

**CANNABIS ADMINISTRATIVE PROSECUTOR PROGRAM
(CAPP)**



MEMORANDUM OF UNDERSTANDING

August 2023 – August 2024

Table of Contents

| | | |
|-------|--|--------|
| I. | Purpose | 2 |
| II. | Parties | 3 |
| III. | Goals and Objectives | 3 |
| IV. | Management and Supervision of the CAPP | 4 |
| V. | Overview of Enforcement Process and Roles of the Parties | 6 |
| VI. | Annual Report | 7 |
| VII. | Facilities, Equipment and Property | 7 |
| VIII. | Administrative Fines and Cost Recovery Fund | 7 |
| IX. | Asset Forfeiture | 7 |
| X. | Term of Agreement | 8 |
| XI. | Compensation | 8 |
| XII. | Instructions for Reimbursement | 9 |
| XIII. | Cost Recovery | 9 |
| XIV. | Liability, Indemnification, and Responsibility | 10 |
| XV. | Press Policy | 10 |
| XVI. | Signatures | 10, 11 |

Cannabis Administrative Prosecutor Program

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is made and entered into this ____ day of August, 2023, by and between the City of Fresno (City) and the Office of the Attorney General (OAG), a department of the State of California. The City and the OAG are collectively referred to herein as the “Parties,” and individually as a “Party.” This MOU is made by the Parties with reference to the following Recitals:

A. On January 24, 2019, the City ordinance known as the Cannabis Retail Business and Commercial Cannabis Business Ordinance became effective, codified as Fresno Municipal Code (FMC), Chapter 9, Article 33, Sections 9-3301, et. seq. (the “Ordinance”), attached hereto as Exhibit A and incorporated herein by reference. The Ordinance governs administrative enforcement against illegal commercial cannabis activity within the jurisdictional boundaries of the City. In addition, FMC section 15-2739 governs Adult Use and Medicinal Cannabis Retail Business and Commercial Cannabis Business, attached as Exhibit B.

B. The Ordinance authorizes the City Attorney to enforce the standards set forth in FMC §9-3301, et. seq. Pursuant to the Ordinance, the term “enforcement officers” includes any city employee vested with authority to enforce the Code, which also includes any employee or person under contract with the City Attorney appointed to investigate and/or prosecute violations of this Code. These powers include the power to inspect public and private property and use whatever judicial and administrative remedies are available under the Code or applicable laws. (FMC §1-302)

I. PURPOSE

The Parties share the common goals to reduce and eliminate illegal commercial cannabis activity within the City and to mitigate the environmental, social, and economic impacts of these illegal activities. These common goals can be served by entering into an agreement that will integrate the resources of the OAG with the powers that the City has to undertake speedy and efficient enforcement actions against illegal land uses that constitute public nuisances.

The purpose of this MOU is to set forth the responsibilities of the Parties, as they relate to the Cannabis Administrative Prosecutor Program (CAPP). Working in conjunction with one another, the Parties will endeavor to effectively enforce the laws of the State of California including the Government Code, Business and Professions Code, Health and Safety Code, and applicable local ordinances related to illegal commercial cannabis activity. Use of the CAPP is intended to ensure well-rounded and coordinated administrative and civil enforcement efforts. The Parties share the same purpose of reducing illegal commercial cannabis activity in their respective areas of responsibility by providing a highly trained and specialized enforcement team.

II. PARTIES

A. OAG - The CAPP will be operated by the Cannabis Control Section of the OAG. The OAG shall establish policies and procedures for the operation of the CAPP, provide direction and oversight to the CAPP, and ensure cooperation by and between the Parties.

B. City - The local jurisdiction, in accordance with the provisions of this agreement authorizes the OAG to work with or on behalf of the City for the purpose of utilizing the City's administrative enforcement procedures to reduce and eliminate illegal commercial cannabis activities. The City makes a commitment to provide necessary personnel to implement the CAPP during the period this MOU is in effect, including the City Attorney's Office Division of Code Enforcement, Police Department, Fire Department, Finance/Business Tax Department, and any other department deemed necessary.

III. GOALS AND OBJECTIVES

The CAPP will promote and implement coordinated efforts towards taking administrative enforcement action against illegal commercial cannabis activity. The CAPP will encourage full cooperation between local and state code compliance, enforcement, and prosecutorial agencies to do the following:

A. **Authorize OAG staff to act through and on behalf of the City.** The City in executing this agreement authorizes OAG staff assigned to implement the CAPP to work with or act on behalf of the City for the limited purpose of managing enforcement actions against illegal cannabis operators and prosecuting such cases before the City's independent administrative hearing officer.

B. **Duty to Cooperate with OAG and the CAPP.** City understands that it is conducting enforcement activities authorized by a City Ordinance and that the CAPP is ultimately responsible to oversee any appeals hearing and/or abatement. Therefore, City enforcement staff shall cooperate with the CAPP in its enforcement efforts. Such cooperation includes but is not limited to:

1. Consistent use of any template documents agreed upon by the Parties (e.g., notices of violation, orders to abate, orders to show cause, proposed orders, voluntary settlement agreements, abatement warrants, and documents for recording abatement liens);
2. Making City personnel available to testify at appeal hearings, administrative citation hearings, lien hearings, and/or to obtain inspection/abatement warrants;
3. Providing copies of case records to OAG staff upon request;
4. Preparing and executing necessary documents, such as warrant affidavits, upon request by OAG staff; and

5. Collecting and providing parcel specific information regarding properties upon which suspected illegal commercial cannabis activity is occurring. This includes, but is not limited to, information about the status of building permits, well permits, grading permits, any other required city permits, GIS data, and any other information that would be useful in determining whether activities and conditions on a given parcel constitute violations of local and state law applicable to illegal cannabis activity.

Failure to timely cooperate with OAG staff may result in discontinuation of enforcement proceedings and/or may preclude the OAG from pursuing costs incurred through the use of the City's administrative enforcement procedures.

IV. MANAGEMENT AND SUPERVISION OF THE CAPP

A. Management

The management and supervision of the CAPP operations and resources subject to the control of the OAG will be the responsibility of the Senior Assistant Attorney General (SAAG) and a Supervising Deputy Attorney General (SDAG) of the Cannabis Control Section of the OAG. In addition to operational responsibility, the SAAG, SDAG, or a designee, will act as liaisons between the OAG and the City, and other federal, state, and local agencies, and prosecutors. Although not intended as an exclusive list of duties, the SAAG and SDAG shall be responsible for the following in connection with CAPP:

1. Supervise and direct all OAG personnel assigned to implement the CAPP.
2. Coordinate requests for assistance from the City for the CAPP.

B. CAPP Prosecutors

1. Deputy Attorneys General (DAGs) will be assigned as prosecutors to the CAPP and will be supervised by the SAAG and SDAG. The City may not direct, supervise, or manage, the work of the DAG.
2. DAGs shall have the following authority, in accordance with the expectations, policies, and procedures of the OAG, in prosecuting administrative enforcement actions against illegal commercial cannabis operations:
 - a. The discretion to determine which illegal commercial cannabis operations shall be the subject of an administrative citation;
 - b. The discretion to decide whether the case will be initiated through the notice of violation and citation process, through an order to show cause proceeding, summary abatement proceedings, or other procedures to the extent such alternatives are authorized under applicable local law;

c. The discretion to negotiate voluntary settlement agreements, reduce fines, and enter into stipulations on behalf of the City for entry of administrative orders to be submitted to the City's independent administrative hearing officer;

d. The discretion to voluntarily dismiss a case, where in the opinion of the assigned DAG, there is a lack of evidence or no reasonable cause to continue with the case;

e. The discretion to request, on behalf of the City, that unpaid costs of enforcement be specially assessed against a parcel that is the subject of an enforcement action in accordance with Government Code Sections 38773.1 and 38773.5 and applicable local law;

3. OAG DAGs assigned to implement the CAPP will comply with OAG protocols for parallel proceedings and ensure that administrative enforcement actions undertaken through the CAPP do not interrupt criminal investigations and do not interfere with investigations or planned criminal enforcement actions. OAG staff will refrain from initiating enforcement actions against any particular parcel, owner, and/or occupant, at the request of local law enforcement.

C. City Regulatory Enforcement Staff

1. Notwithstanding the Duty to Cooperate set forth in section III.B., above, City employees assigned to implement the CAPP will not be subject to the direction, supervision, or management of the OAG.

2. Designated City departments and staff will work with OAG staff assigned to implement the CAPP to determine what code violations exist at illegal commercial cannabis sites, what actions are required for complete abatement of the identified code violations, and what other matters must be addressed to bring cited sites into compliance with local and state laws that are administered by City departments.

3. Where City staff incurs costs associated with the abatement of code violations which exist at illegal commercial cannabis sites, City staff will log and tally those costs for the purpose of cost recovery in accordance with section XIII, below.

D. City Police Department (PD)

1. The OAG and City staff working under the CAPP on proposed administrative enforcement actions will inquire with the PD to ensure that administrative enforcement actions do not interfere with existing criminal investigations or planned criminal enforcement actions. Where informed of possible interference with criminal enforcement activity, OAG and City staff will not initiate enforcement actions against any particular parcel, owner, and/or occupant.

2. PD incurs costs, including administrative costs in causing the abatement of unlawful cannabis activity pursuant to a nuisance abatement order, the PD may be entitled to recovery of such costs. PD staff shall log and tally those costs for the purpose of cost recovery in accordance with section XIII, below.

V. OVERVIEW OF ENFORCEMENT PROCESS AND ROLES OF THE PARTIES

Nothing in this agreement shall limit the authority of the City to engage in enforcement actions to ensure compliance with local laws through any means available under state and local law. However, enforcement actions undertaken through the CAPP on behalf of the City utilizing OAG staff and resources will generally occur as follows:

- A. Investigation. A property upon which illegal commercial cannabis activity is occurring is identified and evidence of illegal activity is obtained.
- B. The CAPP assigned DAG in cooperation with City staff, the Sheriff's Office, Police Department, and any participating state agency partners, will determine whether the parcel, owner, and/or occupant should be the subject of administrative action in accordance with this MOU.
- C. Preparation of Forms. Following the determination that an administrative case should be initiated, the forms agreed upon by the parties shall be completed by assigned City staff and prepared for service.
- D. Service of Notice. Assigned City staff shall cause notices of violation, citations, or orders to show cause to be posted and served in accordance with applicable law.
- E. Voluntary Compliance. The property owner will be provided with an opportunity to voluntarily abate and enter into a stipulated administrative order or settlement agreement resolving the case.
- F. Default or Hearing. Where a notice of violation and citation has been served and the property owner is non-compliant and does not request a hearing, a default order containing a provision for an abatement warrant will be requested. In the event that the property owner seeks an appeal, or the administrative action is initiated through an order to show cause, then the assigned OAG DAG and staff will present the case before the independent administrative hearing officer or the Superior Court of California, County of Fresno if necessary, and will seek imposition of fines and an order to abate.
- G. Abatement Warrant. Immediately following the hearing and service of the order, either OAG staff or city staff assigned to implement the CAPP will seek an abatement warrant, and ensure that all applicable state and local laws are followed prior to causing the recordation of an abatement lien.
- H. Cost Recovery. Costs of enforcement will be documented and tallied and, if the costs of enforcement are not voluntarily paid, the assigned OAG DAG will record the costs against the parcel as a property tax lien in accordance with applicable provisions of the Government Code.

VI. ANNUAL REPORT

One year following commencement of the CAPP, and on a yearly basis thereafter, OAG staff in coordination with City staff, will produce a report to the City Council providing statistical information and summarizing enforcement actions undertaken on behalf of the City through the CAPP.

VII. FACILITIES, EQUIPMENT AND PROPERTY

Each party shall be responsible for providing its own employees and staff with any and all property, equipment, furniture, and furnishings of whatever kind or description, necessary for carrying out its responsibilities.

VIII. ADMINISTRATIVE FINES AND COST RECOVERY FUND

A. Administrative fines assessed against unlicensed commercial cannabis operators as a consequence of CAPP actions shall be deposited into a fund maintained by the City entitled the CAPP Cost Recovery Fund.

B. Monies retained in the CAPP Cost Recovery Fund shall be used in accordance with section XIII.C., below, to only reimburse the Parties for unrecoverable enforcement costs, if any.

