

NOTICE OF SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Tracy City Council** is hereby called for:

Date/Time: **Tuesday, September 7, 2021, 5:00 p.m.**
(or as soon thereafter as possible)

Location: **Tracy City Hall**
333 Civic Center Plaza, Tracy, CA.

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

This meeting will be held in accordance with the guidelines provided in Executive Order N-29-20.

This meeting will be open to the public for in-person and remote participation. In accordance with the California Department of Public Health Guidelines, universal masking indoors is recommended. Masks are required for unvaccinated individuals in indoor public settings. Members of the public may participate remotely in the meeting via the following method:

For Remote Public Comment:

During the Items from the Audience, public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number: 2552 934 2765** and **Event Password: TracyCC**
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment via phone or in WebEx by typing “Anonymous” when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
- *Protocols for commenting via WebEx:*
 - *If you wish to comment under “Items from the Audience/Public Comment” portion of the agenda:*
 - *Listen for the Mayor to open “Items from the Audience/Public Comment”, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the “Items from the Audience/Public Comment” will be accepted until the public comment period is closed.*
- ***The total allotted time for public comment under “Items from the Audience/Public Comment” will be 15 minutes.***

1. Call to Order
2. Roll Call
3. Items from the audience - *In accordance with Council Meeting Protocols and Rules of Procedure*, adopted by Resolution 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.
4. REVIEW THE CITY'S CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES, COMMERCIAL CANNABIS ACTIVITY ORDINANCE, CANNABIS BUSINESS PERMIT ISSUANCE PROCESS, AND PROVIDE DIRECTION TO STAFF
5. Council Items and Comments
6. Adjournment



Mayor

Posting Date: September 2, 2021

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled to participate in employment, programs and facilities. Persons requiring assistance or auxiliary aids in order to participate, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

AGENDA ITEM 4

REQUEST

REVIEW THE CITY'S CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES, COMMERCIAL CANNABIS ACTIVITY ORDINANCE, CANNABIS BUSINESS PERMIT ISSUANCE PROCESS, AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

This agenda item responds to City Council's direction to revisit the City's commercial cannabis program and permitting processes. The City's cannabis program has three sets of regulations pertaining to commercial cannabis; the first is Tracy Municipal Code Chapter 6.36 Commercial Cannabis Activity (Cannabis Ordinance), the second is the Cannabis Business Permit Application Procedures and Guidelines (Guidelines) approved by resolution, and the third is the zoning ordinance, which sets regulations on locations where cannabis businesses can operate. Together these regulations establish the City's limitations on commercial cannabis activity, the permitting process, as well as the application review and approval procedures.

As part of this agenda item, City Council will review permitting activity to date under the program, and provide direction to staff, if any, related to modifying the Cannabis Ordinance or Guidelines, or zoning ordinance to address any area of City Council interest. Based on Council's direction, staff will return to Council for further action(s).

DISCUSSION

This item responds to City Council's request to discuss the City's Cannabis Program with the intent of discussing and possibly directing changes to either the numbers of permits, or the method of application review. As this request to revisit the Cannabis Program came at a time when applications were still being evaluated, including appeals, for practical and legal considerations the item is now being brought forward for City Council consideration.

This agenda item provides a timeline of events, a brief overview of the Cannabis Ordinance, Guidelines, permit activity, and possible areas of interest for modifying the Cannabis Program based on previous City Council statements, as well as City staff recommended, non-policy related changes based on staff's involvement in reviewing the applications. Attached are letters received from several applicants identifying requested changes (Attachment A).

Timeline of Cannabis Activity

Following is a timeline that identifies milestone dates and City actions to date related to the Cannabis Program.

DATE	ACTION
06/27/16	State enacts the Medical Cannabis Regulatory Safety Act (MCRSA).
11/08/16	Voters pass Proposition 64, the Adult Use of Marijuana Act (AUMA).
09/19/17	City Council adopts Ordinance 1240, prohibiting outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of cannabis for adult use.
01/01/18	State begins issuing temporary commercial licenses for medicinal and non-medicinal cannabis.
07/25/18	Planning Commission recommends that City Council adopt an ordinance amending TMC Section 10.08.3196 to allow up to two medical cannabis non-storefront (delivery only) dispensaries to operate in the City's industrial locations.
09/18/18	The proposed ordinance is presented to the City Council for further discussion.
11/6/2018	Cannabis Special Tax does not receive 2/3 voter approval and does not pass.
02/05/19	City Council directs staff to draft a regulatory ordinance that: (1) allows all cannabis businesses except cultivation; (2) allows the location of these businesses in industrial and possibly commercial and other areas of the City; and (3) restricts the number of dispensaries to two with the possibility of more. Council further directed staff to research best practices from other agencies and draft an ordinance with the highest regulatory standards with an emphasis on cost recovery.
08/13/19	Special City Council Meeting held to discuss potential regulations for commercial cannabis activity and provide direction to staff.
09/03/19	Special City Council Meeting held to further discuss land use considerations and begin the policy discussion on the commercial cannabis activity regulatory permit. City Council determines that the regulatory ordinance should allow for four permits for storefront retail cannabis businesses (dispensaries). Other regulations were discussed as well.
10/01/19	Special City Council Meeting held to highlight the sections of the proposed ordinance that incorporate the Council's prior direction.
11/05/19	City Council introduces ordinances amending TMC regarding commercial cannabis.
12/03/19	City Council adopts Ordinance 1277, amending TMC Chapter 6.36 to establish regulations for commercial cannabis activity, and Ordinance 1278, amending TMC Section 10.08.3196 to establish zoning and locational requirements for commercial cannabis.

01/21/20	City Council discusses and considers draft Guidelines for the Cannabis Business Permit application process, and directs staff to return to Council with revised draft Guidelines.
04/21/20	City Council provides further direction on the requirements to include on a Cannabis Business Permit Application, discusses the draft Application Procedures and Guidelines, and provides additional direction to staff to prepare the Guidelines.
05/19/20	City staff returns to Council with a revised copy of the Cannabis Business Permit Application Procedures and Guidelines; Council provides direction to staff with regard to further refinement of the Guidelines.
06/02/20	City Council adopts Ordinance 1287, amending TMC Chapter 6.36 to clarify or “clean up” revisions, reflect technical changes, add new regulatory measures, and incorporate recent Council direction.
07/07/20	City staff returns to Council to further discuss the Guidelines and introduce Ordinance 1293 to amend TMC Chapter 6.36 to further refine the cannabis cultivation permit requirements.
07/21/20	City Council adopts Ordinance 1293 to amend TMC Chapter 6.36 with regard to cannabis cultivation permit requirements, and passes Resolution No. 2020-137 to finalize and adopt the Cannabis Business Permit Application Procedures and Guidelines.
09/01/20	Cannabis Business Permit application acceptance period begins, with a deadline of 9/30/20 for application submittal.
09/30/20	Application acceptance period extended to 10/15/20 to allow the City to provide additional clarity (through the FAQ) with regard to various questions received regarding submittal requirements. Applicants allowed to withdraw their application and resubmit it during this time period if they so desire.
10/15/20	Cannabis Business Permit application acceptance period closes.
11/3/2020	Cannabis Tax (general tax) approved by voters.
02/25/21	Phases 1 and 2 of application review completed. Applicants notified of results. Out of 41 applicants, 11 receive a passing score and are deemed eligible to submit a Community Benefit Proposal and proceed to Phase 3.
03/22/21	Deadline for finalists to submit Community Benefit Proposal and Property Owner’s Statement of Consent (if they did not receive a temporary waiver of the Statement of Consent requirement during Phase 2).
03/30/21	One of the passing applicants is disqualified based on failure to submit notarized Property Owner’s Statement of Consent by the 3/22/21 deadline.
04/02/21	Phases 1 and 2 scores posted on website.

