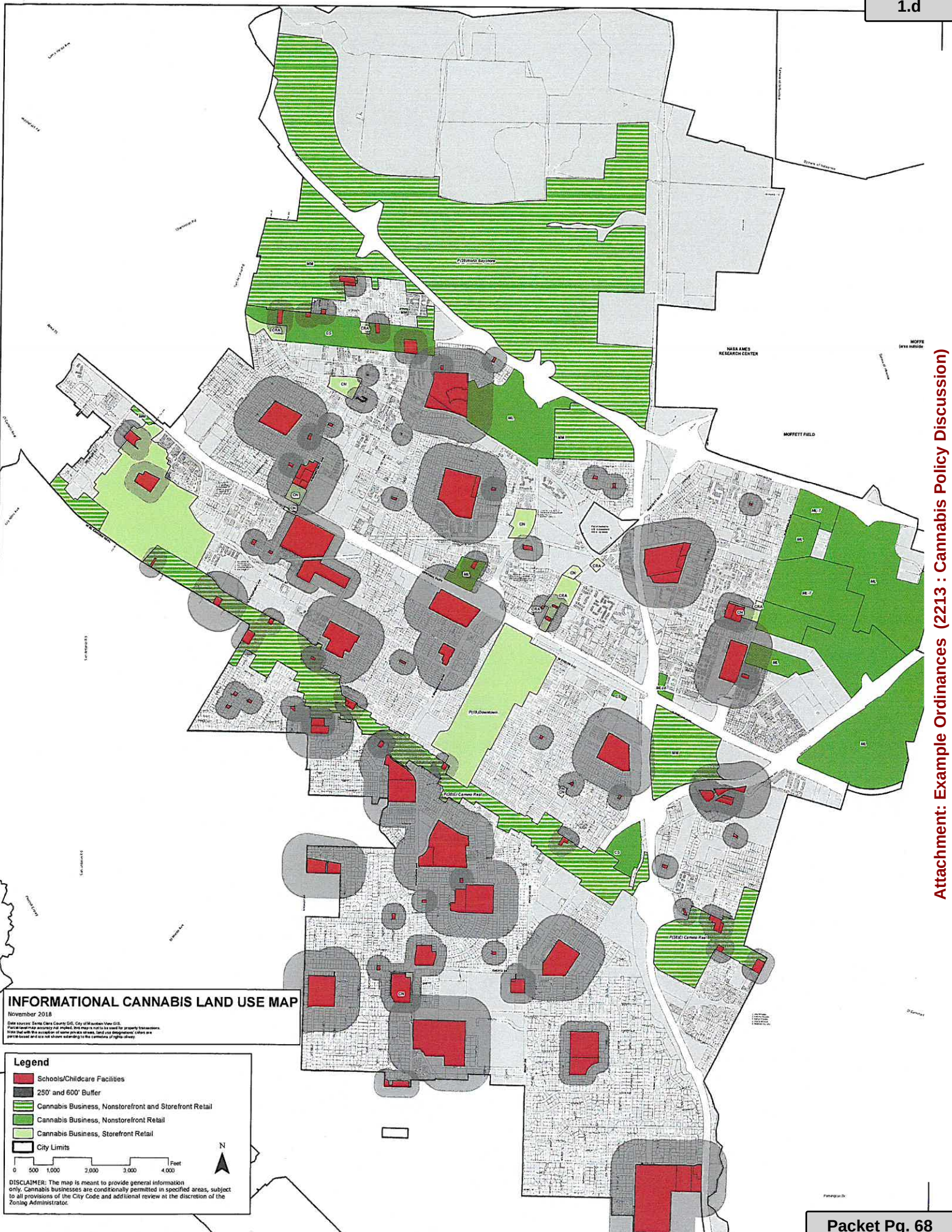
I do hereby certify that the foregoing ordinance was passed and adopted by the City Council of the City of Mountain View at a Regular Meeting held on the 23rd day of October 2018, by the foregoing vote, and was published in the *San Jose Post Record* by reference on the 19th day of October 2018, and posted in three prominent places in said City.



City Clerk
City of Mountain View

CB/5/ORD
891-10-02-18o

Attachment: Example Ordinances (2213 : Cannabis Policy Discussion)



INFORMATIONAL CANNABIS LAND USE MAP

November 2018
 Data sources: Santa Clara County GIS, City of Mountain View GIS.
 Partially automated accuracy not implied, but map is not to be used for property transactions.
 Note that with the exception of some private streets, large red impervious' colors are
 partially based and are not shown according to the standards of right-of-way.

Legend

- Schools/Childcare Facilities
- 250' and 600' Buffer
- Cannabis Business, Nonstorefront and Storefront Retail
- Cannabis Business, Nonstorefront Retail
- Cannabis Business, Storefront Retail
- City Limits

0 500 1,000 2,000 3,000 4,000 Feet

DISCLAIMER: The map is meant to provide general information only. Cannabis businesses are conditionally permitted in specified areas, subject to all provisions of the City Code and additional review at the discretion of the Zoning Administrator.

Attachment: Example Ordinances (2213 : Cannabis Policy Discussion)

ORDINANCE NO. 18-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH AMENDING CHAPTER 18, ARTICLE III OF THE GROVER BEACH MUNICIPAL CODE AMENDING SUBSECTION (A) OF SECTION 4000.10, SECTION 4000.20, SECTION 4000.30, SUBSECTION (A) AND (C) OF SECTION 4000.40, SUBSECTION (A) OF SECTION 4000.50, SUBDIVISION (9) OF SUBSECTION (A) OF SECTION 4000.160, SUBSECTION (G) AND (H) OF 4000.200, SUBSECTION (F) OF SECTION 4000.220, SUBSECTION (B) OF SECTION 4000.230, AND SECTION 4000.240 TO REVISE DEFINITIONS, ALLOW ADULT USE CANNABIS BUSINESSES, ALLOW LEVEL TWO MANUFACTURING, ESTABLISH GREATER REGULATIONS ON PERSONAL CULTIVATION, ALLOW MEDICAL CANNABIS BUSINESSES TO SELL TO 18 YEARS OF AGE AND OLDER INDIVIDUALS AND MAKE REVISIONS CONSISTENT WITH RECENT STATE LAW CHANGES

WHEREAS, the City of Grover Beach is a General Law city organized pursuant to Article XI of the California Constitution; and

WHEREAS, pursuant to the authority granted the City by Article XI, Section 7 of the California Constitution, the City has the police power to adopt regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals or public safety; and

WHEREAS, comprehensive zoning regulations and regulations upon the use of land and property lie within the City's police power; and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Sections 801 et seq. classifies marijuana as a Schedule 1 Drug and makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess with intent to manufacture, distribute or dispense, marijuana; and

WHEREAS, the Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation or possession of cannabis for medicinal purposes; and