C. The CAPP Cost Recovery Fund shall be maintained until termination of this MOU or until the last abatement lien recorded as a consequence of a CAPP action is released, whichever is later. Thereafter, any sums remaining in the CAPP Cost Recovery Fund may be used in any manner the City deems appropriate.

IX. ASSET FORFEITURE

A. Proceeds derived from asset forfeiture as a result of the CAPP operations, whether under state or federal law, will be shared among the Parties as set forth herein. All forfeiture procedures and sharing will comply with the appropriate provisions of state and federal law, as well as the policies of the Parties. Any modification to the asset forfeiture provisions of this MOU must be set forth in writing and be approved by the Parties.

B. Use of Asset Forfeiture Funds for CAPP Operations.

Except as otherwise required by applicable law, the asset forfeiture funds generated by the CAPP operations shall be deposited into the CAPP Cost Recovery Fund as set forth in section VIII, above. The use of asset forfeiture funds for the CAPP operations shall be in strict accordance with the state statutes and regulations governing the use of such funds. No Party entitled to a share of those funds pursuant to this MOU shall have a right to distribution of its share of those funds unless approved by the Parties as provided herein. The balance of asset forfeiture funds shall be used by the City as permitted by state laws.

C. Maintenance of Asset Forfeiture Accounts

The OAG shall maintain a log of all assets seized as a result of CAPP actions. The City is the fiduciary agency and shall be responsible for receiving and administering all asset forfeiture funds including the receipt and disbursement of funds generated by asset forfeiture, and all funds generated by CAPP activity shall pass through the City. The SAAG or SDAG overseeing the CAPP shall be notified of all asset forfeiture funds received by the City when they are received, and disbursements shall be made in accordance with applicable asset forfeiture state laws. Monies shall be held in a manner and fashion in accordance with applicable federal and state laws. Interest earned on all funds, if any, shall be deposited into the CAPP Cost Recovery Fund.

X. TERM OF AGREEMENT

A. The term of this agreement will begin upon the final execution of all signatures to this MOU and continue for one year. Every term thereafter will be a one-year term or until the MOU is terminated by one of the Parties.

B. The term of this MOU may be amended by request of one Party with the agreement of the other Party in writing.

C. The City may withdraw from the MOU at any time by providing the OAG written notice to the SAAG, containing the effective date of withdrawal. The OAG may withdraw from the MOU at any time by providing the City written notice to City contact, containing the effective date of the withdrawal.

D. Budget Contingency Clause: It is mutually agreed that if the Budget Act of the current fiscal year and/or any subsequent fiscal years covered under this MOU does not appropriate sufficient funds for the CAPP, this MOU shall be of no further force and effect. In this event, the OAG shall have no liability to pay any funds or provide any services whatsoever to the City or to furnish any other consideration under this MOU and City shall not be obligated to perform any provisions of this MOU.

XI. COMPENSATION OF PERSONNEL

The Parties shall remain responsible for establishing the salaries and benefits including, but not limited to, overtime and Worker's Compensation Insurance, and for compensating their assigned personnel.

The CAPP is not an independent entity nor an employer. Any employee of the City or contractor working for the City who performs tasks for, or in support of, the CAPP shall be compensated in accordance with the terms of their employment with or in accordance with the terms of their employment or contract with the City. Any employee of the OAG or contractor working for the OAG who performs tasks for, or in support of, the CAPP, shall be compensated in accordance with the terms of their employment or contract with the OAG.

XII. INSTRUCTIONS FOR REIMBURSEMENT

A. City staff and PD shall be responsible for logging and documenting all costs incurred in causing the abatement of unlawful commercial cannabis activities, including, but not limited to, administrative costs. Responsible City staff shall complete a memorandum of costs verifying the investigation and prosecution costs incurred for each case to be used to support an administrative order finding. The memorandum of costs shall identify the assessor parcel number associated with each case, the identity and hourly rate of officers and staff that worked on each case, and description of the tasks undertaken to achieve the abatement of the nuisance.

B. OAG staff assigned to the CAPP shall use the OAG's case management system for logging time incurred in each case, and shall ensure that all costs associated with the time entries are included in requests for final administrative orders. Work undertaken by DAGs will be billed at a rate of \$220 per hour; work undertaken by OAG legal analysts or paralegals shall be billed at a rate of \$205 per hour. DAGs assigned to CAPP shall prepare declarations of costs to support an administrative order.

C. Any and all records pertaining to the enforcement costs incurred through the CAPP shall be maintained at a location designated by the Parties, and readily available to the Parties. In addition, all records and reports generated by either Party in connection with the CAPP shall be maintained for a period of at least four (4) years following termination of this MOU and shall continue to be available to the parties.

XIII. COST RECOVERY

A. Each Party is responsible for funding its own activities in implementing and carrying out the CAPP and each Party shall be entitled to recover enforcement and prosecution costs incurred in undertaking enforcement actions through the CAPP in accordance with State and local law governing nuisance abatement.

B. In no event shall either party to this MOU have the authority to unilaterally reduce or eliminate the obligation a property owner has under a settlement agreement to pay enforcement costs incurred by either the City or the OAG.

C. In circumstances where the costs of abatement exceed the actual value of a subject property and funds recoverable through a tax lien sale are insufficient to cover all enforcement and prosecution costs of the CAPP operation, or in other circumstances where costs cannot be recovered through abatement liens, then the CAPP Cost Recovery Fund shall be used to reimburse the Parties for their proportionate share of expended enforcement costs.

D. In the event that costs of enforcement cannot be recovered from violators or paid from the CAPP Cost Recovery Fund, each Party shall bear their own unrecoverable costs. In no event shall either party be responsible for reimbursing the other for unrecovered costs.

XIV. LIABILITY, INDEMNIFICATION AND RESPONSIBILITY

A. For the purpose of indemnification, each Party shall be responsible for the acts, errors or omissions of its assigned officers, agents or employees, and shall incur any liabilities arising out of the services and activities of those officers, agents or employees while participating in the CAPP. Personnel assigned to implement the CAPP shall be deemed to be continuing under the employment of their respective agencies, and, as to peace officers, shall continue to have the same powers, duties, privileges, responsibilities and immunities as are conferred upon them as peace officers in their own jurisdictions.

B. No Party shall be responsible for the acts, errors, or omissions of the other Party's officers, agents or employees, nor incur any liabilities arising out of the services and activities of the other Party's officers, agents or employees.

C. In the event of a claim (Underlying Claim) by a third party against one or both Parties based on the CAPP activities, the Parties agree to defer any claims against each other and their respective officers, agents or employees until the Underlying Claim is settled or otherwise determined, unless the statutory time restrictions are about to expire. Thereafter, any claims between the Parties shall be resolved in accordance with law.

XV. PRESS POLICY

The Press Policy of the CAPP shall follow the OAG's Department Operations Manual.

A Party that wants to include media on the scene of an ongoing enforcement operation shall obtain approval from the other Party prior to inviting media.

XVI. SIGNATURES

The undersigned represents that the undersigned has the authority to execute this agreement on behalf of the Party that they represent. The Parties, evidenced by the signatures of their authorized representatives hereto, agree that this MOU shall be effective upon approval of both Parties, and shall remain in full force and effect until either Party withdraws from the CAPP as provided herein. It is further acknowledged by both Parties that certain portions of this agreement may require amendments during the term of the MOU. Such amendments will become effective when signed by the Parties' authorized representatives.

If any provision of this MOU is held invalid or unconstitutional, such decision shall have no effect on the validity of the remaining provisions of the MOU and such remaining provisions shall continue to remain in full force and effect.

**AGREED HERETO BY THE PARTIES BASED ON THE SIGNATURES OF THEIR
AUTHORIZED REPRESENTATIVES THAT APPEAR BELOW:**

**OAG/CALIFORNIA DEPARTMENT OF JUSTICE, CANNABIS ADMINISTRATIVE
PROSECUTOR PROGRAM**

Date

Date

CITY OF FRESNO

Date

ANDREW JANZ, CITY ATTORNEY

APPROVED AS TO FORM
CITY ATTORNEY’S OFFICE

Date

Date

GEORGEANNE A. WHITE, CITY MANAGER

EXHIBIT A

ARTICLE 33 - CANNABIS RETAIL BUSINESS AND COMMERCIAL CANNABIS BUSINESS**SEC. 9-3301. - PURPOSE AND INTENT.**

It is the purpose and intent of this Article to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), as well as provide access to adult use cannabis, while imposing sensible regulations on the use of land to protect the city's residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Article to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution, and transportation of cannabis, cannabis products, medicinal cannabis, and medicinal cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the city and to enforce rules and regulations consistent with state law. The provisions of this Article are in addition to any other permits, licenses, and approvals which may be required to conduct business in the city, and are in addition to any permits, licenses, and approvals required under state, city, or other law.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3302. - COMMERCIAL CANNABIS ACTIVITY PROHIBITED UNLESS SPECIFICALLY AUTHORIZED BY THIS ARTICLE.

Except as specifically authorized in this Article, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Bus. & Prof. Code section 26090(e)), of cannabis or cannabis product and medicinal cannabis or medicinal cannabis product is expressly prohibited in the city.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3303. - COMPLIANCE WITH LAWS.

This Article is intended to implement state law. Every cannabis retail business and commercial cannabis business must comply with all applicable state and local laws.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3304. - DEFINITIONS.

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

- (a) "Applicant" means an owner applying for a state license pursuant to this division.
- (b) "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- (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. It also means the separated resin, whether crude or purified, obtained from cannabis. It includes medicinal cannabis, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation. It 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, the sterilized seed of the plant which is incapable of germination, or "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- (d) "Cannabis Innovation Hub" is defined as an area of land which has many cannabis related businesses grouped together which must be no less than three (3) contiguous acres and no more than one hundred (100) contiguous acres. No more than four (4) are permitted within the city. Each individual business would be clearly defined, with a unique entrance and immovable physical barriers between every premises.
- (e) "Cannabis Innovation Zone" is the area bounded by State Route 41, Golden State Blvd., Church Ave., East Ave., and Parallel Ave.
- (f) "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.
- (g) "Cannabis retail business" means a business where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a

retail sale, and where the operator holds a valid commercial cannabis business permit from the city authorizing the operation of a retailer, and a valid state A-license or M-License as required by state law to operate a retailer.

- (h) "Canopy" means the designated area(s) at a licensed premise, except nurseries, that will contain mature plants at any point in time. (1) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries; (2) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary which include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedgerows, fencing, garden beds or garden plots; and if mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- (i) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (j) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products by an operator who has a license issued by the state.
- (k) "Commercial cannabis business" means any business or operation which engages in commercial cannabis activity, except for delivery or sales of cannabis, with a license issued by the state. It does not include a cannabis retail business or medicinal cannabis retail business.
- (l) "Commercial cannabis business permit" means a regulatory permit issued by the city pursuant to this Article to a commercial cannabis business or cannabis retail business, and is required before any commercial cannabis activity may be conducted in the city. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Article and any regulations adopted by the city governing the commercial cannabis activity at issue.
- (m) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (n) "Cultivation site" means a location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where any combination of those activities occurs.
- (o) "Cultivator" means a person holding a valid commercial cannabis business permit for cultivation issued by the city, and, a valid state license for cultivation.
- (p) "Customer" means a natural person 21 year of age or over or a natural person 18 year of age or older who possesses a physician's recommendation.
- (q) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

- (r) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. It also includes the use by a retailer of any technology platform owned and controlled by the retailer. Delivery must be part of a store-front retailer.
- (s) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- (t) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.
- (u) "Distributor" means a person holding a valid commercial cannabis business permit for distribution issued by the city, and, a valid state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed retailer.
- (v) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (w) "Greenhouse" means a fully enclosed permanent structure that is clad in transparent material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that uses a combination of natural and supplemental lighting for cultivation.
- (x) "Harvest batch" means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.
- (y) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container.
- (z) "License" means a license issued by the state to engage in commercial cannabis activity, and includes both an A-license and an M-license, as well as a testing laboratory license.
- (aa) "Licensee" means any person holding a state license, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.
- (bb) "Limited-access area" means an area in which cannabis is stored or held and is only accessible to some licensee and authorized personnel.
- (cc) "Live plants" means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (dd) "M-license" means a state license issued under this division for commercial cannabis activity involving medicinal cannabis.
- (ee) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (ff)

"Manufacturer" means a licensee with a valid commercial cannabis business permit that conducts the production, preparation, propagation, or compounding of 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 container.