05/27/21	Phase 3 of application review completed. Scores of 10 finalist applicants forwarded to Police Department for final review.
06/21/21	Four retail conditional Cannabis Business Permits awarded by Chief of Police to top four scoring applicants. (All 10 finalists had applied only for the storefront retailer business type. Based on TMC Chapter 6.36, a maximum of four storefront retailers shall be permitted to operate in the City at any one given time.) All applicants notified. Phase 3 scores posted on website.

Tracy Municipal Code Chapter 6.36: Commercial Cannabis Activity

The Tracy Municipal Code (TMC) was amended on July 21, 2020 via Ordinance 1293 to establish the regulatory framework for commercial cannabis activity which is codified as Chapter 6.36. Tracy allows the following cannabis business types:

- Cultivation (Indoor only)
- Distribution
- Manufacturing
- Microbusiness
- Retailer – Non-Storefront (Delivery)
- Retailer – Storefront (Dispensary)
- Testing Laboratory

The TMC establishes, among other provisions that up to four retail-storefront (dispensary) permits are available in the City. No numerical limit is in place on the other cannabis business types, except outdoor cultivation, which is prohibited. The ordinance additionally establishes requirements to first obtain a Cannabis Business Permit and a Conditional Use Permit (land use permit) prior to commencing any commercial cannabis activity in the City of Tracy. The Cannabis Business Permit is an administrative permit issued by the Police Department, subject to appeal to the City Manager, and the Conditional Use Permit is a quasi-judicial permit issued by the Planning Commission, subject to appeal to the City Council. Essentially, the Cannabis Business Permit pertains to the entity that would operate a cannabis business, and the CUP pertains to land use compatibility for those applicants who successfully obtain Cannabis Business Permits. As of the publishing of this report, no CUPs for cannabis businesses have been filed to date.

Sections 6.36.050 and 6.36.060 of the TMC establish that a City review committee, comprised of the Fire Chief, Finance Director, and Development Services Director (or their designees) will be formed for the purposes of evaluating applications that the Police Chief will be the entity issuing the permits, and that the review of permits shall be in conformance with City Council adopted application guidelines and procedures which stipulate review criteria, and a point system. Attachment B to this staff report is the Commercial Cannabis Activity Ordinance.

City of Tracy Cannabis Business Permit Application Procedures and Guidelines and Merit Based Evaluation Criteria

The Guidelines, approved via Resolution No. 2020-137, establish the required submittal materials, which is comprised of the following key components: application forms, a series of materials in the form of written plans identifying the operational nature of the proposed business, and the required fee to cover City costs incurred for processing the application.

The Guidelines further establish the process of City issuance of the permits. In all cases, the applications are evaluated against the City's cannabis business permit ordinance and the Guidelines. The City's cannabis ordinance requires a quantitative evaluation, and the Guidelines implement this requirement by establishing a point-based merit system in the form of Merit Based Selection Criteria which are appended to the Guidelines. As discussed below, after application submittal, the process contains three phases: Phase 1 is an eligibility review against the criteria; Phase 2 is a review of the application for applicability of the temporary waiver from the requirement to submit a Notarized Property Owner's Statement of Consent form; and Phase 3 is the final scoring and award of permits, which involves final scoring, based on the proposed community benefit plan of all applications which scored a minimum of 80 percent in Phase 1. Attachment C to the staff report is the Cannabis Business Permit Application Procedures and Guidelines and Merit Based Selection Criteria.

Cannabis Business Permit Activity

The City of Tracy's cannabis business permitting is a competition with limited numbers of available permits in the most sought-after cannabis business permit type: Retail storefront (dispensaries). The City received initially 42 applications. One was withdrawn, for a total of 41 applications filed. Multiple business types are allowed per application, resulting in the following breakdown of business types:

- Cultivation: 7
- Distribution: 8
- Lab Testing: 0
- Manufacturing: 8
- Microbusiness: 7
- Retailer – Non-Storefront (Delivery): 19
- Retailer – Storefront (Dispensary): 31

The review of applications was commenced by the City's Review Committee (comprised of three staff members, one each from the Development Services, Finance, and Fire Departments) on October 16, 2020 and Phase 1 and 2 reviews concluded on February 25, 2021. Of the total 41 applications filed, 11 had qualifying scores that enabled them to proceed in the process by submitting the proposed Community Benefit. One of the 11 failed to timely submit the required Notarized Owners Statement of Consent Form; thus, a total of 10 applications were evaluated in Phase 3. Phase 3 reviews commenced on March 23, 2021 and concluded on May 27, 2021. The Police Department issued Cannabis Business Permits to the top 4 point earners on June 21, 2021. Only Retailer (Storefront Dispensary) permits were awarded; no other application types received qualifying scores.

After award of the four Cannabis Business Permits, seven appeals were timely filed with the City Clerk. Of those, at the time of writing this staff report, one appeal hearing

occurred on August 18, 2021, one requested a continuance until a new Public Records Act request could be satisfied, and five requested their appeals be continued until such time as City Council could act on changes, if any, to the ordinance or Guidelines.

As this round of applications has not concluded (appeals are pending), no date has been set to open the process up to receive another round of new applications. Staff advises that such an invitation to evaluate new applications be established once City Council has had the opportunity to review and modify, as necessary, the current Cannabis Program, either by changes to the numbers of permits, or to the review criteria, (or neither or both), discussed below.

Next Steps for Permit Awardees

Subject to the outcome of the appeals process, permit awardees will move forward to the next step in the City's process which involves applying for CUPs, which are site specific land use permits.

Modifications to the Cannabis Program

As a new industry and new permitting process for the City, there may be areas of the Cannabis Program where City Council desires changes. This agenda item facilitates such discussion, and below are possible areas for change; City Council may desire to change other portions of the Program than those initially listed here. City Council has the option of making changes applicable to the current cohort of applicants, although the effect on the outcome of the current permit process, including legal and practical considerations, would have to be taken into account as options are evaluated.

Ordinance Changes Options:

Section 6.36.040 states: "Each year following the Police Chief's initial award of cannabis business permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by ordinance whether the number of commercial cannabis permits should change." Several options include, but are not limited to, the following:

- 1) Increase the number of Retail storefront (dispensary) permits to another number, for example 10, to match the number of applications that progressed through Phase 3 of the City's review process. This would require changes to the Cannabis Ordinance and the Guidelines.
- 2) Allow 4 permits for Retail storefront (dispensaries) annually, instead of a cap of 4. This would require changes to the Cannabis Ordinance and Guidelines.
- 3) No changes to the number of permits. This "do nothing" option would retain the current limit of 4 Retail storefront (dispensaries), and no changes to the ordinance would be required.