WHEREAS, notwithstanding federal law, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and titled the "Compassionate Use Act of 1996"), the intent of Proposition 215 being to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of state criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, Senate Bill 420 was enacted (codified as California Health and Safety Code Section 11362.7 et seq. and titled the "Medical Marijuana Program Act" to clarify the scope of the Compassionate Use Act of 1996 ("CUA"); and

WHEREAS, the Medical Marijuana Program Act ("MMPA") promulgates rules wherein counties and cities can adopt and enforce rules and regulations consistent with its provisions; and

WHEREAS, in 2011, Assembly Bill 2650 was enacted (codified as California Health and Safety Code Section 11362.768) affirming that counties and cities can under state law adopt ordinances that control and restrict the location and establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider; and

WHEREAS, In 2015, California enacted three bills – Assembly Bill 243; Assembly Bill 266; and Senate Bill 643 – that collectively established a comprehensive state regulatory framework for the licensing and enforcement of cultivation, manufacturing, retail sales, transportation, storage, delivery, and testing of medicinal cannabis in California. This regulatory scheme was known as the Medical Cannabis Regulation and Safety Act (MCRSA); and

WHEREAS, In November, 2016, Proposition 64 was enacted and entitled “The Adult Use of Marijuana Act” (“AUMA”) (codified as amendments to California Health and Safety Code, Business and Professions Code, Revenue and Taxation Code and Food and Agricultural Code). The intent of Proposition 64 being to establish a comprehensive system to decriminalize, control and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana, as well as other marijuana related activities; and

WHEREAS, June 27, 2017, the State Legislature adopted the State Budget along with a number of trailer bills including Senate Bill 94 which enacted “The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). This bill repealed MCRSA and included certain provisions of MCRSA in the licensing provisions of AUMA. Under this bill, these consolidated provisions make up the MAUCRSA and includes the regulations for both medical and nonmedical cannabis uses; and

WHEREAS, the California Supreme Court held in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal. 4th 729, 753 (“*Inland Empire*”) that the objectives of the CUA and MMPA were modest and that those acts did not create a broad right to access medical marijuana, and *Inland Empire* goes on to provide that neither the CUA nor the MMPA “expressly or impliedly preempts the authority of California cities and counties, under their traditional land use and police powers, to allow, restrict, limit, or entirely exclude” the distribution of medical marijuana. (Id. At p. 762.); and

WHEREAS, the Court of Appeal, Third Appellate District, held in *James Maral, et al. v. City of Live Oak* (2013) 221 Cal.App.4th 975, that the reasoning of *Inland Empire* applies to the cultivation of medical marijuana as well as its distribution, as both are addressed in the CUA and the MMPA; and

WHEREAS, with limited exceptions, neither the Compassionate Use Act (CUA), the Medical Marijuana Program Act (MMPA), the Medical Cannabis Regulation and Safety Act (MCRSA), the Adult Use of Marijuana Act (AUMA) or the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) require or impose an affirmative duty or mandate upon local governments to allow, authorize or sanction the establishment and the operation of facilities for distribution, cultivation, manufacturing or processing medical or non-medical marijuana within its jurisdiction, and

WHEREAS, notwithstanding the comprehensive nature of both the Adult Use of Marijuana Act and the Medicinal and Adult-Use Cannabis Regulation and Safety Act, both Acts under state

law protect the ability of local entities to maintain reasonable control over medical and non-medical marijuana activities; and

WHEREAS, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of commercial medical and adult use marijuana-related businesses and personal use which are intended to operate in conjunction with the City of Grover Beach Development Code's land use regulation and which are intended to address the negative impacts and nuisance impacts of marijuana-related businesses and use; and

WHEREAS, commercial Medical and Adult Use marijuana-related businesses and personal use will be subject to Chapter 18, Article III and the zoning and land use regulations as set forth in Article IX, Development Code, of the City of Grover Beach Municipal Code; and

WHEREAS, mindful of the fact that marijuana possession and use is prohibited under federal law and partially decriminalized under state law, it is the Council's intention that nothing in this ordinance shall be construed, in anyway, to expand the rights of anyone to use or possess marijuana under state law; engage in any public nuisance; violate federal law, or engage in any activity in relation to the cultivation, distribution, testing or consumption of marijuana that is otherwise illegal. It is further the intent of the City Council of the City of Grover Beach to maintain local control over these matters to the fullest extent permitted by law; and

WHEREAS, this proposed text amendment does not substantially change the previously approved Negative Declaration done for ordinances 17-05 and 17-06 because the amendment will not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant impacts. Therefore, the proposed amendment does not require a subsequent Negative Declaration consistent with the California Environmental Quality Act (CEQA) Guidelines Section 15162. Future development proposed in the areas of the City allowable under the proposed ordinance would undergo environmental review, pursuant to CEQA. At that time, the potential physical environmental effects of such development would be evaluated.

WHEREAS, the City Council held a public hearing on May 7, 2018 to consider this amendment to the cannabis regulatory ordinance.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF GROVER BEACH AS FOLLOWS:

PART 1. Subsection A of Section 4000.10 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

(A) It is the primary purpose and intent of this Chapter ~~to establish to accommodate the needs of medically-ill Persons in need of marijuana for medical purposes while imposing regulations on the use of cannabis and cannabis products~~ and to protect City of Grover Beach's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, nursery, manufacturing, testing laboratories, transportation, delivery, distribution (includes storage) retailers and microbusinesses of cannabis and cannabis-related products in a manner which is responsible and which protects the health, safety, and welfare of the residents of the City of Grover Beach; to enforce rules and regulations consistent with State law. In part to meet these objectives, an annual permit shall be required to own and to operate a Commercial Cannabis Business within the City of Grover Beach as authorized under this ordinance and within the City of Grover Beach Development Code. ~~Nothing in this Chapter is intended to authorize the cultivation, possession or use of marijuana for any non-medical purpose~~

~~consisting of either commercial or personal use other than as authorized within this ordinance or wherein the Adult Use of Marijuana Act otherwise preempts local agency regulations.~~

PART 2. Section 4000.20 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

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

(A) "Accrediting body" means a nonprofit organization that requires conformation to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperative Mutual Recognition Arrangement for Testing.

(B) "Applicant" for purposes of this ordinance means an Owner applying or renewing a local Commercial Cannabis Permit.

(C) "Cannabis" means all parts of the 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 California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacturing, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, "Cannabis" does not mean industrial hemp as that term is defined in Section 11018.5 of the California Health and Safety Code.

(D) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible ~~medical~~ cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

(E) "Cannabis Product" as used in this Chapter means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, edible, topical or other product containing cannabis or concentrate cannabis and other ingredients.

~~(EF)~~ "Certificate of Accreditation" means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state and permitted by the City.