- (gg) "Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solvent. For purposes of this division, a nonvolatile solvent includes carbon dioxide (CO₂) used for extraction and ethanol used for extraction or post-extraction processing.
- (hh) "Microbusiness" means the cultivation of cannabis on an area less than 10,000 square feet, by an entity authorized to act as a licensed distributor and Level 1 manufacturer under state law, provided such licensee can demonstrate compliance with all requirements imposed by state law on licensed cultivators, distributors, and Level 1 manufacturers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of cannabis shall include the license conditions described in subdivision (b) of Section 26060.1 of the Business and Professions Code. A microbusiness shall be considered a commercial cannabis business that engages in commercial cannabis activity.
- (ii) "Operation" means any act for which licensure is required under the provisions of this division or any commercial transfer of cannabis or cannabis products.
- (jj) "Owner" means any of the following:
 - (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
 - (2) The Manager of a nonprofit or other entity.
 - (3) A member of the board of directors of a nonprofit.
 - (4) An individual who will be participating in the direction, control, or management of the person applying for a license or who has a financial interest in the business other than a fixed lease of real property.
- (kk) "Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.
- (ll) "Person" includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (mm) "Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

- (nn) "Premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee unless the operator is granted an M-License and an A-License for the same type of activity and such operation is lawful under state and local laws, rules and regulations.
- (oo) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products are 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 the cannabis or cannabis product was purchased.
- (pp) "Testing laboratory" means a laboratory, facility, or entity with a commercial cannabis business permit that offers or performs tests of cannabis or cannabis products and that is both of the following:
- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.
 - (2) Licensed by the bureau.
- (qq) "Transport" means the transfer of 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 MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.
- (rr) "Youth center" means any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or similar amusement park facilities. It shall also include a park, playground or recreational area specifically designed to be used by children which may have play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on city, county or state parks. This definition shall not include any private martial arts, yoga, ballet, music or similar studio of this nature nor shall it include any private athletic training facility, pizza parlor, dentist office or doctor's office primarily serving children.
- (ss) "Volatile solvent" means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Examples of volatile solvents include, but are not limited to, butane, hexane, and propane.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Amd. Ord. 2020-041, § 1, eff. 10-25-20).

SEC. 9-3305. - COMMERCIAL CANNABIS BUSINESS PERMIT REQUIRED TO ENGAGE IN COMMERCIAL CANNABIS ACTIVITY.

No person may engage in any commercial cannabis activity within the city unless the person (1) has a valid commercial cannabis business permit from the city; (2) has a valid state license; (3) has a valid Cannabis Conditional Use Permit; (4) is currently in compliance with all applicable state and local laws; and (5) has a Cannabis Business License Tax certificate.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3306. - MAXIMUM NUMBER OF AUTHORIZED CANNABIS RETAIL BUSINESSES AND COMMERCIAL CANNABIS BUSINESSES PERMITTED.

- (a) The City Council approved the Cannabis Retail Business and Commercial Cannabis Business Ordinance to provide a permitting framework and regulatory requirements for Adult Use and Medicinal Use Cannabis businesses in December 2018.
- (b) The number of cannabis retail businesses shall not exceed a total of fourteen (14) within the city. Up to seven (7) more cannabis retail businesses may be authorized by Council Resolution.
- (c) Up to a total of sixteen (16) cultivators, distributors, manufacturers, or microbusinesses may be issued a commercial cannabis business permit. No specific number of each type of business is required so long as the total number of commercial cannabis business permits issued for all three business types does not exceed a total of sixteen (16).
- (d) There is no limit on the number of testing laboratories which may be issued a commercial cannabis business permit.
- (e) The City Manager has discretion to limit the number of commercial cannabis permits to less than what is allowed in this Article. Nothing in this Article creates a mandate that the City Manager must issue any or all of the commercial cannabis business permits.
- (f) Each year following the City Manager's initial award of permits, if any, or at any time in the City Manager's discretion, the City Manager may reassess the number of commercial cannabis business permits which are authorized for issuance.
- (g) A microbusiness shall only be permitted if it is found to be exempt from the California Environmental Quality Act (CEQA).

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 1, eff. 3-2-20; Amd. Ord. 2020-041, § 2, eff. 10-25-20).

SEC. 9-3307. - LOCATION AND DESIGN OF RETAIL CANNABIS BUSINESSES.

- (a) All cannabis retail businesses must be located on property zoned DTN (Downtown Neighborhood), DTG (Downtown General), CMS (Commercial Main Street), CC (Commercial Community), CR (Commercial Regional), CG (Commercial General), CH (Commercial Highway), NMX (Neighborhood Mixed-Use), CMX (Corridor/Center Mixed Use), or RMX (Regional Mixed-Use), and must meet all of the requirements for development in these zones.
- (b) Cannabis retail businesses shall be dispersed evenly by Council District. If changes to Council District boundaries create an un-even distribution, existing cannabis retail businesses shall be allowed to remain and subsequent cannabis retail businesses approved by the City Manager shall create even distribution by Council District.
- (c) All buildings in which a cannabis retail business is located shall be no closer than eight hundred (800) feet from any property boundary containing any of the following:
 - (1) A cannabis retail business.
 - (2) A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
 - (3) A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
 - (4) A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.
- (d) Each proposed cannabis retail business shall:
 - (1) Be within a fully enclosed building and cannabis must not be visible from the public right-of-way.
 - (2) Conform with the General Plan, any applicable specific plans, master plans, and design requirements.
 - (3) Comply with all applicable zoning and related development standards.
 - (4) Be constructed in a manner that prevents odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. Odors from the cannabis retail business shall not be detectable from outside the premises. Best available odor control technology shall be utilized.
 - (5) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
 - (6) Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
 - (7) Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.
 - (8)

Each applicant shall provide a neighborhood responsibility plan so the review authority may find that the proposed use and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.

(e) Each proposed cannabis retail business shall meet the following design guidelines:

- (1) Demonstrate compatibility with the surrounding character of the neighborhood and blend in with existing buildings. The establishment should look like any other similarly situated building.
- (2) Comply with all applicable zoning and related development standards, including, but not limited to, parking, lighting, building materials, and colors.
- (3) Signage, as described below, shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, §§ 2, 3, eff. 3-2-20; Am. Ord. 2022-007, § 1, eff. 6-6-22).

SEC. 9-3308. - LOCATION AND DESIGN OF COMMERCIAL CANNABIS BUSINESSES.

- (a) Laboratory testing may take place in a Commercial, Employment, or Downtown District.
- (b) There shall be permitted eight (8) cultivators, distributors, manufacturers, or microbusinesses located within the Cannabis Innovation Zone.
- (c) There shall be permitted eight (8) cultivators, distributors, manufacturers, or microbusinesses located inside a Cannabis Innovation Hub or within one-half (1/2) mile of State Route 99 between Shaw Ave. and Clinton Ave., one (1) mile of State Route 99 north of Shaw Ave. or south of Clinton Ave., or within one (1) mile of State Route 180 west of State Route 99, and must be zoned either IL (Light Industrial) or IH (Heavy Industrial), and must meet all of the requirements for development in these zones. All buildings in which a cultivator, distributor, or manufacturer is located shall be no closer than one thousand (1,000) feet from any property boundary containing any of the following:
 - (1) Any residentially zoned parcel in the city, including any legal non-conforming residential uses as of the date a complete commercial cannabis business permit application is submitted.
 - (2) A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
 - (3) A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
 - (4) A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.

- (d) All Cannabis Innovation Hubs must be located within one-half (1/2) mile of State Route 99 between Shaw Ave. and Clinton Ave., one (1) mile of State Route 99 north of Shaw Ave. or south of Clinton Ave., or within one (1) mile of State Route 180 west of State Route 99, and must be zoned either IL (Light Industrial) or IH (Heavy Industrial), and must meet all of the requirements for development in these zones. All Cannabis Innovation Hubs buildings shall be located no closer than one thousand (1,000) feet from any property boundary containing any of the following:
- (1) Any residentially zoned parcel in the city, including any legal non-conforming residential uses as of the date a complete commercial cannabis business permit application is submitted.
 - (2) A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
 - (3) A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
 - (4) A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.
- (e) Each proposed commercial cannabis business shall:
- (1) Be within a fully enclosed building and must not be visible from the public right-of-way.
 - (2) Conform to the General Plan, any applicable specific plans, master plans, and design requirements.
 - (3) Comply with all applicable zoning and related development standards.
 - (4) Be constructed in a manner that prevents odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties. Odors from the commercial cannabis business shall not be detectable from outside the premises. Best available odor control technology shall be utilized.
 - (5) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
 - (6) Be served by highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
 - (7) Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.
 - (8) Each applicant shall provide a neighborhood responsibility plan so the review authority may find that the proposed use and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.
- (f) Each proposed commercial cannabis business shall meet the following design guidelines:
- (1)

Demonstrate compatibility with the surrounding character of the neighborhood and blend in with existing buildings. The establishment should look like any other similarly situated building.

- (2) Comply with all applicable zoning and related development standards including, but not limited to, parking, lighting, materials, and colors.
- (3) Signage, as described below, shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, §§ 4, 5, eff. 3-2-20; Amd. Ord. 2020-041, § 3, eff. 10-25-20).

SEC. 9-3309. - OPERATING REQUIREMENTS FOR ALL COMMERCIAL CANNABIS ACTIVITY.

- (a) Cannabis shall not be consumed by any person on the premises of any cannabis retail business or commercial cannabis business.
- (b) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business or cannabis retail business.
- (c) No person shall cause or permit the sale of tobacco products on or about the premises of the commercial cannabis business or cannabis retail business.
- (d) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business or cannabis retail business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (e) Cannabis retail businesses and commercial cannabis businesses shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the city. Cannabis retail businesses and commercial cannabis businesses shall ensure that such information is compatible with the city's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.
- (f) All cannabis and cannabis products sold, distributed, or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with state and local laws.
- (g) Emergency Contact. Cannabis retail businesses and commercial cannabis businesses shall provide the City Manager or his/her designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be

provided at any hour of the day.

(h) Signage and Notices.

- (1) Business identification signage shall conform to the requirements of Chapter 15, Article 26 of this Code, including, but not limited to, seeking the issuance of a city sign permit.
- (2) No signs placed on the premises of a cannabis retail business or a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
- (3) Each entrance shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis or cannabis products on the premises or in the areas adjacent to the business is prohibited.
- (4) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. Advertising shall not be visible from the exterior of the establishment and shall be prohibited on the exterior of the establishment. No cannabis retail business or commercial cannabis business may advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises or elsewhere including, but not limited to, the public right-of-way.
- (5) Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards or other prohibited signs may be used at any time.
- (6) In accordance with state law and regulations, holders of a commercial cannabis business permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any commercial cannabis business or cannabis retail business located in the city utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising, anywhere in the state. This paragraph is not intended to place limitations on the ability of a commercial cannabis business or cannabis retail business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways. In addition, any cannabis advertising, including such advertising that is not connected to a cannabis business operating in the city, using any means described above, is strictly prohibited within the city limits.

(i) Minors.

- (1) Except as provided below, persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis retail business or a commercial cannabis business and shall not be allowed to serve as a driver for a delivery service. It shall be unlawful and a violation of this Article for any person to employ any person who is not at least twenty-one (21) years of age.

(2)

The entrance to a commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.

- (3) Persons at least eighteen (18) years old shall be allowed on the premises of a medicinal cannabis retail business to purchase medicinal cannabis or medicinal cannabis products. The entrance to a medicinal cannabis retail business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) is permitted to enter upon the premises of the medicinal cannabis retail business.
- (4) It shall be a violation of this Article to sell medicinal cannabis or medicinal cannabis products to any person under the age of eighteen (18) or to sell cannabis or cannabis products to any person under the age of twenty-one (21).
- (j) Best available odor control technology and devices shall be incorporated in a cannabis retail business and a commercial cannabis business to ensure that odors from cannabis are not detectable off-site. A sufficient odor absorbing ventilation and exhaust system shall be provided so that odor generated inside the premises 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 cannabis retail business or commercial cannabis business. The following equipment, or any other equipment which the Planning and Development Director or his/her designee(s) determine is a more effective method or technology, must be installed and maintained:
 - (1) An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally;
 - (2) An air system that creates negative air pressure between the premises' interior and exterior, so that the odors generated inside the premises are not detectable outside the premises.
- (k) The original copy of the commercial cannabis business permit issued by the city pursuant to this Article and the city issued business license shall be posted inside the cannabis retail business or a commercial cannabis business in a location readily visible to the public.
- (l) The owner and/or operator of a cannabis retail business or a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises.
- (m) Community Relations.
 - (1) Each commercial cannabis business or cannabis retail business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the business can be provided. Each commercial cannabis business

or cannabis retail business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.