- 4) The Cannabis Ordinance requires a point system or quantitative evaluation scale in the review of applications. If City Council desires, another approach that is less subjective could be considered, such as a lottery.

Guidelines Changes Options:

The Guidelines establish the application requirements, the review process, (including the criteria by which each application is scored), and the required score per category in order to proceed in the application review process. These categories and points per category represent the aspects of the potential cannabis businesses that, at the time, most interested City Council. The review criteria include the categories that City Council adopted via Resolution No. 2020-137 on July 21, 2020. The categories, provided in Attachment C, listed in brief are as follows:

- Business and Operations Plan, with 6 sub-sections: 18 points
- Community Relations Plan, with 3 sub-sections: 9 points
- Safety and Security Plan, with 6 sub-sections: 18 points
- Local Preference, with 3 sub-sections: 13 points
- Social Equity, with 5 sub-sections: 13 points
- Community Benefits Plan, with 2 subsections: 15 points

City Council has the discretion to amend these Guidelines and criteria at any time to address changes it desires in order to ensure the permitting process better furthers City Council's objectives. Any changes to the Guidelines affecting the current application review process would have to be evaluated for both practical and legal considerations. For example, if City Council desired to modify the Guidelines so that the 6 applicants who passed the eligibility screening (yet fell shy of being the top point earners) could proceed, such modifications would require careful crafting to avoid conflicting with the determinations that have been made for the top 4 point earners. Several options include, but are not limited to, the following:

- 1) Increase or decrease the point totals to place additional (or less) emphasis on a category;
- 2) Add additional categories or delete certain categories;
- 3) Lower (or raise) the minimum required scores (percentage of points) in order to make it easier (or more difficult) to be eligible to submit for the Community Benefit Plan. The City received 41 applications, and only 11 received the necessary 57 points or higher (which is 80% of the 71 points associated with eligibility) to proceed to Community Benefit Plan review;
- 4) The process could have a pass/fail screening for the required plans (Business, Security, Community Relations, Local Preference, Social Equity) and a scored Community Benefits Plan.

Require one application per business type (storefront, delivery, manufacturing, etc.) to allow for scoring by cannabis business type rather than combining and mixing all reviews. This may result in more non-storefront business approvals if the applicants focused the information in each application to the desired individual business type. Depending on City Council's direction, one example of an ordinance change and a Guidelines change could be to increase the number of Retail storefront (dispensary) permits to 10 and amend the Guidelines to allow consideration of new submittals for the

Community Benefit Plan for applicants that made it in to the top 10 Phase 2 review. This suggestion was proposed by one of the applicants.

Staff Suggestions on the Application Procedures and Guidelines

With the recent experience of conducting an application intake and review process for this new-to-Tracy industry, a number of potential efficiencies have been identified by staff for possible consideration. These are not policy-related; rather they address procedural elements of the application process, and include the following:

- 1) Create a page limit. Staff's review concludes that the number of pages had little bearing on the quality of the application, and a page limit to 200 pages may be appropriate;
- 2) Require standard information to be included in the various plans, possibly by providing templates;
- 3) Require specific terminology to be used in quantifying the public benefits in the Community Benefit proposals;
- 4) Create a pass/fail scoring system for the Business/Operations Plan, Community Relations Plan, Security Plan, Social Equity, and Local Preference Plan, then have points awarded for Community Benefit proposals;
- 5) Conduct reviews as a single Phase.

STRATEGIC PRIORITY

This agenda item relates to Economic Development Strategic Priority Number 5: Develop policies to target new jobs in innovative industries (e.g. cannabis; green industry).

FISCAL IMPACT

The review of the cannabis business permits was funded through application fees paid by each applicant. The preparation of this agenda item was funded through the Development Services operating budget for staff time. Depending on City Council direction, the fiscal impacts could vary; increased numbers of permits would yield additional revenues.

RECOMMENDATION

Staff recommends that City Council review the City's cannabis business permit application procedures and guidelines, commercial cannabis activity ordinance, and cannabis business permit issuance process, and provide direction to staff as necessary.

Prepared by: Bill Dean, Interim Development Services Director

Reviewed by: Peggy Beeuwsaert, Planning Technician
Vicki Lombardo, Senior Planner
Tim Spears, Fire Marshall
Alex Neicu, Police Captain
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Bob Adams, Interim City Manager

ATTACHMENTS

Attachment A – Letters from applicants

Attachment B – Commercial Cannabis Activity Ordinance

Attachment C – Cannabis Business Permit Application Procedures and Guidelines and Merit
Based Evaluation Criteria

July 1, 2020

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Nancy Young, Mayor Pro Tem
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RE: UPDATED RECOMMENDATIONS ON THE CITY OF TRACY’S DRAFT CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES.

Dear Honorable Mayor Rickman, Mayor Pro Tem Young, and City Council Members:

This letter is submitted on behalf of the Eden Enterprises, Inc. (“Eden”) in support of the City’s efforts to finalize and approve the Cannabis Business Permit Application Procedures and Guidelines (“Application”). Eden previously provided comments on the proposed Application on May 19, 2020 (attached incorporated by referenced herein, Attachment A). Eden welcomes the opportunity to continue meaningful engagement with the City regarding the finalization of Application process. We reiterate the recommendations previously proposed to the Council along with additional comments and suggestions to improve and streamline the City’s Application process.

These recommendations are based on Eden’s nearly two-decades of compliant cannabis operators with operations across the supply chain in Northern California. Eden’s expertise includes its General Counsel and Chief Regulatory and Licensing Officer who is a sitting California Cannabis Industry Association (“CCIA”) Board-member, Co-Chair of the CCIA Retail and Distribution Committee and former Special City Attorney for the City of Hollister responsible for the advising and drafting of the commercial cannabis ordinance, implementing

regulations and application process of which the City now has licensees including Retailers actively operating.

I. The Application Process Would be Best Served by the Addressing and Incorporating the Following Clarifications and Modifications.

- a. *The Community Benefits Requirements Should be Modified and Expanded to Include Documented Verification where Applicable.*

The community benefits plan is heavily weighted with a total of 15 points accounting for approximately 20% of the overall score. The winning Applicants' community benefits plan terms will be incorporated into a Development Agreement or other legally binding instrument. While this approach solidifies a legally binding contract between the licensee and the City, it fails to account for, or verify, an Applicant's ability to successfully achieve the obligations proposed. The City is wholly relying, at its detriment, on that what is being proposed by the Applicant is achievable or if, in the instance, of existing operators their prior obligations were in fact satisfied. It is important to trust but verify in these circumstances. This approach helps to guard against situations, that have occurred throughout the State where an applicant provides pie in the sky financial commitments. While the City has the right later at renewal to revoke their permit, at that point the City and its residents could already be lacking the expected financial commitments. Additionally, other more viable candidates that were not selected, as a result of the compromised process, will have moved on to other opportunities. Ultimately, the City could find itself in an uncomfortable position having to spend additional time and resources to re-engage the process.

The inherent vulnerability of the process can be significantly be reduced through a critical evaluation of a potential Operators' history as past behavior is a predictor of future actions. The City and its residents deserve and should demand the benefit of knowing the caliber and character of those applying. There may be instances where good intentions are thwarted by unexpected events and then there is the systemic failure to meet unrealistic proposed obligations to secure maximum points. Verification of an Applicant's prior ability to establish and satisfy community benefits obligations ensures fully informed decision-making.