~~(FG)~~ "Commercial Cannabis Activity" or "Commercial Cannabis Use" include cultivation, nursery, possession, manufacture (Level one and two), processing, storing, laboratory testing, labeling, dispensaries retailers and microbusinesses including wholesale and retail sale of ~~medical~~ cannabis or a ~~medical~~ cannabis products, distribution, transportation and approved licenses enumerated and defined within Division 10, Chapter 1 (commencing with Section 26000) of the California Business and Professions Code, and ultimately issued a "A-Type" or "M-Type" license consistent with Section 26050 (b), of the California Business and Professions Code, as

amended. ~~For purposes of this definition, all authorized uses shall be for commercial medical cannabis uses only unless preempted by state law.~~

(GH) "Commercial Cannabis Business" means any business or operation which engages in Commercial Cannabis Activity.

(HI) "Commercial Cannabis Permit or Permit" means a permit issued by the City of Grover Beach pursuant to this Chapter to a Commercial Cannabis Business that authorizes a Person to conduct Commercial Cannabis Activity within the City.

(IJ) "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(JK) "Cultivation site" means a facility where medical cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

(KL) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer. ~~from a retailer or microbusiness with a retailer use, up to an amount determined by the State of California, or any of its departments or divisions, to a primary caregiver or qualified patient, or a testing laboratory. "Delivery" also includes the use by a retailer or microbusiness with a retailer use of any technology platform owned and controlled by the retailer or microbusiness, or independently licensed by the State of California under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (as the same may be amended from time to time), that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed retailer or microbusiness of medical cannabis or medical cannabis products.~~

(LM) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a licensed retailer (State license Type 10) or a microbusiness with a retail use. (State license type 12).

(MN) "Distribution" means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act or as amended.

(NO) "Distributor" means a Person licensed under the Medicinal and Adult-Use Cannabis Regulation and Safety Act to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed retailer or microbusiness.

(OP) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(PQ) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

(QR) "Good Cause" for purposes of refusing or denying an initial application for a Commercial Cannabis Permit, for revoking a Commercial Cannabis Permit, or for refusing or denying renewal or reinstatement of a Permit, or for Rating Applicants for purposes of issuance of a Permit means:

- (1) The Applicant has violated any of the terms, conditions or provisions of this Chapter, of State Law, or any regulations and rules established pursuant to State Law, any applicable rules and regulations, or any special terms or conditions placed upon its Use Permit, State License or Local Permit;
- (2) Failure to provide information required by the City of Grover Beach;
- (3) The Permitted Premises have been operated in a manner that adversely affects the public health, safety or welfare or the safety of the immediate neighborhood in which the establishment is located;
- (4) The Applicant has knowingly made false or misleading statements, misrepresentations or material omissions as part of an interview process, on an application form to request issuance of a Permit or renewal form, or any other document submitted to the City;
- (5) The Commercial Cannabis Business is not created, organized or operated in strict compliance with all applicable laws and regulations;
- (6) The Applicant fails to meet the requirements of this Chapter, or the conditions of the Use Permit;
- (7) The operation of the proposed Commercial Cannabis Business at the proposed location is prohibited by a state or local law or regulation;
- (8) The Council has found consistent with Section 4000.160 that the Applicant's criminal history reflects a conviction of an offense that is substantially related to the qualifications, functions or duties of the business or profession for which the application is made and has found the Applicant is not suitable for issuance of a Permit;
- (9) The Applicant was found, to have a felony or misdemeanor conviction involving fraud, deceit, embezzlement, dishonesty, violent behavior, moral turpitude or committed crimes serving as a basis for denial of a Permit consistent with Section 4000.160. A conviction within the meaning of this section means a plea or a guilty verdict, a conviction or diversion following a plea of nolo contendere or a conviction later expunged by the court;
- (10) The Applicant was found to have a felony or misdemeanor conviction for hiring, employing, or using a minor in transportation, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
- (11) The Applicant was found to have a felony or misdemeanor conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety code.
- (12) The Applicant is employing or being financed in whole or in part by any Person whose criminal history indicates that Person would not be issued a Permit consistent with Section 4000.160 of this Chapter;
- (13) The Applicant or his/her employees fails to allow inspection of the business facilities, security recordings, activity logs, or business records of the Permitted Premise by City Officials;
- (14) The Applicant's business is owned by, or has an officer or director who is a licensed physician making recommendations for Medical Cannabis;

- (15) The Applicant has had a local Permit or State Cannabis License revoked or has had more than one suspension on its local Permit by the City; or
- (16) The Applicant operated a Commercial Cannabis Business in violation of Section 4000.40 of this Chapter;
- (17) The Applicant or the operator listed in the application is less than twenty-one (21) years of age.

(~~RS~~) "Greenhouse" means a structure with walls and roof made primarily of transparent material, such as glass, in which plants requiring regulated climatic conditions are grown.

(~~ST~~) "License" means the issuing of a license by the State of California, or one of its departments or divisions, under the Medicinal and Adult-Use Cannabis Regulation and Safety Act to engage in Commercial Cannabis Activity. ~~License shall not consist of any uses for non-medical marijuana that is subject to licensing by the State consistent with the California Business and Professions Code Section 26050, et. seq.~~

(~~TU~~) "Live plants" means living ~~medical~~ cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

(~~UV~~) "Manufacturer" means a Person that conducts the production, preparation, propagation, or compounding of manufactured ~~medical~~ cannabis, as defined in this section, or ~~medical~~ cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages ~~medical~~ cannabis or ~~medical~~ cannabis products or labels or relabels its container, that holds a valid state license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

(~~VW~~) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.

(~~WX~~) "Manufacturing site" means a location that produces, prepares, propagates, or compounds ~~medical~~ cannabis or ~~medical~~ cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a Person issued a license by the State of California, or one of its departments or divisions, for these activities.

(~~XY~~) "Medical cannabis", "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time). For purposes of this Chapter, "medical cannabis" does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

(~~YZ~~) "Microbusiness" (State license Type 12) shall mean a use for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under state and local law, or any combination of at least three (3) uses listed herein provided such licensee can demonstrate compliance with all requirements imposed by the Medicinal and Adult-Use Cannabis Regulation and Safety Act on licensed cultivators, distributors Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

(ZAA) "Mixed-Light Building" shall mean the cultivation of cannabis using light deprivation and/or artificial lighting below a rate of 25 watts per square foot.

(AABB) "Moral Turpitude," crimes are defined as acts of baseness, vileness or depravity in the private and social duties, they are contrary to the accepted and customary rule of moral, right and duty between people. Crimes involving moral turpitude require the criminal intent of the offender to cause great bodily injury, defraud, deceive, deprive an owner of property, or to act in a lewd manner or recklessness.

(BBCC) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of ~~medical~~ cannabis.

(GGDD) "Owner" means any of the following:

- (1) Owner or owners of a proposed facility, includes all Persons or entities having ownership interest of 5 percent or more, other than a security interest, lien, or encumbrance on property that will be used by the facility.
- (2) If the owner is an entity, "owner" includes within the entity each Person participating in the direction, control, or management of, or having a financial interest in the proposed facility.
- (3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any Person or entity with an aggregate ownership interest of 5 percent or more.
- (4) Owner, will also include any consultants, agents, or contractors hired for the purpose of assisting in the preparation and submittal of an application for a Commercial Cannabis Permit or in the operations and management of a Commercial Cannabis Business.