- (2) During the first year of operation pursuant to this Article, the owner, manager, and community relations representative from commercial cannabis business or cannabis retail business shall attend meetings with the City Manager or his/her designee(s), and other interested parties as deemed appropriate by the City Manager or his/her designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of this Article. After the first year of operation, the owner, manager, and community relations representative from each commercial cannabis business or cannabis retail business shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).
- (3) Each commercial cannabis business or cannabis retail business shall develop a city approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth use of cannabis, and that identifies resources available to youth related to drugs and drug addiction.
- (n) The cannabis retail business or commercial cannabis business shall continually maintain the premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety and general welfare of employees, patrons, surrounding properties, and the general public. The premises shall not be maintained in a manner that causes a public or private nuisance. Litter must be removed daily from the premises, including adjacent public sidewalks and all parking lots under the control of the cannabis retail business or commercial cannabis business; these areas must be swept or cleaned, either mechanically or manually, on a weekly basis to control debris; upkeep and operating characteristics must be compatible with abutting properties and the surrounding neighborhood.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, §§ 6—8, eff. 3-2-20).

SEC. 9-3310. - OPERATING REQUIREMENTS FOR A CANNABIS RETAIL BUSINESS.

(a) **General.**

- (1) Cannabis retail businesses, including delivery of cannabis, may operate between the hours of 6 am and 10 pm. Other non-sales related activities germane to the business may take place on premises after hours.
- (2) There shall not be a physician located on the premises at any time for the purpose of evaluating patients for the issuance of a cannabis recommendation or card where applicable.
- (3) Prior to dispensing cannabis or cannabis products to any person, the cannabis retail business shall verify the age of each customer.
- (4)

Entrances shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area. Individuals must show their identification in order to gain access into the retailer.

- (5) A cannabis retail business may have only that quantity of cannabis and cannabis products readily available to meet the daily demand for sale on-site in the retail sales area of the premises.
- (6) All restroom facilities shall remain locked and under the control of management.
- (7) Delivery vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.

(b) Security Measures.

- (1) A permitted cannabis retail business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis retail business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (i) Premises contain a secured lobby/trap room, where a customer first enters and awaits verification by the cannabis retail business that the customer is a qualified to purchase cannabis.
 - (ii) Premises contain only one entrance which members of the public enter and exit.
 - (iii) Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - (iv) Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
 - (v) Prevent individuals from remaining on the premises and nearby vicinity if they are not engaging in an activity directly related to the permitted operations of the cannabis retail business.
 - (vi) Establish limited access areas accessible only to authorized cannabis retail business personnel.
 - (vii) All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.
 - (viii) The applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

1. The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.
 2. The System shall have the correct date and time stamped onto the image at all times.
 3. The camera storage capacity should be for at least ninety days. Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.
 4. Digital video recorder must be capable of storing at least ninety days of real-time activities.
 5. The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department immediately, upon request for a criminal investigation and/or purposes of compliance only.
 6. The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area. There should be at least one camera focused on the entrance and the camera view should clearly show an image of the color coded height tape installed on the inside of the door jamb.
 7. There shall be exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.
 8. All interior cameras shall record in color.
 9. All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.
 10. An inoperable System may be good cause for seeking revocation of the Permit.
- (ix) Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (x) Panic buttons shall be installed with direct notification to a licensed security company dispatch, and shall be configured to immediately alert dispatch for that licensed security company.
- (xi) Any bars installed on the windows or the doors shall be installed only on the interior of the building.

- (xii) Armed security personnel shall be on-site during operating hours. If armed security personnel are not on-site when the cannabis retail business is closed, a verified response security patrol shall be utilized. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the Chief of Police.
 - (xiii) Premises shall have the capability to remain secure 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.
 - (xiv) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the cannabis retail business; or (b) a licensed security professional.
 - (xv) The interior must have at least one camera placed to focus on each transaction, to include the clerk as well as the customer waiting area. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.
 - (xvi) An accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.
 - (xvii) Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products and all Cannabis regulations stated in the California Code of Regulations.
 - (xviii) State of the art network security protocols in place to protect computer information and all digital data.
 - (xix) Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (2) Each cannabis retail business shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the cannabis retail business, annually prepare and submit to the District Commander of the Fresno Police Department a security plan for approval and maintain a copy of the current security plan on the premises, to present to a peace officer immediately upon request that meets the following requirements:
- (i) Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
 - (ii) Identifies all Managers of the cannabis retail business and their contact phone numbers.

- (iii) Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 - (iv) Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 - (v) Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the premises, the parking lot, and any adjacent property under the business' control.
 - (vi) Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.
- (3) Provide a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency. For delivery, include provisions relating to vehicle security and the protection of employees and product during loading and in transit.
 - (4) Cooperate with the city whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Article.
 - (5) Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (i) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - (ii) Diversion, theft, loss, or any criminal activity involving the cannabis retail business or any agent or employee of the cannabis retail business.
 - (iii) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the cannabis retail business.
 - (iv) Any other breach of security.
 - (6) Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 9, eff. 3-2-20).

SEC. 9-3311. - OPERATING REQUIREMENTS FOR A DISTRIBUTOR.

(a) **General.**

- (1) Distributor may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Ordinance, Article 1 of Chapter 10 of this Code, as may be amended.
- (2) Distributor vehicles shall be unmarked vehicles with no indication that the vehicles are transporting cannabis or cannabis products.
- (3) Distributor shall comply with all applicable state standards and laws, including but not limited to, Section 26001 (r) of the Business and Professions Code, as may be amended.

(b) Security Measures.

- (1) A permitted distributor shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (i) Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - (ii) Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
 - (iii) Prevent individuals from remaining on the premises if they are not engaging in an activity directly related to the permitted operations of the distributor.
 - (iv) Establish limited access areas accessible only to authorized personnel.
 - (v) All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis or cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.
 - (vi) The applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:
 1. The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.
 2. The System shall have the correct date and time stamped onto the image at all times.
 3. The camera storage capacity should be for at least ninety days. Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.
 4. Digital video recorder must be capable of storing at least ninety days of real-time activities.

5. The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department immediately, upon request for a criminal investigation and/or purposes of compliance only.
 6. The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area. There should be at least one camera focused on the entrance and the camera view should clearly show an image of the color coded height tape installed on the inside of the door jamb.
 7. There shall be exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.
 8. All interior cameras shall record in color.
 9. All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.
 10. An inoperable System may be good cause for seeking revocation of the Permit.
- (vii) Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - (viii) Panic buttons shall be installed with direct notification to a licensed security company dispatch, and shall be configured to immediately alert dispatch for that licensed security company.
 - (ix) Any bars installed on the windows or the doors of the premises shall be installed only on the interior of the building.
 - (x) Armed security personnel shall be on-site during all hours of operation or alternative security as authorized by the City Manager or his/her designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the Chief of Police.
 - (xi) Premises shall have the capability to remain secure 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.

- (xii) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the distributor; or (b) a licensed security professional.
- (xiii) The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.
- (xiv) An accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (xv) Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products and all Cannabis regulations stated in the California Code of Regulations.
- (xvi) Have state of the art network security protocols in place to protect computer information and all digital data.
- (xvii) Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (xviii) Identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the distributor, annually prepare and submit to the District Commander of the Fresno Police Department a security plan for approval and maintain a copy of the current security plan on the premises of the business, to present to a peace officer immediately upon request that meets the following requirements:
 - 1. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
 - 2. Identifies all Managers and their contact phone numbers.
 - 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 - 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 - 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the commercial cannabis business, the parking lot, and any adjacent property under the business' control.
 - 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-

half hour after closing.

- (2) As part of the application and permitting process each distributor shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency. The distributor shall stagger transportation times, vary routes from the premises, and take other security measures as requested by the Chief of Police.
- (3) The distributor shall cooperate with the city whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Article.
- (4) Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (i) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - (ii) Diversion, theft, loss, or any criminal activity involving the distributor or any agent or employee of the distributor.
 - (iii) The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
 - (iv) Any other breach of security.
- (5) Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 10, eff. 3-2-20).

SEC. 9-3312. - OPERATING REQUIREMENTS FOR A CULTIVATOR.

(a) **General.**

- (1) Cultivator may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Ordinance, Article 1 of Chapter 10 of this Code, as may be amended.
- (2) Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors. All outdoor cultivation, including outdoor greenhouse cultivation, is prohibited.
- (3) Cannabis plants shall not be visible from a public or private road, sidewalk, park, or any common public viewing area.
- (4) Cultivator shall only be allowed to cultivate the square feet of canopy space permitted by state law. Research and development area shall be limited to ten percent (10%) of the total permitted canopy square footage.

- (5) Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (6) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- (7) The cultivation of cannabis 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 cultivation site, 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; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- (8) All applicants for a cultivation permit shall submit the following in addition to the information generally otherwise required for a commercial cannabis business permit:
 - (i) A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).
 - (ii) A description of a legal water source, irrigation plan, and projected water use.
 - (iii) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
 - (iv) Plan for addressing public nuisances that may derive from the cultivation site.

(b) Security Measures.

- (1) A permitted cultivator shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis and cannabis products at the commercial cannabis business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (i) Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - (ii) Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
 - (iii) Prevent individuals from remaining on the premises and nearby vicinity if they are not

engaging in an activity directly related to the permitted operations of the cultivator.

- (iv) Establish limited access areas accessible only to authorized personnel.
- (v) Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
- (vi) The applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:
 - 1. The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.
 - 2. The System shall have the correct date and time stamped onto the image at all times.
 - 3. The camera storage capacity should be for at least ninety days. Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.
 - 4. Digital video recorder must be capable of storing at least ninety days of real-time activities.
 - 5. The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department immediately, upon request for a criminal investigation and/or for purposes of compliance only.
 - 6. The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area. There should be at least one camera focused on the entrance and the camera view should clearly show an image of the color coded height tape installed on the inside of the door jamb.
 - 7. There shall be exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.
 - 8. All interior cameras shall record in color.
 - 9. All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of

vandalism.

10. An inoperable System may be good cause for seeking revocation of the Permit.
- (vii) Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - (viii) Panic buttons shall be installed with direct notification to a licensed security company dispatch, and shall be configured to immediately alert dispatch for that licensed security company.
 - (ix) Any bars installed on the windows or the doors shall be installed only on the interior of the building.
 - (x) Armed security personnel shall be on-site during all hours of operation. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the Chief of Police.
 - (xi) Premises shall have the capability to remain secure 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.
 - (xii) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the cultivator; or (b) a licensed security professional.
 - (xiii) The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.
 - (xiv) An accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.
 - (xv) Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products and all Cannabis regulations stated in the California Code of Regulations.
 - (xvi) State of the art network security protocols in place to protect computer information and all digital data.
 - (xvii) Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
 - (xviii)

Each cultivator shall identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the cultivator, annually prepare and submit to the District Commander of the Fresno Police Department a security plan for approval and maintain a copy of the current security plan on the premises, to present to a peace officer immediately upon request that meets the following requirements:

1. Confirms that a designated Manager will be on duty during business hours.
 2. Identifies all Managers and their contact phone numbers.
 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the premises, the parking lot, and any adjacent property under the business' control.
 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.
- (2) As part of the application and permitting process each cultivator shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
- (3) Cooperate with the city whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Article.
- (4) Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
- (i) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - (ii) Diversion, theft, loss, or any criminal activity involving the cultivator or any agent or employee of the cultivator.
 - (iii) The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
 - (iv) Any other breach of security.

- (5) Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 11, eff. 3-2-20).

SEC. 9-3313. - OPERATING REQUIREMENTS FOR A TESTING LABORATORY.

(a) **General.**

- (1) Testing laboratories may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Ordinance, Article 1 of Chapter 10 of this Code, as may be amended.
- (2) Testing Laboratories shall comply with all applicable state standards and laws. Standard Operating Procedures, as recommended by the Bureau, must be followed.
- (3) Testing laboratories shall be required to conduct all testing in a manner pursuant to Business and Professions Code 26100 and shall be subject to any additional or subsequent state and local law.