It is recommended that the Council direct staff to include a requirement for Applicants to "show their work." In instances where an Applicant holds a license in another jurisdiction with community benefits obligations, the Applicant would need to provide evidence along with a statement of its commitment and evidence of whether or not those obligations were satisfied, exceeded, or required adjustment. Utilizing such an approach provides both the application

committee and the Police Chief with verifiable historical information from legacy operators themselves and can be used as a barometer for comparison for proposals received from both experienced new operators for viability – a true win-win for the City.

b. *Expansion of the Economic Inclusion (Production) Section to Include Local Enterprise.*

The City has invested substantial time and effort in curating the commercial cannabis program to prioritize and invest in local community. Local commitment and investment is not exclusively achieved through local ownership or the procurement of cannabis products from within the County. Through the application process the City has an opportunity to evaluate potential Operators' long ranging commitment to community from multiple dimensions. Outside of local ownership, community benefits is an investment in local enterprise. The City would be best served by evaluating and assessing points for meaningful local enterprise planning that will result in supporting a thriving economy.

The current Local Preference Plan includes points for Economic Inclusion (Production) directing Applicants to describe the extent to which products will be purchased from cultivators and manufacturers located in San Joaquin County. It is important to note that out of the whole of San Joaquin County only one city - the City of Stockton and the County itself - have commercial cannabis programs, neither program with active operators. The City of Stockton opened its commercial cannabis program in April of 2019 and issued a total of four - 2 manufacturing and 2 cultivation permits, all of which are in later stage permit processing. The City has reopened their process recently and will allow for up to 6 additional permits across manufacturing, cultivation, and microbusinesses, which could include either manufacturing or cultivation or both. These licenses most likely become activated within 12 – 24+ months. San Joaquin County ("County") itself has crafted a commercial cannabis program that will soon commence with accepting applications and will result in additional qualifying operations to be realized in late 2021- 2022.

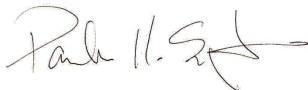
The current cannabis desert in terms of active operations within the County creates a disingenuous commitment by Applicants in terms of current and foreseeable future achievability. The requirement itself artificially constrains healthy natural competition – when all operators are by design encouraged to sell similar products, the generated tax revenue for the City will be negatively impacted. It is therefore recommended that the City broaden this subsection to include how the Applicants intend to prioritize local investment from a people and economic perspective. The expansion and diversification of this section will ensure the City is bolstering its local objectives and encouraging potential operations to invest and develop plans to advance that goal. The City, its residents and businesses will be direct beneficiaries.

II. Conclusion

The recommendations highlighted herein and provided in our initial comments are intended to demonstrate how the City can improve and streamline the Application process to ensure the highest caliber operators. Eden reiterates its strongest support of the City in its efforts to draft and implement a successful commercial cannabis program. It is within that context that Eden encourages the Council to approve the Application with the recommended amendments. Eden is committed to continuing to advance top-quality cannabis operations investing in the community in which it operates and looks forward to participating in the City's Application process.

Thank you for your consideration and the opportunity to provide these recommendations.

Respectfully,



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May 19, 2020

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RE: RECOMMENDATIONS ON AGENDA ITEM 3.C TO MODIFY THE CITY'S DRAFT CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES.

Dear Honorable Mayor Rickman, Mayor Pro Tem Young, and City Council Members:

This letter is submitted on behalf of the Eden Enterprises, Inc. ("Eden") in support of Agenda Item 3.C on the May 19, 2020 City Council Agenda - Approve Cannabis Business Permit Application Procedures and Guidelines. With a lens on engaging meaningfully in the City's Application process, this letter includes recommendations based on Eden's nearly two-decades of compliant cannabis operators with operations across the supply chain. Eden's expertise includes its General Counsel and Chief Regulatory and Licensing Officer who is a sitting California Cannabis Industry Association Board-member, Co-Chair of the Retail and Distribution Committee and former Special City Attorney for the City of Hollister responsible for the advising and drafting of the commercial cannabis ordinance, implementing regulations and application process.

I. The Inherent Value of Eden’s Nearly Two Decades of Commercial Cannabis Storefront Retail Experience in Northern California.

As a legacy Storefront Retailer, Eden’s Garden of Eden – Hayward (“GOE”) has been serving and supporting the Alameda County community, since 2003. GOE enjoys a pristine track record of compliance, having been the purveyor of high-quality tested products to over 30,000 customers and patients and counting. GOE is known throughout the community as an exemplary business and has been a sustaining member in the Castro Valley/Eden Area Chamber of Commerce since 2010. GOE's principals Soufyan AbouAhmed and Shareef El-Sissi are also the co-founders of TREEZ.0F¹ TREEZ is one of the State's leading point of sale and inventory management software providers servicing a third of the California retail market amongst other states.^{1F²} Along with operating GOE, Eden has secured licenses along the supply chain including a second retail location in Alameda County (securing the highest score in the County competitive licensing process), Distribution and Manufacturing in the City of Watsonville, Storefront Retail, Cultivation, Manufacturing and Distribution in Union City, and Cultivation in Calaveras County (State secured, local in process).

GOE and Eden have a strong history of charitable contributions and humanitarian endeavors in which they are responsible for the donation of tens of thousands of dollars and, during the recent times of COVID-19, much needed PPE to crucial organizations such as Meals on Wheels of Alameda County, Sutter Health Hospital Tracy, Union City as well as committing countless employee volunteer hours. Eden has a strong interest in bringing that same quality and community benefits to a potential Storefront Retail operation in the City of Tracy. Eden has been tracking the City’s cannabis process and supports the City’s foresight and fortitude in navigating the complexities of cannabis regulation. This letter is submitted in strongest support of the City’s well-reasoned efforts and provide additional recommendations for improving the proposed Application.

Eden encourages the City Council to approve the Procedures and Guidelines for Cannabis Business Permit Applications in order to move the City’s program forward. It is with the foundation of practical experience that Eden suggestions the following recommendations for the Council’s consideration.

¹ www.treez.io.

² TREEZ provides inventory management to retail operators in Arizona, Nevada, Michigan, Massachusetts, and Oregon, while continuing to expand its nationwide and California footprint.

II. Eden Recommends the Council Make Limited Adjustments to its Proposed Application Process in Order to Guard Against Abuse While Achieving Optimization and Clarity.

The Proposed Application Procedures and Guidelines describe a three-step process to obtain a permit - 1) the filing of the Application, 2) review and scoring of the Application by staff for eligibility, and 3) the award of a permit, which involves an evaluation and scoring of community benefits. The process includes an allocation of points by cannabis businesses demonstrating community engagement and local ownership, among other categories.

With regard to the Application process, Eden strongly recommends and supports the Council transitioning away from the random lottery style selection process should the final scores (a result of the sum of Phase 1 and 2 scores) be tied. Rather, it is recommended the tie be heard and decided upon by the Council directly, as that will result in a discussion on the merits of each Application and identify the best and most qualified Applicants, rather than the luckiest.