(DDEE) "Person" means an individual, firm, 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 includes the plural as well as the singular number.

(EEFF) "Rating" means a process wherein the City Council considers numerous applications for a Commercial Cannabis Permit that are greater than the number of permits allocated or authorized by ordinance. The City will implement a process as established by Council wherein they rate the applicants based upon information submitted by the applicant, criminal history defined as a component of Good Cause, and oral interviews. Staff will rate the applicants and submit recommendations to Council for consideration. Council may use their sole discretion in using the information submitted by staff or other factors in considering issuance of permits when the applications are greater in number than the number of allowable permits by ordinance. Wherein a total number of Commercial Cannabis Permits are established by ordinance, nothing in this section nor in Section 4.10.045 of the Grover Beach Municipal Code obligates the Council to issue the total number of authorized permits. Council at their discretion may issue any number of permits up to the maximum number of permits authorized by ordinance.

(FFGG) "Retailer" (State license Type 10) means a use for the retail sale and delivery of ~~medical~~ cannabis or cannabis products to customers. This use is for operations within a fixed location and may consist of a facility open to the general public or may be for delivery only with a facility.

(GGHH) "Stacking" means the practice of growing marijuana plants on platforms or tables and stacking them in multiple layers on top of each other.

(FFJJ) "State License" or "license" means a state license issued pursuant to the Medicinal and Adult Use Cannabis Regulation and Safety Act.

(GGJJ) "Testing Laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

- (1) Holds a valid Certificate of Accreditation by an Accrediting Body that is independent from all other Persons involved in the medical cannabis industry in the state.
- (2) Registered with the State Department of Public Health.

(HHKK) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

(IILL) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting Commercial Cannabis Activity authorized by the Medicinal and Adult-Use Cannabis Regulation and Safety Act.

(JJMM) "Transporter" means a Person issued a state license by the State of California, or one of its departments or divisions, to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the State of California, or one of its departments or divisions, that have been issued a State license pursuant to the Medicinal and Adult-Use Regulation and Safety Act.

PART 3. Section 4000.30 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

4000.30 Non-commercial Cannabis Activity prohibited in any zone other than authorized in Chapter 4 of Article IX of the Grover Beach Municipal Code and personal possession and cultivation.

(A) Notwithstanding anything to the contrary contained in the Grover Beach City Municipal Code, ~~activity other than Commercial Cannabis Activity shall not be a permitted use in any zone of the city other than authorized in Chapter 4 of Article IX of the Grover Beach Municipal Code, and no Use Permit shall be issued permitting such use.~~ Further notwithstanding anything contrary contained in the Grover Beach Municipal Code, a violation of this Chapter and or any provision thereof shall not be subject to criminal penalties but may only be enforced by civil and or administrative proceedings.

(B) Notwithstanding subsection (a) above, this section shall not be intended to preclude or limit personal possession or use of six living marijuana plants and possession of the marijuana produced by the plants consistent with paragraph (3) of subdivision (a) of Health and Safety Code Section 11362.1. Moreover, in accordance with Health and Safety Code section 11362.2, not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time. The limitation of six living plants per residence is a maximum number of plants allowed at any residence no matter how many Persons reside within that residence. No person owning, leasing, occupying or having charge or possession of any premises within a residential zone or used for

residential purposes, shall cause, allow or permit the indoor cultivation for personal use of cannabis on the premises, unless it is conducted in accordance with the following provisions:

- (1) All cultivation of cannabis must take place within a single room of a residential structure or within a detached accessory building wherein the City has issued a building permit for construction of the building. No cultivation of cannabis shall be allowed within a garage of a residential structure.
- (2) Indoor grow lighting system must not exceed 3,800 watts; be shielded to confine light and glare to the interior of the structure; and complies with the City's Building and Fire Code.
- (3) Odors shall not be detectable from adjacent properties, residences, or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, patios, balconies, or any other areas available for use by common tenants, or the visiting public, or within any other residential unit.
- (4) Cannabis cultivation must be concealed from public view at all stages of growth and there shall be no exterior evidence of cultivation occurring at the premises from a public right-of-way or from an adjacent parcel.
- (5) The cannabis cultivation must not create offensive odors; create excessive dust, heat, noise, smoke, traffic, or other impacts that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; or be hazardous due to the use or storage of materials, processes, products or wastes.
- (6) Cannabis cultivation areas, inside a residence, must be kept locked when not occupied.

~~All possession, planting, cultivation, harvesting, drying, or processing must be conducted inside a private residence or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure. At no time, shall any cultivation, possession or use of marijuana plants or marijuana produced by the plants or manner of operations arise to the level of a public or private nuisance including but not limited to odors or light emanating from a structure.~~

PART 4. Subsection (A) and (C) of Section 4000.40 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

4000.40 Licenses and Permits.

(A) In addition to the requirements which may be imposed pursuant to this Chapter, no Person shall engage in Commercial Cannabis Activity or open or operate a Commercial Cannabis Business without possessing both a Commercial Cannabis Permit issued by the City Council and a license issued by the State of California or one of its departments or divisions. Commercial Cannabis Activity shall be permitted in the City of Grover Beach only as expressly provided in this Chapter and Article IX and if not expressly permitted by this Chapter and Article IX shall be prohibited.

- (1) An application for a Commercial Cannabis Business permit shall be consistent with this chapter, section and regulations adopted by Council. Each Commercial Cannabis Business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance unless otherwise defined on the Permit.
- (2) In the event of an application for renewal of a Commercial Cannabis Permit, it shall be filed at least sixty (60) calendar days prior to the expiration date of the permit

with the City Manager or his/her designee. The permit's term will be extended until such time the City takes action.

(3) An application for renewal of a Commercial Cannabis Permit shall be rejected if any of the following exists:

- (a) The application is filed less than sixty (60) days before its expiration.
- (b) The Commercial Cannabis Permit is suspended or revoked at the time of the application.
- (c) The City Council or City Manager finds Good Cause to reject the permit as defined with the application process resolution approved by Council.
- (d) Any other Commercial Cannabis Permit held by the applicant is suspended or revoked at the time of the application for the subject Permit being considered by the City.
- (e) The Commercial Cannabis Business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
- (f) The Commercial Cannabis Business fails to conform to the requirements of this Chapter, any regulations adopted pursuant to this Chapter or the conditions imposed as part of any Use Permit or zoning requirements.
- (g) The permittee fails to renew its State of California license.

(4) If a renewal application is rejected for reasons other than Good Cause, a Person may file a new application pursuant to this Chapter.

~~(5) Applicants seeking multiple licenses for different types of cannabis activity shall be required to comply with multiple licensing restrictions contained within State Law.~~

(C) Revocation, termination, non-issuance or suspension of a license issued by the State of California, or any of its departments or divisions, shall immediately terminate the ability of a ~~medical Cannabis Business~~ to operate within the City of Grover Beach until the State of California, or its respective department or division, reinstates or issues the State license.