(b) **Security Measures.**

- (1) A permitted testing laboratory shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis and cannabis products. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (i) Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - (ii) Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
 - (iii) Prevent individuals from remaining on the premises if they are not engaging in an activity directly related to the permitted operations of the testing laboratory.
 - (iv) Establish limited access areas accessible only to authorized personnel.
 - (v) All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.
 - (vi) The applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

1. The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.
 2. The System shall have the correct date and time stamped onto the image at all times.
 3. The camera storage capacity should be for at least ninety days. Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.
 4. Digital video recorder must be capable of storing at least ninety days of real-time activities.
 5. The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department immediately, upon request for a criminal investigation and/or for purposes of compliance only.
 6. The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area. There should be at least one camera focused on the entrance and the camera view should clearly show an image of the color coded height tape installed on the inside of the door jamb.
 7. There shall be exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.
 8. All interior cameras shall record in color.
 9. All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.
 10. An inoperable System may be good cause for seeking revocation of the Permit.
- (vii) Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (viii) Panic buttons shall be installed with direct notification to a licensed security company dispatch, and shall be configured to immediately alert dispatch for that licensed security company.
- (ix) Any bars installed on the windows or the doors of the premises shall be installed only on the interior of the building.

- (x) Security personnel shall be on-site during all hours of operation or alternative security as authorized by the City Manager or his/her designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
- (xi) Premises shall have the capability to remain secure 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.
- (xii) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the testing laboratory; or (b) a licensed security professional.
- (xiii) The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.
- (xiv) An accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (xv) Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products and all Cannabis regulations stated in the California Code of Regulations.
- (xvi) Have state of the art network security protocols in place to protect computer information and all digital data.
- (xvii) Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (xviii) Identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the testing laboratory, annually prepare and submit to the District Commander of the Fresno Police Department a security plan for approval and maintain a copy of the current security plan on the premises of the business, to present to a peace officer immediately upon request that meets the following requirements:
 - 1. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
 - 2. Identifies all Managers and their contact phone numbers.
 - 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.

4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the testing laboratory, the parking lot, and any adjacent property under the business' control.
 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.
- (2) As part of the application and permitting process each testing laboratory shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
 - (3) The testing laboratory shall cooperate with the city whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Article.
 - (4) Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (i) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - (ii) Diversion, theft, loss, or any criminal activity involving the testing laboratory or any agent or employee of the testing laboratory.
 - (iii) The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
 - (iv) Any other breach of security.
 - (5) Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 12, eff. 3-2-20).

SEC. 9-3314. - OPERATING REQUIREMENTS FOR A MANUFACTURER.

(a) **General.**

- (1) Manufacturers may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Ordinance, Article 1 of Chapter 10 of this Code, as may be amended.

- (2) Manufacturers must comply with the California Fire Code, California Building Code, and edible product manufacturing must comply with California Department of Public Health Food and Drug Branch regulations.
- (3) The manufacture of cannabis products shall be conducted in a manner to ensure the operation does not pose a threat to the health, safety, and welfare of the public or to neighboring properties.
- (4) Any compressed gases used in the manufacturing process shall not be stored on any property within the city in containers that exceeds the amount which is approved by the Fresno Fire Department and authorized by the commercial cannabis business permit. Each site or parcel subject to a commercial cannabis business permit shall be limited to a total number of tanks as authorized by the Fresno Fire Department on the property at any time.
- (5) Manufacturers may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- (6) Manufacturers creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. The extraction operation shall be approved by the Fresno Fire Department and shall be operated in accordance with all relevant state and local requirements.
- (7) Manufacturers must disclose to the city the nature of the product being manufactured (i.e. baked goods, ointments, products derived from butane extraction, etc.).
- (8) Manufacturers must comply with all applicable state standards and laws, including but not limited to, Section 19353 of the Business and Professions Code, and Sections 11362.775 and 11362.9 of the Health and Safety Code. Manufacturers must also comply with Federal FDA practices and Standard Operating Procedures.
- (9) Any Manufacturer that changes the medium of extraction or solvent used in manufacturing from the type previously approved shall submit a report for approval by the Fresno Fire Department prior to the use of the equipment with said new medium or solvent. The technical report shall be revised at the cost of the Manufacturer.
- (10) Manufacturer shall employ quality control personnel and establish standard operating procedures that comply with current good manufacturing practices, as outlined by the State Department of Public Health and the U.S. Food and Drug Administration.
- (11) All Manufacturers have a continuous obligation to identify and/or evaluate known or reasonably foreseeable hazards and implement written preventive controls to significantly minimize or prevent manufactured cannabis products from becoming adulterated or misbranded.

(12)

Vacuum ovens shall not be used to process volatile solvents or flammable/combustible liquids contained in cannabis concentrate unless said vacuum oven is rated to process the vapors of volatile solvents or flammable/combustible liquids, such as a vacuum oven that is rated with an explosion-proof classification.

- (i) Manufacturers conducting extractions with a vacuum oven shall take adequate precautions to ensure that any cannabis concentrate introduced into said oven does not contain volatile solvents or flammable/combustible liquids.
 - (ii) All vacuum ovens used in the manufacture of cannabis products shall be listed by a Nationally Recognized Testing Laboratory (NRTL).
- (13) Doors to any room where Manufacturers use volatile solvents, hazardous materials, or flammable/combustible liquids in the manufacture of cannabis shall swing in the direction of egress, be self-closing and/or self-latching, and be provided with panic hardware.
- (14) Volatile solvents, hazardous chemicals, and flammable/combustible liquids, including volatile solvents, hazardous chemicals, and flammable/combustible liquids contained in concentrated cannabis or cannabis goods, shall be stored in a refrigerator, refrigerated storage, or a freezer rated to store flammable liquids.
 - (i) Manufacturers shall store and process all volatile solvents or flammable/combustible liquids, including concentrated cannabis and manufactured cannabis that contains volatile solvents or flammable/combustible liquids, in refrigerators, refrigerated storage, or freezers rated to store flammable liquids which are, at a minimum, rated "Lab-Safe" or "Flammable Safe."
- (15) Closed loop system required.
 - (i) Chemical extractions using carbon dioxide or a volatile solvent shall be conducted in a professional and commercially manufactured closed loop extraction system that has been certified by a California-licensed engineer.
 - (ii) No closed loop systems shall be utilized without prior inspection and approval of the Fresno Fire Department. It shall meet any required fire, safety, and building code requirements, including but not limited to, National Fire Protection Association (NFPA) standards, International Building Code (IBC), and International Fire Code (IFC).
 - (iii) Certification requirements.
 - 1. Certifications from a California-licensed engineer of any closed loop system used by a Manufacturer shall be provided to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
 - a. The American Society of Mechanical Engineers (ASME);
 - b. American National Standards Institute (ANSI);

- c. Underwriters Laboratories (UL); or
 - d. The American Society for Testing and Materials (ASTM).
- 2. The certification document required pursuant this subsection shall contain the signature and stamp of the professional engineer and serial number of the extraction unit being certified.
- (iv) Closed loop systems for compressed gas extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number. The carbon dioxide must be of at least ninety-nine percent purity.
- (v) Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
- (vi) Manufacturers shall control all sources of ignition where a flammable atmosphere is or may be present.
- (16) Manufacturers may only use volatile solvents or gases approved by the Fresno Fire Department and state law for extractions. Manufacturers may use nonvolatile solvents or mechanical processes to create or refine extracts, if approved by the Fresno Fire Department.
- (17) Manufacturers that use and generate hazardous materials or hazardous waste shall comply with all applicable hazardous material regulations for hazardous waste generators and hazardous material handling requirements.
- (18) Edible cannabis products.
 - (i) The manufacture, distribution, and transportation of edible cannabis products shall be conducted in a manner that complies with all applicable food safety laws for the protection of humans consuming cannabis.
 - (ii) Cannabis facility requirements and limitations.
 - 1. All products, storage facilities, utensils, equipment, and materials used for the manufacture of edible cannabis products shall be approved, used, managed, and handled in accordance to the provisions of all State and local laws regarding the preparation, distribution, labeling, and sale of food.
 - 2. Any manufacturing site that proposes to prepare, store, dispense, and distribute edible cannabis products shall comply with the relevant provisions of all State and local laws regarding the preparation, distribution, labeling, and sale of food.
 - 3. No food production shall be allowed in a facility where edible cannabis products are manufactured to avoid the unintentional contamination of non-cannabis foods with cannabis.
 - 4.

Facilities where edible cannabis products are manufactured shall be constructed, permitted, operated, and inspected in accordance with the applicable building code and applicable food safety requirements.

- (iii) All owners, employees, volunteers, or other individuals that participate in the production of edible cannabis products shall be State certified food handlers. The valid certificate number of each such owner, employee, volunteer, or other individual shall be on record at the permitted premises where said individual participates in the production of edible cannabis products.

(19) Accurate weights and measures.

- (i) Manufacturers shall maintain all weighing devices in good working order, approved, tested, sealed, and registered in compliance with Division 5 ("Weights and Measures") of the California Business and Professions Code, any regulations implemented by the Manufactured Cannabis Safety Branch, and all other applicable local, state, and Federal laws.
- (ii) Manufacturers are prohibited from using scales, weights, or measures that do not accurately conform to the standard of weights and measures of the State and county.

(b) **Security Measures.**

- (1) A permitted manufacturer shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis and cannabis products. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
 - (i) Premises shall have a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
 - (ii) Premises shall have perimeter security and lighting, including motion sensors, as approved by the Chief of Police.
 - (iii) Prevent individuals from remaining on the premises if they are not engaging in an activity directly related to the permitted operations of the manufacturer.
 - (iv) Establish limited access areas accessible only to authorized personnel.
 - (v) All cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products shall be kept in a manner as to prevent diversion, theft, and loss.
 - (vi) The applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

1. The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.
 2. The System shall have the correct date and time stamped onto the image at all times.
 3. The camera storage capacity should be for at least ninety days. Such cameras must be capable of producing a retrievable and identifiable image than can be made a permanent record and that can be enlarged through projection or other means.
 4. Digital video recorder must be capable of storing at least ninety days of real-time activities.
 5. The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department immediately, upon request for a criminal investigation and/or for purposes of compliance only.
 6. The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area. There should be at least one camera focused on the entrance and the camera view should clearly show an image of the color coded height tape installed on the inside of the door jamb.
 7. There shall be exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.
 8. All interior cameras shall record in color.
 9. All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.
 10. An inoperable System may be good cause for seeking revocation of the Permit.
- (vii) Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (viii) Panic buttons shall be installed with direct notification to a licensed security company dispatch, and shall be configured to immediately alert dispatch for that licensed security company.
- (ix) Any bars installed on the windows or the doors of the premises shall be installed only on the interior of the building.

- (x) Armed security personnel shall be on-site during all hours of operation or alternative security as authorized by the City Manager or his/her designee(s). Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms shall be carried by security personnel at all times that they are on duty, except as otherwise authorized by the Chief of Police.
- (xi) Premises shall have the capability to remain secure 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.
- (xii) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the testing laboratory; or (b) a licensed security professional.
- (xiii) The interior must have at least one camera placed to focus on each transaction. At least one camera should be focused on the entrance, and the camera view should clearly show an image of a color-coded height tape installed on the inside of the door jamb.
- (xiv) An accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (xv) Demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products and all Cannabis regulations stated in the California Code of Regulations.
- (xvi) Have state of the art network security protocols in place to protect computer information and all digital data.
- (xvii) Exterior vegetation shall be planted, altered, and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (xviii) Identify a designated security representative/liaison to the city, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the manufacturer, annually prepare and submit to the District Commander of the Fresno Police Department a security plan for approval and maintain a copy of the current security plan on the premises of the business, to present to a peace officer immediately upon request that meets the following requirements:
 - 1. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
 - 2. Identifies all Managers and their contact phone numbers.

3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the premises, the parking lot, and any adjacent property under the business' control.
 6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.
- (2) As part of the application and permitting process each manufacturer shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
 - (3) The manufacturer shall cooperate with the city whenever the City Manager or his/her designee(s) makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Article.
 - (4) Notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (i) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - (ii) Diversion, theft, loss, or any criminal activity involving the manufacturer or any agent or employee of the manufacturer.
 - (iii) The loss or unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
 - (iv) Any other breach of security.
 - (5) Compliance with the foregoing requirements shall be verified by the Chief of Police prior to commencing business operations. The Chief of Police may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 13, eff. 3-2-20).