In support of sourcing the most qualified Applicants and providing maximum clarity, the following modifications and recommendations are offered for consideration.

a. **The Community Benefits Contributions Should be Refined and Clarified.**

Eden cares deeply about community and is dedicated to developing a synergistic and thriving economy. A core tenant of Eden's operational mission is to make a meaningful impact on the cannabis industry generally and directly within the community. As such, we fully support a robust community benefits requirement.

The Council stated in previous meetings that community benefits presented by Applicants should be tied to the adopted Strategic Priorities, and that Applicants should have the flexibility to interpret and present their own ideas of how to best implement those Strategic Priorities. The Applicants will be required to enter into an agreement with the City to ensure the public benefit contribution presented in their Application, either as a Community Benefit Agreement or a Development Agreement (depending on the permit type and circumstances according to the Staff Report).

Since the last Council meeting, the Application has been revised to reflect the Council's desire to tie in the Strategic Priorities and to include opportunities for the Applicant to propose monetary contributions and/or volunteer hours to bolster the community benefit. The Council's defined

Strategic Priorities are (1) Economic Development, (2) Governance, (3) Public Safety, and (4) Quality of Life. The revised Application states:

City Council Strategic Priorities – Describe and quantify the community benefit and how it facilitates or better furthers one or more of the City Council’s adopted Strategic Priorities, for example, by:

Total Financial Contribution - Quantify the extent of the financial contribution as a component of the community benefit. The higher the contribution, the higher the points awarded; and/or by:

Total Hours of Commitment – Quantify the extent of the involvement in volunteer hours that will be dedicated to furthering one or more of the City Council’s Strategic Priorities. The higher the contribution, the higher the points awarded.

However, instead of promoting the kind of flexibility and diverse proposals to Applicants that the Council expressed, the changes directly tie points to two specific and exclusive benefits - money and time. While direct financial contributions are an important component of any community benefits plan, the Council should be cautious of sparking a “in theory or name only” intentions and false promises by applicants that are neither financially feasible or practical. A Development Agreement or its equivalent does not eliminate the risk of falling short of initial promises given the amount of time that passes between submitting an Application, signing a Development Agreement and commencing with operations.

The current section framework serves only to limit the quality and creativity of community benefits proposals. Diversified community benefit plans that include details for different types of community benefits will result in robust well-rounded customized proposals.

i. The Community Benefits Section Should Contain Detailed Categorization for Point Allocation and Distribution.

As compared to other sections of the Application, the Community Benefits section fails to include a high level of detail specifically with respect to what qualifies and how the points are allocated.

The Council should consider providing additional direction. The City of West Hollywood’s application can serve as a real world example of a City who placed significant emphasis on an

Applicant’s community benefits and engagement sub-sections utilizing a competition points based application process. (**Exhibit A**).

- Community Engagement—Overall quality and detail of the proposed Community Engagement Plan; including, understanding of the community, its values, the City’s unique aspects, and how the business plans to integrate into the community.
- Engagement with Local Non-Profits—Community Engagement Plan includes work with local non-profits and other community groups (volunteer efforts, partnerships, etc..). West Hollywood non-profits (or those that serve West Hollywood) are preferred.
- Community Events—Community Engagement Plan includes participation in West Hollywood community events.
- Local Business Partnerships—Community Engagement Plan includes partnerships with existing West Hollywood businesses (for example: the procurement of goods and services from local businesses).
- West Hollywood Core Values—Community Engagement Plan and business plan actively incorporates the City of West Hollywood’s mission statement and core values.

These kinds of details and categories can better serve the City by motivating Applicants to truly engage in the community, along with the more direct financial and volunteer hour contributions.

Further clarification is needed regarding the types of activities and events that would qualify for points allocation. For example, over last Veteran’s Day weekend, Eden partnered with the Rossmoor retirement community in Walnut Creek, the Sweetleaf Collective³, and Operation EVAC⁴ for the kick-off of Eden’s “Compassion over Destruction: Eden’s Post Cannabis Events Zero Waste Initiative.” Through the initiative Eden was able to compliantly facilitate 2,500 unsold clean, tested and compliant cannabis products at the end of a permitted temporary cannabis event that otherwise would have been destroyed. How would such an event, initiative or program be evaluated pursuant to the City’s current process?

Monetary donations are critical, but it is these kinds of programs and efforts that can truly make a direct and meaningful difference in the lives of local residents. Although Eden will always

³ Sweetleaf Collective has been providing medical cannabis to HIV/AIDS & Cancer patients since 1996.

⁴ OperationEVAC working with military veterans through community service.

continue these efforts regardless of permit applications, it is important to fully understand the points allocations as it is unclear how much the City will weigh these kinds of events or if they would qualify as volunteer hours.

- ii. The City Should, Where Applicable to Applicants, Require Verification of Past Community Benefits Commitments.*

Verifying an Applicant's prior ability to establish and satisfy previous community benefits obligations enables the City to forecast viability of the Applicants proposal leading to fully informed decision-making. Eden encourages the Council to require Applicants to "show their work" and provide detailed accounting to the assertions and proposed community activities in each proposal particularly where the Applicant has been under prior community benefit obligations in another jurisdiction. Without such verification, Applicants may provide lofty goals to maximize points during the Application process, only to honor a fraction of the commitments made. Potential Operators' history and behavior is a predictor of future actions and the City and its residents deserve the benefit of knowing the caliber and character of their Operators.

- b. It is Recommended the City Consider a Clarified and Expanded Local Preference Plan Section.

At the last Council meeting, the Council directed staff to make some adjustments to the Local Preference Plan section. Consequently, the criteria related to local preference has been weighted with additional points, reflecting Council's desire to provide additional opportunity for local applicants/business owners. The Local Preference Plan section is broken down into three subsections, of which the local ownership percentage and economic inclusion require clarification.

- i. Fifty-One Percent (51%) Local Ownership Should Adjusted to Provide Maximum Benefits to the City.*

The Application provides "[to] the extent to which the Cannabis Business will be a locally managed enterprise whose owners (at least 51%) reside within the City of Tracy. Applicants must show proof that at least 51% of the owners have been residents of Tracy for at least 2 years prior to June 6, 2020. Such proof shall consist of a utility bill with owners name(s), a lease, a deed, or other similar documentation."

As a definitional matter, the City needs to clarify what is meant by to "reside within the City Tracy." The definition should take a broad brush to include cover instances where an individual

resides within a City of Tracy zip code and Tracy is listed as the city in an address of record but is not technically within the City limits. Such an individual would identify as a resident in Tracy and would satisfy the spirit and intent of the local preference component as they would be able to steward the business and ensure compatibility.

The City may also want to reconsider setting the local preference thresholds as controlling interest - 51% or greater – such a threshold hinders the ability for effective and meaningful partnerships. If the goal is for the best operator, businesses should be able to engage in partnership where an operational actor works synergistically with a local partner resulting in the best of both worlds - an Applicant who is well capitalized with a strong understanding of regulatory and operational challenges along with a community partner with hands-on knowledge and experience within the local community. The specifics of this partnership should not be artificially constrained with controlling interest place, not by experience or finances but point allocation, is harmful and often results in convoluted corporate structuring that undermines the intent of the Council. A more equitable approach is to employ a weighted system of point allocation for over or under 50% or alternatively no minimum.

ii. Economic Inclusion (Production) Should be Redefined and Expanded Allowing Maximum Local Preferences.