PART 5. Subsection (A) of Section 4000.50 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

The City Chief of Police or his/her designee is authorized to establish all regulations necessary to implement the requirements and fulfill the policies of this Chapter related to Commercial Cannabis Businesses including, but not limited to, the following subjects:

(A) A permitted Commercial Cannabis Business shall implement security measures to both deter and to prevent unauthorized entrance into areas containing ~~medical~~ cannabis or ~~medical~~ cannabis products and theft of ~~medical~~ cannabis or ~~medical~~ cannabis products at the Commercial Cannabis Business. Except as may otherwise be determined by the City Manager or his/her designee, these security measures shall include, but shall not be limited to, all of the following:

- (1) All public access to the facility must be through a secured single point of entry. Entry into the a facility with a M-Type State license from the outside must be completed through a secured vestibule area that is designed to allow for identification confirmation prior to entry into the main lobby area.
- (2) Preventing Persons from remaining on the premises of the Commercial Cannabis Business if they are not engaging in the activity expressly related to the operations of the Commercial Cannabis Business.

- (3) Establishing limited access areas accessible only to authorized Commercial Cannabis Business personnel.
- (4) Except for live growing plants which are being cultivated at a cultivation facility, all ~~medical cannabis and medical cannabis products~~ shall be stored in a secured and locked room, safe, or vault, except for limited amounts of cannabis used for display purposes or immediate sale at a retailer or microbusiness with a retail use. All ~~medical cannabis and medical cannabis products~~, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
- (5) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from a secure area and to monitor all interior spaces within the Commercial Cannabis Business which are open and accessible to the public. The security surveillance cameras shall be remotely accessible to the Grover Beach Police Department and shall be compatible with the Grover Beach Police Department's software and hardware and remote real-time, live access to the video footage from the cameras shall be provided to the Grover Beach Police Department. Video recordings shall be maintained by the business for a minimum of ~~forty-five (45)~~ ninety (90) days.
- (6) Sensors shall be installed to detect entry and exit from all secure areas.
- (7) Panic buttons shall be installed in all Commercial Cannabis Businesses.
- (8) Having a professionally installed, maintained, and monitored alarm system.
- (9) Any bars installed on the windows or the doors of the Commercial Cannabis Business shall be installed ~~only~~ on the interior or exterior of the building if allowed by the California Building Code.
- (10) All Security personnel, whether employed by the Commercial Cannabis Business or contracted by the Commercial Cannabis Business, shall be subject to the prior review and approval of the Chief of Police or his/her designee.
- (11) Each Commercial Cannabis Business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (12) All deliveries of cannabis products shall be made within an enclosed area not open to the public.

PART 6. Subdivision 9, of Subsection (A) of Section 4000.160 of Chapter 18, Article III of the Grover Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

- (9) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess ~~medical cannabis~~ product.

PART 7. Subsection (G) and (H) of Section 4000.200 of Chapter 18, Article III of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

(G) Minors. Persons under the age of ~~eighteen (18)~~ twenty-one years shall not be allowed on the premises of a Commercial Cannabis Business and shall not be allowed to purchase any Cannabis or Cannabis Concentrate products, except anyone under twenty-one years of age but at least eighteen (18) years of age or older shall only be allowed within a Commercial Cannabis Business if the business holds a state issued M-Type license and entry is authorized in accordance with the Medicinal and Adult Use Cannabis Regulation and Safety Act.

It shall be unlawful and a violation of this Chapter for any Person to employ any other Person at a Commercial Cannabis Business who is not at least twenty-one (21) years of age.

The entrance to the Commercial Cannabis Business shall be clearly and legibly posted with a notice that no Person under the age of ~~eighteen (18) years~~ twenty-one (21) years of age is permitted to enter upon the premises of the Commercial Cannabis Business unless the Commercial Cannabis Business is a M-Type license issued by the state wherein it shall be posted that no Person under the age of eighteen (18) is permitted to enter upon the premises. Persons 18, but under 21, must be in possession of a valid medical marijuana identification card or valid doctor's recommendation.

(H) Odor Control. Odor control devices and techniques shall be incorporated in all Commercial Cannabis Businesses and apply to personal growth, cultivation or processing of marijuana, to the extent necessary, to ensure that odors from marijuana are not detectable off-site. Commercial Cannabis Businesses shall provide an odor absorbing ventilation and exhaust system so that odor generated inside the ~~medical-marijuana~~ Commercial Cannabis Business facility that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the Commercial Cannabis Business. As such, Commercial Cannabis Businesses must install and maintain the following equipment or any other equipment which the Chief of Police or his designee determines has the same or better effectiveness:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
- (2) An air system that creates negative air pressure between the Commercial Cannabis Business's interior and exterior so that the odors generated inside the Commercial Cannabis Business are not detectable on the outside of the Commercial Cannabis Business.

PART 8. Subsection (F) of Section 4000.220 of Chapter 18, Article III, of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

(F) The cultivation of cannabis and any nursery activity shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the Commercial Cannabis Business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; and to ensure the security of the cannabis being cultivated; ~~and to safeguard against the diversion of cannabis for non-medical purposes.~~

PART 9. Subsection (B) of Section 4000.230 of Chapter 18, Article III, of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

(B) All items to be sold or distributed retail shall be individually wrapped at the original point of preparation. Labeling must include any labeling requirements as required under State licensing for ~~medical~~ cannabis products.

PART 10. Section 4000.240 of Chapter 18, Article III, of the Grover Beach Municipal Code, Commercial Cannabis Uses, is hereby amended as follows:

Cannabis manufacturing facilities requiring a Type-6 state license (using non-volatile solvents) or Type-07 state license (using volatile solvents), shall be subject to the operational requirements determined and approved by Council. Council shall establish operational

requirements by resolution. ~~Type 7 state licenses, Level Two Manufacturing, shall be limited to using only ethanol as an allowed volatile solvent.~~

PART 11. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

PART 12. All ordinances and parts of ordinances in conflict with those sections amended or added herein are hereby repealed.

PART 13. Effective Date. This Ordinance shall not become effective and in full force and effect until 12:01 a.m. on the thirty first day after its final passage. However, within fifteen (15) days after adoption by the City Council, the Ordinance shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

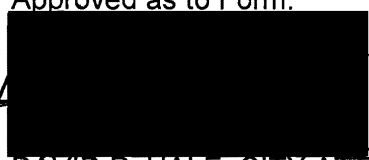
INTRODUCED at a regular meeting of the City Council held on May 7, 2018 and **PASSED, APPROVED, and ADOPTED** by the City Council on May 21, 2018, on the following roll call vote, to wit:

AYES:	Council Members Nicolls, Shah, Mayor Pro Tem Lee, and Mayor Shoals.
NOES:	Council Members – None.
ABSENT:	Council Member Peterson.
ABSTAIN:	Council Members – None.
RECUSED:	Council Members – None.