SEC. 9-3315. - OTHER OPERATIONAL REQUIREMENTS.

The City Manager or his/her designee may develop other commercial cannabis activity operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

- (a) A microbusiness must comply with all of the operational requirements applicable to each business type the microbusiness is comprised of.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Amd. Ord. 2020-041, § 4, eff. 10-25-20).

SEC. 9-3316. - INITIAL APPLICATION PROCEDURE.

- (a) The City Manager shall adopt the procedures to issue commercial cannabis business permits, which shall include or require the City Manager to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria. The City Manager or designee(s) shall be authorized to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, and conduct initial evaluations of the applicants.

- (b) SOCIAL POLICY.

- (1) Employment. Each applicant shall be required to hire individuals for a minimum of one-third (1/3) of the total annual work hours performed at the business who meets one of the following:

- (i) Annual family income below 80% AMI;
 - (ii) Convicted for a cannabis related crime that could have been prosecuted as a misdemeanor or citation under current State law;
 - (iii) Lived in a low to moderate income census tract in the city for a minimum of three (3) years;
 - (iv) Veteran; or
 - (v) Former foster home youth who was in foster care as a minor.
 - (vi) Unemployed; or
 - (vii) Receiving public assistance.

If selected to receive a commercial cannabis business permit, a condition of approval shall be to provide the city with ongoing proof of compliance of this requirement.

- (2) Labor Peace Agreements. A commercial cannabis business or cannabis retail business with five (5) or more employees shall sign a labor peace agreement allowing employees to join or form a union without interference. At the time of application filing, or within thirty (30) days of its fifth (5th) hire, the commercial cannabis business or cannabis retail business shall sign such labor peace agreement and provide a copy of the executed agreement to the City

Manager or designee(s). If such agreement is not received, the application shall be denied or the commercial cannabis business permit shall be revoked in accordance with Section 9-3321 of this Article.

- (i) Union shall mean a bona fide labor organization that is the recognized or certified exclusive bargaining representative of the employees of an employer. A labor organization is bona fide under this regulation if:
 - 1. It actually represents employees in California as to wages, hours and working conditions;
 - 2. Its officers have been elected by secret ballot or otherwise in a manner consistent with federal law; and
 - 3. It is free of domination or interference by any employer and has received no improper assistance or support from any employer.
- (3) Workforce Plan. All applicants shall submit a workforce plan that includes at least the following provisions:
 - (i) Commitment for 30% of employees to be local hires; this local hires requirement is satisfied when a business shows that it has either hired or made a good faith effort to hire bona fide residents of Fresno who have not established residency after application for employment with the permittee;
 - (ii) Commitment to offer apprenticeships and/or compensation for continuing education in the field; and
 - (iii) Commitment to pay a living wage to its employees.
- (4) Collective Bargaining Agreement. If applicable, the applicant shall submit a current collective bargaining agreement with a bona fide labor organization that currently represents cannabis workers in the United States; the applicant shall provide a copy of the agreement to the City Manager or designee(s).
- (5) Social Responsibility. At the time of filing, each applicant shall include a social responsibility element as part of the application. The contents of the social responsibility element are at the discretion of the applicant. The weight of the social responsibility portion of the application will be considered in the overall scoring of the application. Options for the social responsibility element may include, but are not limited to:
 - (i) Providing funding for or hosting expungement clinics or outreach services.
 - (ii) Incorporating an environmentally sustainable business model including energy efficient buildings and vehicles.
 - (iii) Providing a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.
 - (iv)

Utilizing vacant buildings, brownfields land, or blighted areas of the city for the business.

(6) Social Equity Applicant.

- (i) A minimum of one (1) out of every seven (7) commercial cannabis business permits for cannabis retail businesses shall be awarded to an equity applicant. A maximum of two (2) out of every seven (7) commercial cannabis business permits for cannabis retail businesses may be awarded to an equity applicant.
- (ii) A minimum of one (1) out of every eight (8) commercial cannabis business permits for commercial cannabis businesses shall be awarded to an equity applicant. A maximum of two (2) out of every eight (8) commercial cannabis business permits for commercial cannabis businesses may be awarded to an equity applicant.
- (iii) To be considered an equity applicant, the majority ownership interest in the company applying must qualify under at least one of the following criteria:
 - 1. Low income household and either:
 - a. A past conviction for a cannabis crime, or
 - b. Immediate family member with a past conviction for a cannabis crime.
 - 2. Low income household in a zip code identified as at least 60% according to the CalEnviroScreen for five (5) consecutive year period and either:
 - a. A past conviction for a cannabis crime, or
 - b. Immediate family member with a past conviction for a cannabis crime.
 - 3. Low income household and either:
 - a. Five (5) years cumulative residency in a zip code identified as at least 70% according to the CalEnviroScreen, or
 - b. Ten (10) years cumulative residency in a zip code identified by CalEnviroScreen.
 - 4. Business with no less than fifty-one percent (51%) ownership by individuals who meet Criteria 1 and 2 above.
 - 5. Cannabis social enterprise with no less than fifty-one percent (51%) ownership by individuals who meet Criteria 1 and 2 above.
 - a. Cannabis social enterprise shall mean a cannabis business in the city that incubates and/or employs individuals meeting Criteria 1 or 2 above and uses commercial strategies to maximize improvements in financial, social, and environmental well-being of the disadvantaged community the organization sits in. This may include maximizing social impact alongside profits for external shareholders. It can be structured as a for-profit or non-profit organization and may take the form of a cooperative, mutual organization, a disregarded entity, a social business, a benefit corporation, a community interest company, a company

limited by guarantee, or a charity organization. They can also take more conventional structures. Social enterprises have both business goals and social goals. As a result, their social goals are embedded in their objective, which differentiates them from other organizations and corporations.

6. An individual with a membership interest in a cannabis business formed as a cooperative.
- (iv) The City Manager shall determine if an applicant meets the above criteria and qualifies as an equity applicant.
- (v) If determined to not qualify as an equity applicant, the decision may be appealed in accordance with Section 9-3323 of this Article.
- (vi) If qualified as an equity applicant, the equity applicant's fees shall be waived and commercial cannabis business permit application assistance and compliance assistance shall be given. An equity applicant shall also be provided any other assistance as required by state law, as may be amended.
- (vii) An Equity Assistance Program shall be established by the City Manager once funding becomes available. The program shall be contingent upon Council approval, and shall include, but not be limited to, the following elements:
 1. Assistance in paying state regulatory and licensing fees;
 2. Assistance securing business locations prior to or during the application process;
 3. Assistance securing capital investments (excluding loans and grants from the city);
 4. Assistance in recruiting, training, and retention of a qualified/diverse workforce; and
 5. Business loans and/or grants to equity applicants.
- (c) At the time of filing an initial or renewal application, and in accordance with Section 26051.5(11) (A) of the Business and Professions Code, as may be amended, each applicant shall provide a statement that the applicant employs, or will employ within one year of receiving or renewing a commercial cannabis business permit, one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course offered by a training provider that is authorized by an OSHA Training Institute Education Center to provide the course. This paragraph shall not be construed to alter or amend existing requirements for employers to provide occupational safety and health training to employees.
- (d) At the time of filing, each applicant shall sign a statement, under penalty of perjury, that all information submitted is true and correct. If it is later discovered that any false information was provided by the applicant, the application shall be denied, and if a commercial cannabis business permit was granted, it shall be revoked with no opportunity for an appeal.
- (e) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the city in the application process.

- (f) All applications must be submitted in a Portable Document Format (PDF), or comparable alternative as approved by the City Manager, and will be posted online on the city's website after the interview process is complete for all applications in that particular application process. Posting will occur upon completion of the review and redaction process and will include supporting documents. Names and addresses of applicants will be posted when an application period closes. All applications submitted are considered public documents for Public Records Act request purposes. Any application forms created by the city shall include this disclaimer.
- (g) At the time of filing, no Applicant or Owner shall initiate, engage in, or continue any communication to or with any elected official or Planning Commissioner, and no elected official or Planning Commissioner shall initiate, engage in, or continue any communication to or with any Applicant or Owner, concerning or touching upon any matter which is the subject of this Article. The application shall be rejected if prohibited communications take place.
- (h) At the time of filing a complete application, the City Manager shall notify the Councilmember of the district in which the applicant seeks to be located through electronic mail and confirming that it was received.
- (i) After the initial application review and preliminary elimination of applications, the City Manager shall provide notice by First Class mail delivery to all properties and property owners of record within a minimum 1,000-foot radius of the subject property as shown on the latest available assessment role. The City Manager shall also provide notice to the Councilmember whose district the business would be located in.
- (j) After the final review, ranking, and scoring of applications, the City Manager or his/her designee(s) shall make a determination in accordance with this Article.
- (k) **THE CITY'S RESERVATION OF RIGHTS:** 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, or the entire program under this Article, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California state law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Article, may be cancelled 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. In addition to any other justification provided a failure to comply with other requirements in this Article, an application **RISKS BEING REJECTED** for any of the following reasons:
 - (1) Proposal received after designated time and date.
 - (2) Proposal not containing the required elements, exhibits, nor organized in the required format.
 - (3) Proposal considered not fully responsive to this request for permit application.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, §§ 14—18, eff. 3-2-20; Am. Ord. 2020-022, § 1, eff. 6-30-20; Am. Ord. 2021-021, § 1, eff. 7-8-21).

SEC. 9-3317. - PERMITTEE SELECTION PROCESS.

- (a) The City Manager shall adopt a procedure guideline and Review Criteria by which the top applicants in each category of each commercial cannabis activity shall be evaluated with a final determination made by the City Manager, which may be appealed to the City Council by the Councilmember whose district the business would be located in. Local preference shall be included in the Review Criteria.
- (b) Within ten (10) days of the City Manager making a determination to issue a commercial cannabis business permit, notice of the determination shall be sent to all properties and property owners of record within a minimum 1,000-foot radius of the business location as shown on the latest available assessment role, as well as the Councilmember whose district the business will be located in.
- (c) Any decision of the City Manager regarding approval of a commercial cannabis business permit may be appealed to the City Council by: the applicant, the Mayor or the Councilmember whose district the business would be located in. Appeals must be initiated by filing a letter with the City Manager. Such action shall require a statement of reasons for the appeal. All appeals shall be filed with the City Manager in writing within 15 days of the date of the decision to issue a commercial cannabis business permit. A City Council hearing shall be set within twenty (20) days of the City Manager receiving an appeal. Ten (10) days prior to the scheduled City Council hearing, a notice of the hearing shall be sent to all properties and property owners of record within a minimum 1,000-foot radius of the business location as shown on the latest available assessment role, as well as the Councilmember who filed the appeal and the applicant.
- (d) Official issuance of the commercial cannabis business permit(s), is conditioned upon the prevailing candidate(s) obtaining all required land use approvals and a Cannabis Business License Tax certificate. Following the City Manager's selection, the prevailing candidate(s) shall apply to the city's Planning and Development Department to obtain all required land use approvals or entitlements for the permittee's location. Land use applications shall be reviewed by all active Council District Project Review Committees. Land use approvals shall include compliance with all applicable provisions of CEQA. The City Manager or his/her designee(s) shall formally issue the commercial cannabis business permit(s) once the Planning and Development Director or his/her designee(s) affirms that all of the required land use approvals have been obtained and the City Controller affirms that a Cannabis Business License Tax certificate has been obtained.
- (e) Issuance of a commercial cannabis business permit does not create a land use entitlement. The commercial cannabis business permit shall only be for a term of twelve (12) months, beginning the day the commercial cannabis business permit is physically issued by the City Manager once

the required land use entitlement is obtained, and shall expire at the end of the twelve (12) month period unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Article and of the permit, have been complied with.

- (f) Notwithstanding anything in this Article to the contrary, the City Manager reserves the right to reject any or all applications if he/she determines it would be in the best interest of the city, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a commercial cannabis business permit. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Manager may terminate or delay the program created under this Article.
- (g) If an application is denied, a new application may not be filed for one (1) year from the date of the denial.
- (h) Each person granted a commercial cannabis business permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the commercial cannabis business permit program created in this Article.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 19, eff. 3-2-20).

SEC. 9-3318. - PERSONS PROHIBITED FROM HOLDING A COMMERCIAL CANNABIS BUSINESS PERMIT.