Eden recommends widening the scope of the economic inclusion to include preference and commitment for (a) building strategic local business partnerships; (b) local hire preference to increase the availability of jobs for Tracy and San Joaquin County residents, (c) and encouraging the use of local products where feasible for Tracy operators. Allocating points based on constraining procurement of cannabis and cannabis products to San Joaquin County is a methodology which, while well-intended has a high likelihood of capping revenue by artificially constraining the supply chain, significantly diminishing competitive diversity and ultimately depriving consumers as all operators will attempt to honor the City's commitment for point allocation. It is important to note that within San Joaquin County there are few jurisdictions, namely the County and the City of Stockton, that are moving forward with regulating commercial cannabis and the State has not issued permits for operational cultivation and manufacturing operators according to licensing data from the California Department of Agriculture and the California Department of Public Health. Therefore, the City should focus less on procuring local products and provide more points allocations to local hire and local business engagement that will benefit all residents and businesses in the City.

c. The Application’s Testing SOP Requirement is Superfluous as Drafted Given the State Mandated Requirements for Testing.

The Business and Operations Plan section of the Application includes a subsection for “Conformance with State Testing – Describe the SOPs for how all cannabis products on the premises have met the testing requirements as defined by the State.” However, a cannabis testing SOP is not applicable to Retailers. Pursuant to the State’s licensing rhetoric, retailers are not charged with the responsibility of testing. All cannabis products come to a retailer in final form and must be accompanied by Certificate of Analysis or “COA” confirming the product has passed all regulatory quality assurance compliance testing by a licensed third-party Testing Lab.⁵ Testing is facilitated by a Distributor upon securing cannabis products from a licensed Manufacturer or Cultivator. What we believe the City is looking for is housed within a Retail Applicant’s Inventory Control SOPs regarding verification of cannabis products and inventory intake procedures to include verification of a passing COA. We ask that the Council clarify this requirement.

d. The Application’s Limitation on the Number of Pages Should Either be Eliminated or Increased.

The City is limiting the number of pages in the Application to 125 one-sided 8.5x11 pages despite Application’s *6 Sections and 20 subsections*, many of which may require longer financial or other documentation. Though we understand that staff time is limited and support the City’s efforts to make the process as efficient as possible, Eden has seen firsthand how page limits can fundamentally affect the quality of an Application. Page limits can frustrate the accurate presentation of information. Pro formas, endorsement/recommendation, will-serve letters, and sample SOPs can monopolize significant pages. Such information is critical to fully examining the caliber of the Applicant and verify assertions made within the Application.

We recommend the City to either eliminate or increase the number of pages, or in the alternative condition the Application to reasonable and relevant information providing the City the discretion to deem irrelevant extraneous information improperly provided by the Applicant.

⁵ Business and Professions Code section 26100; § 5406. Cannabis Goods for Sale; BCC Regulations Article 3. Sampling Cannabis and Cannabis Products.



III. Conclusion.

Eden reiterates its strongest support of City Council in its efforts to bring a successful cannabis program to the City. We encourage the Council to approve the Application with the recommended amendments described herein. Eden is committed to continuing to advance the cannabis industry and community engagement and looks forward to participating in the City's Application process.

Thank you for your consideration and the opportunity to provide these recommendations.

Respectfully,

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July 30, 2021

City of Tracy
Mayor and City Councilmembers
333 Civic Center Plaza
Tracy, CA 95376
Transmitted via Electronic Mail

Re: Recommendation to Amend Tracy Commercial Cannabis Retail Ordinance

Dear Hon. Mayor and Councilmembers:

I. Introduction

This letter is submitted on behalf GOE-Tracy, LLC, C.H.C.C. Inc. (Tracy Cannabis Collective), Bowtie Wellness, Inc., and Jiva TCY LLC (collectively the “Aggrieved Applicants”). Each of the Aggrieved Applicants submitted timely applications during the City of Tracy’s (the “City”) competitive Storefront Retail Commercial Cannabis Business Permit Application process (the “Process”). The Aggrieved Applicants respectfully request Council to direct staff: (a) to prepare a resolution approving amendments to the Tracy Cannabis Ordinance and Application Process to allow all Final Applicants to move forward with the Condition Use Process and (b) to stay any further action on the Appeals process until such time the Council has deliberated on the path forward for commercial cannabis businesses.

II. Background

“Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, and any subsequent state legislation and/ or regulations regarding same, the City of Tracy is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity” (Tracy Municipal Code “TMC” § 6.36.011). On December 3, 2019, the City of Tracy adopted Commercial Cannabis Regulations, to, “regulate the commercial cannabis activity in a responsible manner to protect the health, safety, and welfare of the residents of Tracy and to enforce rules and regulations consistent with state law.” (TMC § 6.36.010 “Purpose and Intent”).

On July 21, 2020 the City finalized and adopted the Cannabis Business Permit Application Procedures (Resolution 2020-137).

On September 1, 2020 the City opened the Process window with a scheduled closing date of 3:00pm on September 30, 2020. Shortly after the close of the Application window, at approximately 5:52pm, the City sent an email notice to all Applicants informing them that in light

of continued questions regarding the Process, the City was extending the application window to October 15, 2020 at 5:00 pm. During the extension window, Applicants who timely submitted applications based on the original deadline were permitted to modify and supplement their applications. New applications were also accepted.

After the expiration of the extended Application window, City Staff conducted Phase 1 and 2 review. On February 25, 2021, the City announced those Applicants that successfully passed Phase 1 and 2 with scores over 80%. The Final Applicants were invited to move forward to Phase 3 which included the submissions of a Community Benefits Plan on or before March 22, 2021. Upon completion of the City Staff's review of the Phase 3 submissions, the Police Chief awarded Cannabis Business Permits to applicants identified as receiving the highest applicable cumulative score. On June 21, 2021, The City sent an email notice of the final decision.

The Aggrieved Applicants all scored over 80% in Phase 1 & Phase 2, and submitted timely Phase 3 Community Benefits Plans; none were chosen to receive retail permits. Pursuant to TMC § 6.36.060(a), on or before July 7, 2021, each of the Aggrieved Applicants filed timely appeals based on the arbitrary and capricious process in which the City conducted the review and scoring of the Applications. The Aggrieved Applicants additionally filed Public Records Act requests related to the Process and the scoring of the Applications. On or about July 29, 2021 each of the Aggrieved Applicants received a notice of Appeal hearing date during the week of August 16, 2021.

III. The City's Fundamentally Flawed Process Requires Redress.

During both the July 6, 2021 and July 20, 2021 City Council Meetings, several individuals provided non-agendized public comments requesting the Council to direct staff to amend the City's Cannabis Ordinance. During the July 6, 2021 Council Meeting, Council directed Staff to Agendize the item. However, during the following Council Meeting on July 20, 2021, no Cannabis item was agendized. After approximately nine public comments, honorable Mayor Young inquired with Staff regarding why the item was not agendized after direction from Council. Staff responded that Staff recommended waiting until after the Appeals were heard to bring the item back to the Agenda. Staff estimated the timeline as late September.

On July 27, 2021 the City sent an email notifying Applicants of an update to the City's Cannabis FAQs located on the City's webpage. The FAQ updated confirmed that the cannabis item would be brought back to Council at an upcoming City Council meeting.