Attest:


DONNA L. McMAHON, CITY CLERK

Approved as to Form:


DAVID P. HALE, CITY ATTORNEY


JOHN P. SHOALS, MAYOR

ATTACHMENT 3

ORDINANCE NO. _____

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2865784.1

Attachment: Example Ordinances (2213 : Cannabis Policy Discussion)

EXHIBIT A

Chapter 5.44

CANNABIS

5.44.010 Purpose and Intent.

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

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

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

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

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

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

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

5.44.020 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

L. “Cannabis manufacturer” means a person that produces, prepares, propagates, or compounds cannabis or cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a cannabis license Type 6 or 7, or a cannabis license type subsequently established, and that holds a valid local license or permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.44.030 Standards for All Commercial Cannabis Uses

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. are on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance; or
 - ii. have been convicted of a crime of moral turpitude; or
 - iii. have been convicted of any misdemeanor or felony within the last ten years involving the following: the use of violence, force, fear, fraud or deception; or the unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance; or the use of money to engage in criminal activity; or the unlawful possession or use of a firearm.
- Permits for commercial cannabis uses shall not be permitted for operators with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement, a criminal conviction for the sale or provision of illegal controlled substances to a minor, or any criminal conviction for a crime moral turpitude as determined by the Chief of Police.

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

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

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

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

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

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

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

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

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

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

5. Appeals.

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

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

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

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

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

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

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

H. Development Standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

L. Employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Significant discrepancies identified during inventory. The level of significance shall be 2% of inventory or per state regulations, whichever is stricter.
2. Diversion, theft, or loss, or any criminal activity involving the commercial cannabis use or any agent or employee of the commercial cannabis use.
3. Any other breach of security.

O. Inspections and Monitoring. Commercial cannabis uses and operations shall be subject to inspections by appropriate local and state agencies, including but not limited to, the Chief of Police and the City. Inspections by the City shall be conducted during regular business hours, with at least 24-hours' notice unless public health or safety otherwise requires. Administrative monitoring shall be required for each commercial cannabis use. An annual inspection and monitoring fee may be adopted by Resolution of the City Council.

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

Q. Record Keeping.

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

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

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

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

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

5.44.040 Standards for Commercial Cannabis Cultivation

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

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

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

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

E. **Development Criteria.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.44.050 Standards for Commercial Cannabis Dispensaries

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.44.070 Enforcement

A. Violations.

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

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

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

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

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

2865879.1

Cannabis – Prop 64

Current Law

- Proposition 64 allows for the possession and recreational use of cannabis for those age 21 and older
- Local jurisdictions must allow for indoor cultivation up to six plants
- Cannabis must be consumed indoors and not in public places



Cannabis – Prop 64

Current Law (cont'd)

- New regulations permit local delivery – without local control
- Local jurisdictions can regulate or prohibit other uses
 - sales, cultivation, manufacturing, and testing



Cannabis – Prop 64

Current Morgan Hill Status

- April 2012 – Amended MHMC 8.44 which strengthened secondhand smoke ordinance – which applies to cannabis
- January 2016 – Amended MHMC 9.16 to prohibit cultivation, delivery services, and dispensaries
- Only Proposition 64 permissible activities are allowed
- Indoor cultivation of six plants and local delivery



Cannabis – Prop 64

Voice of Morgan Hill Voters

- Voters in Morgan Hill supported Proposition 64 at 58%
- Voters passed Measure I (Cannabis Tax)
- Measure I taxes cannabis activities at the following rates:
 - Sales – starting at 6% up to 10%
 - Cultivation – starting at \$10 per square foot up to \$15
 - Manufacturing – starting at 4% up to 10%
 - Testing – starting at 2% and up to 10%



Cannabis – Prop 64

Santa Clara County Cities

Ban all uses:

- County, Gilroy, Sunnyvale, Campbell, Milpitas, Palo Alto, Los Gatos, Los Altos

Allow or Plan to Allow Retail Sales and/or Medicinal Sales:

- San Jose, Mountain View, Santa Clara

No jurisdiction allows cultivation or manufacturing without allowing retail sales



Cannabis – Prop 64

Policy Considerations

Safety

- Youth access and impaired driving
- Increased crime related to dispensaries and delivery

Access

- No other legal access point for cannabis in South County

Revenue

- Potential tax revenue dependent on the type and quantity of use allowed



Cannabis – Prop 64

Options for Morgan Hill



Options	Potential Benefit	Potential Risks	Possible Next Steps
Allow sales, testing, commercial cultivation, delivery, and/or production	Job growth, tax revenue, access to state grants and access to product	Youth access, impaired driving, crime increases, and quality of life concerns	Develop and approve regulations and fees
Allow testing, commercial cultivation, delivery and/or production (no sales)	Job growth, tax revenue, reducing youth access and impaired driving	Crime at locations could be mitigated by regulations	Develop and approve regulations and fees
Status quo			Nothing further

Cannabis – Prop 64

POLICY DIRECTION:

Staff seeks direction on whether or not to return with an ordinance on type and quantity of uses allowed



From: [Michelle Bigelow](#)
To: [Michelle Bigelow](#)
Subject: FW: [California - San Jose Mercury News reports] POT TAX REVENUE BELOW EXPECTATIONS
Date: Friday, February 22, 2019 3:41:11 PM
Attachments: [image003.png](#)

From: Ronald Kirkish <hykirkish@charter.net>
Subject: Fwd: [California - San Jose Mercury News reports] POT TAX REVENUE BELOW EXPECTATIONS
Date: February 20, 2019 at 12:18:54 PM PST
To: Christina Turner <christina.turner@morganhill.ca.gov>, Scot Smithee <scot.smithee@ci.gilroy.ca.us>, Mayor Roland Velasco <roland.velasco@ci.gilroy.ca.us>, Dion Bracco <dionbracco@gmail.com>, Cat Tucker <cattatak@aol.com>, Council Member Marie Blankley <marie.blankley@ci.gilroy.ca.us>, "Andrew L. Faber" <andy.faber@berliner.com>, Gabriel Gonzalez <gabe.gonzalez@cityofgilroy.org>, "fred.tovar@cityofgilroy.org" <fred.tovar@cityofgilroy.org>, "Peter.Leroe-Munoz@ci.gilroy.ca.us" <Peter.Leroe-Munoz@ci.gilroy.ca.us>
Cc: Tom Gorman <tgorman@rmhidta.org>, Bob Cooke <bcooke@ncric.ca.gov>, Monte Stiles <monte@montestiles.com>, Roger Morgan <rogermorgan339@gmail.com>, Cheryl Mjoen Parks <notification@facebookmail.com>, Cristina Covelli <covellic@charter.net>

Dear All,

Sheriff Jon Lopey of Siskiyou County just sent us some very startling information regarding accidental deaths that were marijuana related (+30%) in his county.....for your consideration,

Ronald L. Kirkish

Begin forwarded message:

From: Jon Lopey <Jon.Lopey@siskiyousheriff.org>
Subject: RE: [California - San Jose Mercury News reports] POT TAX REVENUE BELOW EXPECTATIONS
Date: February 20, 2019 at 12:09:21 PM PST
To: 'Roger Morgan' <rogermorgan339@gmail.com>, Ronald Kirkish <hykirkish@charter.net>
Cc: Tom Gorman <tgorman@rmhidta.org>, Bob Cooke <bcooke@ncric.ca.gov>, "Monte Stiles" <monte@montestiles.com>, Kevin Sabet <reply@learnaboutsam.org>, "DR. Allen Bishop" <drallenifbc@yahoo.com>, Dion Bracco <dionbracco@gmail.com>, Cat Tucker <cattatak@aol.com>, Council Member Marie Blankley <marie.blankley@ci.gilroy.ca.us>, "Andrew L. Faber" <andy.faber@berliner.com>, Mayor Roland Velasco <roland.velasco@ci.gilroy.ca.us>, Gabriel Gonzalez <gabe.gonzalez@cityofgilroy.org>, "fred.tovar@cityofgilroy.org"

Attachment: email from public (2213 : Cannabis Policy Discussion)

<fred.tovar@cityofgilroy.org>, "Peter.Leroe-Munoz@ci.gilroy.ca.us"
 <Peter.Leroe-Munoz@ci.gilroy.ca.us>, Scot Smithee
 <scot.smithee@ci.gilroy.ca.us>, Christina Turner
 <christina.turner@morganhill.ca.gov>, Jon Lopey
 <Jon.Lopey@siskiyousheriff.org>

All:

I just reviewed some coroner stats from last year in my county. We just had a homicide case that was marijuana-related within the last two weeks. Of the 28 accidental deaths we had last year in the county, including 19 motor vehicle fatal incidents, we got 10 clean toxicology tests back. Of the 19 motor vehicle fatalities, multi-drugs, including alcohol, meth, cocaine, morphine, etc. were intermittently present but of the 10 results we got back, six (60%) included THC. 10 results did not reflect any drug use. So, we are looking at more than a 30%+ rate of marijuana product use in these fatalities, which is more than the state average.

The casualties are mounting.

Thanks,

Jon

Jon E. Lopey, Sheriff-Coroner
Siskiyou County Sheriff's Office
305 Butte Street
Yreka, CA 96097
(530) 842-8300



From: Roger Morgan [<mailto:rogermorgan339@gmail.com>]
Sent: Wednesday, February 20, 2019 8:42 AM
To: Ronald Kirkish <hykirkish@charter.net>
Cc: Tom Gorman <tgorman@rmhidta.org>; Bob Cooke <bcooke@ncric.ca.gov>; Monte Stiles <monte@montestiles.com>; Kevin Sabet <reply@learnaboutsam.org>; DR. Allen Bishop <drallenifbc@yahoo.com>; Dion Bracco <dionbracco@gmail.com>; Cat Tucker <cattatak@aol.com>; Council Member Marie Blankley <marie.blankley@ci.gilroy.ca.us>; Andrew L. Faber <andy.faber@berliner.com>; Mayor Roland Velasco <roland.velasco@ci.gilroy.ca.us>; Gabriel Gonzalez <gabe.gonzalez@cityofgilroy.org>; fred.tovar@cityofgilroy.org; Peter.Leroe-Munoz@ci.gilroy.ca.us

Attachment: email from public (2213 : Cannabis Policy Discussion)

Munoz@ci.gilroy.ca.us; Scot Smithee <scot.smithee@ci.gilroy.ca.us>; Christina Turner <christina.turner@morganhill.ca.gov>; Jon Lopey <Jon.Lopey@siskiyousheriff.org>

Subject: Re: [California - San Jose Mercury News reports] POT TAX REVENUE BELOW EXPECTATIONS

Ron

As with any business, you can't count the income and ignore the costs. Take the environmental reclamation costs alone, estimated at \$50 to \$80 billion, and the income is joke. Then add failed academic achievement, lost productivity, increases in crime, mental illness, addiction, suicides, birth defects that will affect future generations, homelessness, uncompensated hospital visits, traffic deaths, et al..... it's time we educate our elected officials, and/or replace them with someone who understands business who hasn't been shaped their philosophies based on campaign contributions.

Roger

On Wed, Feb 20, 2019 at 8:17 AM Ronald Kirkish <hykirkish@charter.net> wrote:

Dear All,

As the song says, "2nd verse same as the 1st"states "never" — "ever" get close the the amount of tax revenue they predicted or expected to get from the sales of marijuana.....but they "do" get a lot more serious problems that cost a ton of money for our public safety agency's to fight; typically criminal problems including an influx of other dangerous drugs like heroin, fentanyl, cocaine and more along with dangerous criminals pushing their drugs for Cartels from south of America's border with Mexico.

So, Gov. Newsom says he's calling for, "increased enforcement this year, with a request to send National Guard troops from the border up to Northern California to combat illegal grows on forest land".....and you should figure that will significantly cost the taxpayers of California tons of money and significantly cut into the amount of money received from marijuana taxes.....fyi, the number of marijuana grows in California is absolutely huge and it will take a lot more than sending a few National Guard troops to clear them out...(right Sheriff Lopey - of Siskiyou, County?)

B/r,

Ronald L.Kirkish

Attachment: email from public (2213 : Cannabis Policy Discussion)

POT TAX REVENUE BELOW EXPECTATIONS

<https://www.mercurynews.com/2019/02/19/california-made-345-million-not-predicted-1-billion-on-legal-cannabis-in-2018/>

By Brooke Staggs, Correspondent

High taxes, Black Market blamed

State took in \$345.2 million in 2018, about one third of the \$1B analysts thought

California took in \$345.2 million in tax revenue from legal cannabis during the first year of regulated sales in 2018, according to figures the state released Tuesday.

That's just more than a third of the \$1 billion in annual revenue analysts predicted California would see once the state's regulated cannabis industry was in full gear. But it does put the state on track to hit the revenue totals Gov Gavin Newsom forecast in his current fiscal year budget.

Marijuana tax revenues climbed substantially in the first three quarters of the year, from \$60.9 million the first quarter to \$80.2 million the second quarter to a revised \$100.8 million in the third quarter. But revenue narrowly grew in the fourth quarter, according to figures Tuesday from the California Department of Tax and Fee Administration.

There was \$103.3 million in cannabis tax revenue in the final three months of 2018. That includes \$50.8 million from California's 15 percent excise tax on all cannabis sales, \$16.4 million from the cultivation tax passed to growers and \$361 million in sales tax on all recreational products sold.

The industry along with some regulators and lawmakers says the state's high taxes and a thriving black market are to blame.

Newsom is calling for increased enforcement this year, with a request to send National Guard troops from the border up to Northern California to combat illegal grows on forest land.

Assemblyman Rob Bonta, D-Oakland, also introduced a bill that would temporarily reduce the cannabis excise tax from 15 percent to 11 percent

and suspend the cultivation tax completely for the next three year. An identical bill failed to get support in 2018.

California has had to reckon with more realistic cannabis revenue forecasts as the first year totals can through.