- (a) Any person, including but not limited to any 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 the plural as well as the singular in which any of the following actions or notices have been issued in non-compliance, shall be prohibited from holding a commercial cannabis business permit in the city. In addition, the following shall be grounds for denial of a commercial cannabis business permit:
 - (1) The applicant has had a cannabis license or permit suspended or revoked by any city, county, city and county, or any other state cannabis licensing authority within five years of the date of the application;
 - (2) Evidence that the applicant was in non-compliance of properly paying federal, state, or local taxes and/or fees when notified by the appropriate agencies;
 - (3) As of the date of application submittal, applicant was conducting commercial cannabis activity in the city in violation of local and state law.
 - (4) The applicant was convicted of illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

- (5) The applicant has been convicted of a violent felony, a crime involving moral turpitude, a crime involving lotteries, gambling, bookmaking, larceny, perjury, bribery, extortion, fraud, theft, or embezzlement, or has been convicted of prostitution, pimping, human trafficking, or pandering, or has been convicted of any crime substantially related to service or entertainment business;
 - (6) The applicant has been convicted of a crime involving dishonesty, fraud, or deceit with the intent to substantially benefit the applicant or benefit another, or substantially injure another;
 - (7) The applicant has violated any provisions of this Article;
 - (8) The applicant has knowingly made a false statement in his or her application or to any city officer, employee, or agent;
 - (9) The applicant has been noticed, charged, cited, or convicted of violating any law or ordinance relating to the operation of a commercial cannabis activity.
- (b) No person shall be issued a commercial cannabis business permit to operate who enters into an agreement to lease, sublease or any other agreement, regardless of whether it is verbally or in writing to any terms of use of the premises from a property owner, commercial broker or any third party, unless that property is leased at fair market value and such lease, sublease, or agreement does not have any terms or conditions for the cannabis permit licensee to pay the property owner, commercial broker, or any third party a percentage of gross receipts, royalties, equity, or other unreasonable compensation as determined by the city. In addition, all leases, subleases, or other agreements must be based a monthly rate.
- (c) At the time of submission of an application for a commercial cannabis business permit, all operators, owners, investors, and managers of a commercial cannabis business or cannabis retail business shall submit information for a background check, which shall include, but not be limited to, the following information:
- (1) Name, address, and phone number of the applicant;
 - (2) A copy of a birth certificate, driver's license, government issued identification card, passport or other proof that the applicant is at least twenty-one (21) years of age must be submitted with the application;
 - (3) The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the City Manager or his/her designee(s).
 - (4) A signed statement under penalty of perjury that the information provided is true and correct.
 - (5) A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the background check. The fee is non-refundable and shall not be returned in the event the permit is denied or revoked.

(d)

The City Manager or his/her designee(s) shall review the application for completeness, shall conduct a background check, and shall not issue a permit if any grounds for denial of a permit listed above are found. (Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 20, eff. 3-2-20).

SEC. 9-3319. - EMPLOYEE REQUIREMENTS.

- (a) Any person who is an employee or who otherwise works or volunteers within a commercial cannabis business or cannabis retail business must be legally authorized to do so under applicable state law.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 21, eff. 3-2-20).

SEC. 9-3320. - EXPIRATION OF COMMERCIAL CANNABIS BUSINESS PERMITS.

Each commercial cannabis business permit issued pursuant to this Article shall expire twelve (12) months after the date of its issuance. Commercial cannabis permits may be renewed as provided in Section 9-3322.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3321. - REVOCATION OF PERMITS.

Commercial cannabis business permits may be revoked for any violation of any law, rule, regulation and/or standard adopted or if an application contained false information. The revocation of a commercial cannabis business permit may be appealed in accordance with Section 9-3323.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 22, eff. 3-2-20).

SEC. 9-3322. - RENEWAL APPLICATIONS.

- (a) An application for renewal of a commercial cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (b) The renewal application shall contain all the information required for new applications.
- (c) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the city to administer the program created under this Article.
- (d) An application for renewal of a commercial cannabis business permit shall be rejected if any of the following exists:
- (1) The application is filed less than sixty (60) days before its expiration.
 - (2) The commercial cannabis business permit is suspended or revoked at the time of the application.
 - (3)

The commercial cannabis business or cannabis retail business has not been in regular and continuous operation in the four (4) months prior to the renewal application.

- (4) The commercial cannabis business or cannabis retail business has failed to conform to the requirements of this Article, or of any regulations adopted pursuant to this Article.
- (5) The commercial cannabis business or cannabis retail business fails or is unable to renew its state license.
- (6) If the city or state has determined, based on substantial evidence, that the commercial cannabis business or cannabis retail business is in violation of the requirements of this Article, of any city Ordinance, or of state rules and regulations, and the city has determined that the violation is grounds for termination or revocation of the commercial cannabis business permit.
- (e) The City Manager or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his/her designee(s) shall be handled pursuant to Section 9-3323.
- (f) If a renewal application is rejected, a person may file a new application pursuant to this Article no sooner than one (1) year from the date of the rejection.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3323. - APPEALS.

Whenever an appeal is provided for in this Article from a decision of the City Manager or his/her designee(s), the appeal shall be conducted as prescribed in Chapter 1, Article 4 of this Code.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3324. - EFFECT OF STATE LICENSE SUSPENSION, REVOCATION, OR TERMINATION.

Suspension of a license issued by the state shall immediately suspend the ability of a commercial cannabis business or cannabis retail business to operate within the city, until the state reinstates or reissues the license. Should the state revoke or terminate the license of a commercial cannabis business or cannabis retail business, such revocation or termination shall also revoke or terminate the ability of the commercial cannabis business or cannabis retail business to operate within the city.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3325. - CHANGE IN LOCATION OR OWNERSHIP REQUIRES REAPPLICATION.

(a) Any time a commercial cannabis business or a cannabis retail business has a change in location or business ownership, the applicant shall reapply with the City Manager or his/her designee(s). The process and the fees shall be the same as the process and fees set for an initial application as set forth in Section 9-3316.

(1) **Change in Business Ownership:** A change in ownership for the replacement of any operator, owner, investor or manager, of a commercial cannabis business or a commercial retail business, shall only be considered at the same time as a renewal application and with the filing requirements as stated in Section 9-3322.

(2) **Social Equity Permits:** A change in ownership for the replacement of any operator, owner, investor or manager, of a commercial cannabis business or a commercial retail business that was approved for a Social Equity permit by the City Manager will require that the next available commercial business or commercial retail business permit be awarded to a Social Equity Applicant to maintain the minimum number of Social Equity permits outlined in Section 9-3326(b)(4).

(b) Within fifteen (15) calendar days of any other change in the information provided in the registration form or any change in status of compliance with the provisions of this Article, the applicant shall file an updated registration form with the City Manager or his/her designee(s) for review along with a registration amendment fee.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 23, eff. 3-2-20; Am. Ord. 2021-021, § 2, 7-8-21).

SEC. 9-3326. - CITY BUSINESS LICENSE.

Prior to commencing operations, a commercial cannabis business or cannabis retail business shall obtain a city business license.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3327. - BUILDING PERMITS AND INSPECTION.

Prior to commencing operations, a commercial cannabis business or cannabis retail business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), the Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3328. - CANNABIS CONDITIONAL USE PERMIT.

Prior to commencing operations, a commercial cannabis business or cannabis retail business must obtain the appropriate land use entitlement from the Planning and Development Department.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 24, eff. 3-2-20).

SEC. 9-3329. - RIGHT TO OCCUPY AND TO USE PROPERTY.

As a condition precedent to the city's issuance of a commercial cannabis business permit pursuant to this Article, any person intending to operate a commercial cannabis business or cannabis retail business shall provide a signed and notarized statement, prepared by the City Attorney, demonstrating the legal right to occupy and to use the proposed location for commercial cannabis activity.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3330. - PROMULGATION OF REGULATIONS, STANDARDS AND OTHER LEGAL DUTIES.

- (a) In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the city's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Article.
- (b) Regulations shall be published on the city's website.
- (c) Regulations promulgated by the City Manager shall become effective upon date of publication.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3331. - RECORDS AND RECORDKEEPING.

- (a) Each owner and operator of a commercial cannabis business or cannabis retail business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Article), or at any time upon reasonable request of the city, each commercial cannabis business or cannabis retail business shall file a sworn statement detailing the number of sales by the commercial cannabis business or cannabis retail business 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 owner and operator shall submit to the city a financial audit

of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or his/her designee(s).

- (b) Each owner and operator of a commercial cannabis business or cannabis retail business 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 business or cannabis retail business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business or cannabis retail business. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
- (c) All commercial cannabis businesses and cannabis retail businesses 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.
- (d) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) regulations, each commercial cannabis business or cannabis retail business shall allow the city to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the city's request, unless otherwise stipulated by the city. The city may require the materials to be submitted in an electronic format that is compatible with the city's software and hardware.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3332. - FEES AND CHARGES.

- (a) No person may commence or continue any commercial cannabis activity in the city, without timely paying in full all fees and charges required for the operation of a commercial cannabis business or cannabis retail business. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- (b) All commercial cannabis businesses or cannabis retail businesses authorized to operate under this Article shall pay all sales, use, business, and other applicable taxes, and all license, registration, and other fees required under federal, state, and local law. Each commercial cannabis business or cannabis retail business shall cooperate with the city with respect to any

reasonable request to audit the business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3333. - LIMITATIONS ON CITY'S LIABILITY.

To the fullest extent permitted by law, the city shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Article or otherwise approving the operation of any commercial cannabis business or cannabis retail business. As a condition to the approval of any commercial cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

- (a) They must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the city, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the city's issuance of the commercial cannabis business permit or the alleged violation of any federal, state or local laws by the commercial cannabis business or cannabis retail business or any of its officers, employees or agents.
- (b) Maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the City Manager.
- (c) Reimburse the city for all costs and expenses, including but not limited to legal fees and costs and court costs, which the city may be required to pay as a result of any legal challenge related to the city's approval of the applicant's commercial cannabis business permit. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3334. - PERMIT HOLDER RESPONSIBLE FOR VIOLATIONS.

The person to whom a commercial cannabis business permit is issued pursuant to this Article shall be responsible for violations of any laws, whether committed by the permittee or any employee or agent of the permittee, which occur in or about the premises of the commercial cannabis business or cannabis retail business.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3335. - INSPECTION AND ENFORCEMENT.

- (a) The City Manager, or his/her designee(s) charged with enforcing the provisions of this Code, as well as the City Attorney, or his/her designee(s) and the Chief of Police, or his/her designee(s), may enter the location of a commercial cannabis business or cannabis retail business at any time, without notice, and inspect the premises as well as any recordings and records required to be maintained pursuant to this Article or under applicable provisions of state law.
- (b) It is unlawful for any person to impede, obstruct, interfere with, or otherwise not to allow, the city to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business or cannabis retail business under this Article or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business or cannabis retail business under this Article or under state or local law.
- (c) The City Manager, or his/her designee(s) charged with enforcing the provisions of this Article, as well as the City Attorney, or his/her designee(s) and the Chief of Police, or his/her designee(s), may enter the premises of a commercial cannabis business or cannabis retail business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the city shall be logged, recorded, and maintained in accordance with established procedures by the City Manager.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 25, eff. 3-2-20).

SEC. 9-3336. - VIOLATIONS DECLARED A PUBLIC NUISANCE.

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

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3337. - EACH VIOLATION A SEPARATE OFFENSE.

Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the city. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, any permit issued pursuant to this Article being deemed null and void, disgorgement and payment to the city for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The city may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or cannabis retail business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is a violation of this Article, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the city.

(Added Ord. 2018-68, § 1, eff. 1-24-19; Am. Ord. 2020-002, § 26, eff. 3-2-20).

KSEC. 9-3338. - CRIMINAL PENALTIES.

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

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3339. - REMEDIES CUMULATIVE AND NOT EXCLUSIVE.

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

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3340. - SEVERABILITY.

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

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3341. - NO VESTED RIGHTS.

Neither this article, nor any other provision of this Code or action, failure to act, statement, representation, certificate, approval, or permit issued by the city or its departments, or their respective representatives, agents, employees, attorneys, or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any commercial cannabis activity. Any benefit conferred by this ordinance shall expire permanently and in full on the effective date of the City Council's enactment of new cannabis legislation or upon repeal of this ordinance. Should the city repeal or amend this article, no claim for loss of property rights or due process of any kind shall be maintained against the city.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

SEC. 9-3342. - YEARLY REVIEW.