Appellants appreciate the direction of both the Mayor and Council and strongly recommend that Council direct staff to prepare a resolution to modify the cannabis ordinance prior to hearing the Appeals. Amending the Cannabis Ordinance will provide the remedy the Aggrieved Applicants

seek, without incurring the time and expenditure to the City, the Aggrieved Applicants, and ultimately to the Taxpayers. By expanding the maximum number of permits the City will foster transparency, reduce the perception of bias, and provide an opportunity for direct community engagement. Tracy citizens will be able to provide their perspective as the Applicants participate in the public CUP process.

A. Under the existing ordinance, the Council is Authorized to Increase the Number of Commercial Cannabis Business Permits.

Pursuant to §TMC 6.36.040 subsection (b) “.. at any time in the City Council's discretion, the City Council may reassess the number of cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by ordinance whether the number of commercial cannabis permits should change.” (Emphasis Added). The City clarified and interpreted the ordinance through the City’s Cannabis FAQ. In response to FAQ #2 "Why were only four applicants awarded permits?" The City responded “This limit can only be modified by a City Council approved amendment to the City’s Regulations on Commercial Cannabis Activities (see Tracy Municipal Code Section 6.36.040(b)).”

Accordingly, both the Ordinance, and the City’s Interpretation of the Ordinance allow Council to amend the Ordinance to modify the total number of permits the City is authorized to issue. It is with this authority the Aggrieved Applicants urge Council to approve the following amendment to the TMC 6.36.040 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted as follows:

- (a) Maximum Number and Type of Authorized Cannabis Businesses Permitted. The number of each type of cannabis business that shall be permitted to operate in the City at any one given time shall be as follows:
- (i) Cultivation (Indoor Only) - no maximum number.
 - (ii) Distribution - no maximum number.
 - (iii) Manufacturing - no maximum number.
 - (iv) Microbusiness - no maximum number.
 - (v) Retailer - Non-Storefront (Delivery Only) - no maximum number.
 - (vi) Retailer - Storefront (Dispensary) - a maximum of ~~four (4)~~ ten (10) storefront retailers.
 - (vii) Testing Laboratory - no maximum number.

While the Council would increase the total maximum number of cannabis businesses that can operate in the City this action should not be construed as a guarantee that the City will ultimately have the maximum number of cannabis businesses operating. the maximum number of cannabis

businesses. The City would merely be addressing the inequity and lack of transparency in the review process by providing the ability for all of the Final Applicants to engage in the CUP process, provided that application materials remain accurate and compliant with the City ordinance and State laws. The CUP process is public, allowing residents to voice their opinion, support and/or concerns over the individual projects. The Planning Commission is under no obligation to issue rubber stamp approvals. Furthermore, the City existing timeframes would apply to all Applicants, specifically the requirement to identify property within 90-days. The Council could further include a deadline by which Final Applicants must submit a completed CUP package for processing for example, within a one-year.

IV. Conclusion

For the reasons stated herein including providing transparency, removing the arbitrary and capricious nature of the decision on retail license, reduced exposure to further legal action, and increased public participation, the Aggrieved Applicants strongly urge the Council to direct Staff to bring forward to the Council amendments to the Tracy Cannabis Ordinance and Application Process to allow all Final Applicants to move forward with the Condition Use Process. The Council is vested with the necessary authority to hear and approve such amendments. The Aggrieved Applicants look forward to working with Council on the amendments, and ultimately doing business in the City of Tracy. Thank you for your time and consideration.

Respectfully Submitted,

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ORDINANCE 1277

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 6.36 OF TITLE 6, "BUSINESSES, PROFESSIONS, AND TRADES" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LOCAL REGULATIONS FOR COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

WHEREAS, In November 1996, California voters approved the Compassionate Use Act of 1996 ("CUA") which authorized a limited defense to criminal charges for the use, possession or cultivation of marijuana (cannabis) for medical purposes when a qualified patient has a doctor's recommendation for the use of cannabis, and

WHEREAS, In November 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized the use of non-medicinal (recreational) cannabis by adults and the cultivation of up to six cannabis plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical cannabis for adult use, and

WHEREAS, In June 2017, the State Legislature adopted Senate Bill 94 creating a new statewide comprehensive regulatory system for medical and adult use commercial cannabis activity titled Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and

WHEREAS, CUA, AUMA and MAUCRSA do not prohibit cities from enacting regulations regarding commercial cannabis activities and uses, and

WHEREAS, The City Council seeks to establish regulations for commercial cannabis activity in the City of Tracy to ensure such activities are conducted in a manner that mitigates negative impacts, protects the public health, safety, and welfare of residents, and supports economic development, and

WHEREAS, The City of Tracy engaged in a comprehensive review and study of state and local cannabis regulations, conducted community outreach on this topic, and held various public meetings to discuss commercial cannabis activity, provide policy direction to staff, and receive public input on the topic of commercial cannabis activity.

WHEREAS, The City Council considered this ordinance at a duly noticed public hearing held on November 5, 2019.

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.

SECTION 2. The City Council hereby amends Chapter 6.36 as shown in Exhibit "A".

SECTION 3. If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective

of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 4. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 5. The City Council finds that this Ordinance is exempt from CEQA in accordance with Business and Professions Code section 26055(h) because it requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

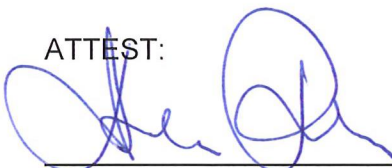
SECTION 6. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

* * * * *

The foregoing Ordinance 1277 was introduced at a regular meeting of the Tracy City Council on the 19th day of November 2019, and finally adopted on the 3rd day of December, 2019, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

Chapter 6.36 COMMERCIAL CANNABIS ACTIVITY.**Article 1. – General Provisions.**

- Section 6.36.010 Purpose and Intent.
- Section 6.36.011 Legal Authority.
- Section 6.36.012 Definitions.
- Section 6.36.013 Compliance with State and Local Laws.

Article 2. – Cannabis Business Permits.

- Section 6.36.020 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.
- Section 6.36.030 Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.
- Section 6.36.040 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.
- Section 6.36.050 Application Procedure for a Cannabis Business Permit.
- Section 6.36.060 Selection of Cannabis Business Permittee(s).
- Section 6.36.070 Grounds for Denial of a Cannabis Business Permit.
- Section 6.36.080 Expiration of Cannabis Business Permits.
- Section 6.36.090 Suspension, Modification or Revocation of Cannabis Business Permits.
- Section 6.36.100 Renewal Applications.
- Section 6.36.110 Effect of State License Suspension, Revocation, or Termination.
- Section 6.36.120 Change in Contact Information; Updated Registration Form.
- Section 6.36.130 Transfer of Cannabis Business Permit.
- Section 6.36.140 Limitations on City's Liability.
- Section 6.36.150 Cannabis Employee Permit Required.

Article 3. – General Operating Procedures for all Cannabis Business Permittees.