Former Gov. Jerry Brown budgeted for the state to take in \$185 million in excise and cultivation taxes over the first six months of the year. California missed that mark by more than \$100 million.

For the current fiscal year, from July 2018 to June 2019 Brown initially budgeted for the state to take in \$630 million in marijuana tax earnings. Newsom's proposed budget substantially dropped that forecast down to \$355 million this fiscal year.

With \$204.1 million in revenue during the first six months of the fiscal year, California looks to be on track to hit or even exceed that budget in another six months.

February 27, 2019

Council Member Rene Spring
City of Morgan Hill
17575 Park Avenue
Morgan Hill, CA 95037

Re: February 27, 2019 City Council Agenda – Cannabis Policy Discussion

Council Member Spring:

We are writing in advance of tonight's city council discussion on local cannabis regulations. Our team at Cannus Partners, owner of the Ikanik Farms cannabis brand, applauds you and your council colleagues for your continued research on best practices and community standards for future cannabis operations in the city. We encourage you and your colleagues to develop and adopt a best practice cannabis policy at the earliest opportunity for the following reasons:

- Morgan Hill voters approved the Adult Use of Marijuana Act by a 57% margin, showing majority constituent support for the cannabis industry in Morgan Hill's economic and cultural development.
- Morgan Hill voters passed a municipal cannabis tax, Measure I, by 79% to generate new revenues for community, public safety and civic needs. These benefits begin when cannabis operations commence.
- Morgan Hill can look to a number of ordinances in other California cities that meet a best practice standard that are familiar to Cannus Partners, and Cannus Partners also champions consideration of a development agreement structure to clearly define community benefit and public safety expectations.

Morgan Hill is poised to capture significant benefit from the regulated cannabis industry. Cannus Partners takes best practices seriously, and our operations in any community will be held to the highest standards.

Our public affairs team has developed a depth of experience during the past five years working on municipal legislation in communities throughout California. We stand ready to share that experience if you move forward from tonight's meeting on finalizing a cannabis policy and look forward to an application process when you are ready so we can join the Morgan Hill business community at the appropriate time.

Thank you for your consideration.

Best,

Chris Egger
Cannus Partners
cegger@cannuspartners.com

Chad White
Cannus Partners
cwhite@cannuspartners.com

Amos Young
Cannus Partners
ayoung@cannuspartners.com



Regular Meeting Agenda

City Council

Rich Constantine - Mayor
Rene Spring - Mayor Pro Tem
Yvonne Martinez Beltran - Council Member
Larry Carr - Council Member
John McKay - Council Member

Wednesday, February 27, 2019 7:00 pm

Council Chamber
17555 Peak Avenue, Morgan Hill, CA 95037

The City Council has adopted a policy that regular meetings shall not continue beyond 11:00 p.m. unless extended by a majority of the City Council.

CALL TO ORDER

Mayor Constantine

ROLL CALL ATTENDANCE

Deputy City Clerk Michelle Bigelow

DECLARATION OF POSTING AGENDA

Per Government Code Section 54954.2
Deputy City Clerk Michelle Bigelow

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Members of the public are entitled to address the City Council concerning any item within the Morgan Hill City Council's subject matter jurisdiction. Public comments are limited to no more than three minutes. Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda. (See additional noticing at the end of this agenda)

ADOPTION OF AGENDA

OTHER BUSINESS

1. CANNABIS POLICY DISCUSSION

Recommendation:

Provide direction to staff regarding Cannabis policy.

Since the passage of Proposition 64 in 2016, legalizing marijuana use in California, the City Council has had several conversations and workshops about cannabis use in Morgan Hill. The Council placed a measure on the November 2018 ballot asking the voters if they would approve taxing cannabis uses should they be allowed. With the passage of that measure, staff is bringing forward this workshop for the Council to discuss cannabis policy.

Estimated Time:

FUTURE COUNCIL INITIATED AGENDA ITEMS

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

CLOSED SESSION

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to: Government Code Section 54956.9(d)(2)

Number of Cases: One (1)

RECONVENE

CLOSED SESSION ANNOUNCEMENT

ADJOURNMENT

NOTICE

Any documents produced by the City and distributed to the majority of the City Council less than 72 hours prior to an open meeting, will be made available for public inspection at the City Clerk's Counter at City Hall located at 17575 Peak Avenue, Morgan Hill, CA, 95037 and at the Morgan Hill Public Library located at 660 West Main Avenue, Morgan Hill, California, 95037 during normal business hours. (Pursuant to Government Code 54957.5)

PUBLIC COMMENT

Members of the Public are entitled to directly address the City Council concerning any item that is described in the notice of this meeting, before or during consideration of that item. If you wish to address the Council on any issue that is on this agenda, please complete a speaker request card located in the foyer of the Council Chambers and deliver it to the Minutes Clerk prior to discussion of the item. You are not required to give your name on the speaker card in order to speak to the Council, but it is very helpful. When you are called, proceed to the podium and the Mayor will recognize you. If you wish to address the City Council on any other item of interest to the public, you may do so during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less.

Please submit written correspondence to the Minutes Clerk, who will distribute correspondence to the City Council.

Persons interested in proposing an item for the City Council agenda should contact a member of the City Council who may plan an item on the agenda for a future City Council meeting. Should your comments require Council action, your request may be placed on the next appropriate agenda. Council discussion or action may not be taken until your item appears on an agenda. This procedure is in compliance with the California Public Meeting Law (Brown Act) Government Code §54950.

City Council Policies and Procedures (CP 03-01) outlines the procedure for the conduct of public hearings. Notice is given, pursuant to Government Code Section 65009, that any challenge of Public Hearing Agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to the Public Hearing on these matters.

The time within which judicial review must be sought of the action by the City Council, which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

For a copy of City Council Policies and Procedures CP 97-01, please contact the City Clerk's office (408) 779-7259, (408) 779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov.

AMERICANS WITH DISABILITIES ACT (ADA)

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (408)779-7259, (408)779-3117 (fax) or by email michelle.wilson@morganhill.ca.gov. Requests must be made as early as possible and at least two-full business days before the start of the meeting.

SUSTAINABLE MORGAN HILL



Vision:

To sustain a safe, inclusive, socially responsible, environmentally conscious, and economically sound community

Choose Morgan Hill:

The City of Morgan Hill is the best community for people to live, work, visit, and operate their businesses.

CITY COUNCIL ONGOING PRIORITIES

Enhancing Public Safety · Protecting the Environment · Maintaining Fiscal Responsibility ·
Supporting Our Youth, Seniors, and Entire Community · Fostering a Positive Organizational
Culture · Preserving and Cultivating Public Trust · Preserving Our Community History ·
Enhancing Diversity and Inclusiveness · Advancing Regional Initiatives

2019-2020 STRATEGIC PRIORITIES

Agricultural Preservation
Cannabis Policy
Community Engagement and Messaging
Economic Development
Financial Stewardship
High Speed Rail
Homelessness
Housing Infrastructure
Telecommunications
Traffic/Transportation