The City Manager shall review the operation of this Article within twelve months of its effective date and report his/her findings and recommendations to Council. After the initial twelve month review, City Council shall annually review this Article and its effects on the community.

(Added Ord. 2018-68, § 1, eff. 1-24-19).

EXHIBIT B

SEC. 15-2739. - ADULT USE AND MEDICINAL CANNABIS RETAIL BUSINESS AND COMMERCIAL CANNABIS BUSINESS.

A. Definitions

1. The definitions within Section 9-3304 of this Code, as may be amended, apply to adult use and medicinal cannabis retail businesses and commercial cannabis businesses.

B. Location and Design of Cannabis Retail Businesses

1. Comply with the requirements within Section 9-3307 of this Code, as may be amended, relating to location and design requirements for a retail cannabis business, including, but not limited to, the following:
 - a. All cannabis retail businesses must be located on property zoned DTN (Downtown Neighborhood), DTG (Downtown General), CMS (Commercial Main Street), CC (Commercial Community), CR (Commercial Regional), CG (Commercial General), CH (Commercial Highway), NMX (Neighborhood Mixed-Use), CMX (Corridor/Center Mixed Use), RMX (Regional Mixed-Use), and must meet all of the requirements for development in these zones, including, but not limited to, parking, lighting, building materials, etc.
 - b. All buildings in which a cannabis retail business is located shall be no closer than eight hundred (800) feet from any property boundary containing any of the following:
 1. A cannabis retail business.
 2. A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
 3. A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
 4. A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.
 - c. Each applicant shall provide a neighborhood responsibility plan so the review authority may find that the proposed use and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.
 - d. In addition to the requirements within Section 9-3307 of this Code, as may be amended, each proposed cannabis retail business shall meet the following building design guidelines:
 - 1.

Demonstrate compatibility with the surrounding character of the neighborhood and blend in with existing buildings. The establishment should look like any other similarly situated building. New and existing buildings shall meet the minimum Façade Design Development Standards of the associated zone district unless compliance would cause the building to not be compatible with the surrounding character of the neighborhood and existing buildings.

C. Location and Design of Commercial Cannabis Businesses

1. Comply with the requirements within Section 9-3308 of this Code, as may be amended, relating to location and design requirements for a commercial cannabis business, including, but not limited to, the following:
 - a. Laboratory testing may take place in a Commercial, Employment, or Downtown District and must meet all of the requirements for development in these zones, including, but not limited to, parking, lighting, building materials, etc.
 - b. Cultivators, distributors, or manufacturers must be located within the Cannabis Innovation Zone, inside a Cannabis Innovation Hub, or within one-half (1/2) mile of State Route 99 between Shaw Ave. and Clinton Ave., one (1) mile of State Route 99 north of Shaw Ave. or south of Clinton Ave., or within one (1) mile of State Route 180 west of State Route 99, must be zoned either IL (Light Industrial) or IH (Heavy Industrial), and must meet all of the requirements for development in these zones. If not located within the Cannabis Innovation Zone, any building in which a cultivator, distributor, or manufacturer is located shall be no closer than one thousand (1,000) feet from any property boundary containing any of the following:
 1. Any residentially zoned parcel in the city, including any legal non-conforming residential uses as of the date a complete commercial cannabis business permit application is submitted.
 2. A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
 3. A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
 4. A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.
 - c. All Cannabis Innovation Hubs must be located within one-half (1/2) mile of State Route 99 between Shaw Ave. and Clinton Ave., one (1) mile of State Route 99 north of Shaw Ave. or south of Clinton Ave., or within one (1) mile of State Route 180 west of State Route 99, and must be zoned either IL (Light Industrial) or IH (Heavy Industrial), and must meet all of the

requirements for development in these zones. All Cannabis Innovation Hub building shall be located no closer than one thousand (1,000) feet from any property boundary containing any of the following:

1. Any residentially zoned parcel in the city, including any legal non-conforming residential uses as of the date a complete commercial cannabis business permit application is submitted.
 2. A school providing instruction for any grades pre-school through 12 (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).
 3. A day care center licensed by the state Department of Social Services that is in existence at the time a complete commercial cannabis business permit application is submitted.
 4. A youth center that is in existence at the time a complete commercial cannabis business permit application is submitted.
- d. Each applicant shall provide a neighborhood responsibility plan so the review authority may find that the proposed use and its operating characteristics are not detrimental to the public health, safety, convenience, or welfare of persons residing, working, visiting, or recreating in the surrounding neighborhood and will not result in the creation of a nuisance.
- e. In addition to the requirements within Section 9-3308 of the Fresno Municipal Code, all buildings associated with a commercial cannabis business shall meet the following building design guidelines:
1. Demonstrate compatibility with the surrounding character of the neighborhood and blend in with existing buildings. The establishment should look like any other similarly situated building. New and existing buildings shall meet the minimum Façade Design Development Standards of the associated zone district unless compliance would cause the building to not be compatible with the surrounding character of the neighborhood and existing buildings. For existing buildings, pictures and elevations of the building(s) must be provided to the City upon submittal of a Conditional Use Permit application.

D. Operating Requirements for All Commercial Cannabis Activity

1. Comply with the requirements within Section 9-3309 of this Code, as may be amended, relating to operating requirements for all commercial cannabis activity.

E. Operating Requirements for a Cannabis Retail Business

1. Comply with the requirements within Section 9-3310 of this Code, as may be amended, relating to operating requirements for a cannabis retail business.

F. Operating Requirements for a Distributor

1. Comply with the requirements within Section 9-3311 of this Code, as may be amended, relating to operating requirements for a cannabis distributor.

G. Operating Requirements for a Cultivator

1. Comply with the requirements within Section 9-3312 of this Code, as may be amended, relating to operating requirements for a cannabis cultivator.

H. Operating Requirements for a Testing Laboratory

1. Comply with the requirements within Section 9-3313 of this Code, as may be amended, relating to operating requirements for a cannabis testing laboratory.

I. Operating Requirements for a Manufacturer

1. Comply with the requirements within Section 9-3314 of this Code, as may be amended, relating to operating requirements for a cannabis manufacturer.

J. Signage

1. Signage shall conform to the requirements of Chapter 15, Article 26 of this Code, Section 9-3309(h) of this Code, and this subsection. Where conflict may occur, the more restrictive provisions shall govern.
2. No signs placed on the premises of a cannabis retail business or a commercial cannabis business shall obstruct any entrance or exit to the building.
3. No signs of a cannabis retail business or a commercial cannabis business shall be placed on any window.
4. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No cannabis retail business or commercial cannabis business may advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises or elsewhere including, but not limited to, the public right-of-way.
5. Signage shall not be directly illuminated, internally or externally. No banners, flags, billboards may be used at any time.
6. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a Cannabis Conditional Use Permit, or on any of the vehicles owned or used as part of the commercial cannabis business or cannabis retail business.

K. Landscaping

1. **New Buildings.** Landscaping shall be provided per the underlying District.
2. **Existing Buildings.** Perimeter landscaping and Parking Lot Shading shall be provided per the underlying district. The Review Authority, at their discretion, may make exceptions to the prescribed standards, however in no case shall the reduction result in a net reduction of 35

percent or greater in the amount of landscaping provided. Landscaping may also be aggregated to minimize the impact on existing parking areas.

L. Lighting

1. Lighting. The exterior of the premise, including adjacent public sidewalks and all parking lots under the control of the establishment, shall be illuminated during all hours of darkness in a manner so that persons standing in those areas at night are identifiable by law enforcement personnel. However, required illumination shall be placed and/or shielded in a way that minimizes interference with the neighboring residences. Provide the hours of operation of the lighting within the required neighborhood responsibility plan.

M. Litter and Graffiti

1. Litter must be removed daily from the premises, including adjacent public sidewalks and all parking lots under the control of the cannabis retail business or commercial cannabis business; these areas must be swept or cleaned, either mechanically or manually, on a weekly basis to control debris.
2. The owner or operator shall remove graffiti within 48 hours.

N. Cannabis Conditional Use Permit

1. Prior to commencing operations, a commercial cannabis business or cannabis retail business must obtain a Cannabis Conditional Use Permit from the Planning and Development Department. Prior to applying for a Cannabis Conditional Use Permit, an applicant must first obtain a Commercial Cannabis Business Permit from the city.
2. Cannabis Conditional Use Permit applications shall be reviewed by the respective Council District Project Review Committee.
3. Cannabis Conditional Use Permit applications shall be routed for review to the respective school district in which the property is located.
4. Land use approvals shall include compliance with all applicable provisions of CEQA.
5. The process described in Chapter 15, Article 50 of this Code shall apply to a Cannabis Conditional Use Permit. Where conflict may occur with Chapter 15, Article 50, this section shall govern.

O. Review Authority

1. The Director shall approve, conditionally approve, or deny applications for Cannabis Conditional Use Permits based on consideration of the requirements of this article. The Director may, at their discretion, refer any application that may have significant public interest to the Planning Commission for a decision. In the event of a referral, the Planning Commission shall hold a public hearing prior to making the decision.

P. Application Requirements

1. Applications for a Cannabis Conditional Use Permit shall be submitted in accordance with the provisions set forth in Section 15-5002, Application and Fees.
2. The Cannabis Conditional Use Permit application shall be accompanied by a written narrative, operational statement, site plans, floor plans, elevations, and other evidence in support of the applicable findings required by subsection R, Required Findings.
3. The Director may require the applicant to submit additional information, of such type and in such form as the Director may specify, as the Director may deem relevant to the application, including, but not limited to, statements, numeric data, and technical studies, as appropriate.

Q. Public Notice

Public Notice shall be provided 10 days prior to the date of action pursuant to Section 15-5007.

R. Required Findings

A Cannabis Conditional Use Permit shall only be granted if the decision-maker determines that all of the required findings of Section 15- 5306 of this Code can be made for the project as submitted or as modified. If the decision-maker determines that it is not possible to make ail of the required findings, the application shall be denied.

S. Conditions of Approval

In approving a Cannabis Conditional Use Permit, the decisionmaker may impose reasonable conditions or restrictions deemed necessary in accordance with Section 15-5307 of this Code[.]

T. Appeals

Cannabis Conditional Use Permit decisions are subject to the appeal provisions of Section 15-5017, Appeals.

U. Expiration of Cannabis Conditional Use Permit.

1. A Cannabis Conditional Use Permit granted under this Code shall automatically expire five years after the date of issuance.
2. A Cannabis Conditional Use Permit granted under this Code runs with the land for up to five years. Should an operator discontinue operations at an existing Retail Cannabis Business or Commercial Cannabis Business, a new operator may take over the existing Cannabis Conditional Use Permit for the unexpired time period. Prior to commencing operations, the new operator must obtain a commercial cannabis business permit, submit an approved operational statement, and submit an approved neighborhood responsibility plan.

V. Indemnification.

1. All applicants for a Cannabis Conditional Use Permit and related environmental approval pursuant to the California Environmental Quality Act (CEQA) shall be responsible to fully indemnify, defend, and hold harmless the City, its officers, employees, agents, and

volunteers, for any and all claims and legal challenges related to the City's actions in approving their applications. Applicant's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are actively or passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the sole negligence or willful misconduct of City or any of its officers, officials, employees, agents or volunteers. Indemnification and defense shall be considered a condition of approval for all Cannabis Conditional Use Permit approvals.

2. The responsibility to indemnify and defend the City as required under this Section shall be stated in all application documents provided by the City; however the failure to do so shall not negate the requirement to indemnify and defend.
3. If an applicant fails to accept responsibility to indemnify and defend as required in this Section, then the Cannabis Conditional Use Permit approval shall become null and void upon notice from the City Manager, as approved by the City Attorney, and the applicant shall be liable to the City for all costs, settlements, and/or judgments incurred by the City with respect to the challenge to the Cannabis Conditional Use Permit approval. If an applicant fails to indemnify and defend the City, the City may, at the discretion of the City Attorney, concede the challenge to the Cannabis Conditional Use Permit approval.

(Added Ord. 2020-038, § 1, eff. 9-29-20).

Editor's note— Ord. 2020-038, § 1, effective September 29, 2020, amended the Code by repealing former § 15-2739, and replacing it with a new § 15-2739. Former § 15-2739 pertained to medical marijuana dispensaries, and derived from Ord. 2015-39, effective January 9, 2016.