- Section 6.36.160 City Business License.
- Section 6.36.170 Records and Recordkeeping.
- Section 6.36.180 Security Measures.
- Section 6.36.190 Restriction on Alcohol & Tobacco Sales.
- Section 6.36.200 Fees and Charges.
- Section 6.36.210 Packaging and Labeling.
- Section 6.36.220 Diversion Prohibited.
- Section 6.36.230 Emergency Contact.
- Section 6.36.240 Community Relations Manager.
- Section 6.36.250 Payment of Taxes.
- Section 6.36.260 Employee Permit Requirement.
- Section 6.36.270 Cannabis Consumption Prohibited.
- Section 6.36.280 Persons Under 21 Years of Age Prohibited.
- Section 6.36.290 Site Management.
- Section 6.36.300 Reporting Criminal Activity.
- Section 6.36.310 Display of Permit and City Business License.
- Section 6.36.320 Miscellaneous Operating Requirements.

Article 4. – Operating Procedures for Specific Cannabis Business Types.

- Section 6.36.330. Commercial Cannabis Cultivation Permit Requirements

Section 6.36.340 Cannabis Distribution Permit Requirements
Section 6.36.350 Cannabis Manufacturing Permit Requirements
Section 6.36.360 Cannabis Microbusiness Permit Requirements
Section 6.36.370 Cannabis Non-Storefront (Delivery) Retailer Permit Requirements.
Section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements
Section 6.36.390 Cannabis Testing Laboratory Requirements

Article 5. – Enforcement.

Section 6.36.400 Promulgation of Regulations, Standards and Other Legal Duties.
Section 6.36.410 Fees Deemed Debt to City of Tracy.
Section 6.36.420 Permit Holder Responsible for Violations.
Section 6.36.430 Inspection and Enforcement.
Section 6.36.440 Compliance with State Regulation.
Section 6.36.450 Violations Declared a Public Nuisance.
Section 6.36.460 Each Violation a Separate Offense.
Section 6.36.470 Criminal Penalties.
Section 6.36.480 Remedies Cumulative and not Exclusive.
Section 6.36.490 Service of Notices.

Article 1. General Provisions.

Section 6.36.010. Purpose and Intent

It is the purpose and intent of this Chapter 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 and implement the desire of California voters who approved the Adult Use of Marijuana Act (“AUMA”) by Proposition 64 in November 2016, 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 Chapter to regulate the commercial cannabis activity in a responsible manner to protect the health, safety, and welfare of the residents of Tracy and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Chapter to require all commercial cannabis operators meeting the established requirements to obtain and renew annually a regulatory permit to operate a cannabis business in Tracy. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or local law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to operate a cannabis business in the City, such as a conditional use permit issued pursuant to Title 10 of this Code, and are in addition to any permits, licenses and approval required under state, county, or other law.

Section 6.36.011. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, and any subsequent state legislation and/or regulations regarding same, the City of Tracy is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the

State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Tracy to all commercial cannabis activity.

Section 6.36.012. Definitions.

When used in this Chapter, 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-license” means a State License issued for cannabis or cannabis products that are intended for adults who are 21 years of age or older (adult-use) and who do not possess a physician’s recommendation.

“A-licensee” means any person holding a license under California Business and Professions Code Section 26000 et seq. for cannabis or cannabis products that are intended for adults who are 21 years of age or older (adult-use) and who do not possess a physician’s recommendation.

“Applicant” means an owner applying for a cannabis business permit or a person applying for a cannabis employee permit pursuant to this Chapter.

“Bureau” means the California Bureau of Cannabis Control within the California Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

“Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

“Cannabis accessories” has the same meaning as in Section 11018.2 of the California Health and Safety Code.

“Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or drug, as defined by Section 109925 of the California Health and Safety Code.

“Cannabis employee permit” means a regulatory permit issued by the City pursuant to

this Chapter to persons working, volunteering, interning, or apprenticing at any cannabis business operating in the City.

“Cannabis product” means cannabis or a product containing cannabis, including, but not limited to, manufactured cannabis, and shall have the same meaning as in Section 11018.1 of the California Health and Safety Code. For purposes of this Chapter, “cannabis” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

“Canopy” shall have the same meaning as that appearing in Title 3, Section 8000(f) of the California Code of Regulations.

“Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

“City” or “City of Tracy” means the City of Tracy, a California general law City.

“City Council” means the City Council of the City of Tracy.

“Commercial cannabis activity” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this Chapter and in MAUCRSA. This definition shall have the same meaning as set forth in California Business and Professions Code Section 26001(k) as the same may be amended from time to time.

“Commercial cannabis business” or “Cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

“Commercial cannabis business permit” or “City cannabis business permit” means a regulatory permit issued by the City pursuant to this Chapter to a person operating a cannabis business in the City. This permit is required before any commercial cannabis activity may be conducted in the City and does not constitute a land use entitlement nor a conditional use permit. The issuance of a cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted or imposed by the City governing the commercial cannabis activity at issue.

“Cultivation” or “cultivate” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

“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.

“Cultivation area” means the area in which cannabis is cultivated.

“Customer” means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation, or a primary caregiver.

“Delivery” means the commercial transfer of cannabis or cannabis products by a retailer directly to a customer off the premises of a cannabis retail facility, in the customer’s home or other

locations authorized by this chapter. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer. This definition shall have the same meaning as Section 26001(p) of the California Business and Professions Code, as may be amended from time to time.

"Dispensary" or "Dispensary site" means a state-licensed, locally permitted business selling cannabis, cannabis products or cannabis accessories from a building or structure that is open to customers. For the purposes of this Chapter, the term "Dispensary" is synonymous with a storefront retailer.

"Dispensing" means any activity involving the licensed retail sale of cannabis or cannabis products from a retailer.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between Licensees.

"Distributor" means a person holding a valid commercial cannabis 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 license manufacturer, for sale to a licensed retailer.

"Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.

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

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

"M-license" means a State License issued for commercial cannabis activity involving medicinal cannabis.

"M-licensee" means any person holding a State License for commercial cannabis activity involving medicinal cannabis.

"Manufacturing" or "manufacturing operation" means 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.

"Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

"Manufacturing site" means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods,

independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Tracy and, a valid State License as required for manufacturing of cannabis products.

“Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation. For the purposes of this Chapter, the term “medicinal cannabis” is synonymous with medical cannabis.

“Microbusiness” means a business that engages in at least three of the following commercial activities: cultivation (provided that the cultivation area is less than 10,000 square feet); distribution; manufacturing (Level 1), storefront retailer (dispensary), or non-storefront retailer (delivery-only). This definition shall have the same meaning as Section 26001.1 of the California Business and Professions Code, as may be amended from time to time.

“Natural person” is an individual human being as opposed to an artificial or legal person like a company which may be a private entity or non-governmental organization or public government organization.

“Non-Storefront retailer” or “Retailer Non-Storefront” means a cannabis business that conducts sales of cannabis or cannabis products to customers exclusively by delivery and whose premises are closed to the public. The term “Non-Storefront retailer” is synonymous with the terms “delivery only” or “delivery service.”

“Non-volatile solvent” means any solvent used in the extraction process that is not a volatile solvent. For purposes of this Chapter, a nonvolatile solvent includes ethanol and carbon dioxide used for extraction, or as it may be defined and amended by the state.

“Operation” means any act for which licensure is required under the provisions of this Chapter, or any commercial transfer of cannabis or cannabis products.

“Owner” means any of the following:

- (1) A person with an aggregate ownership interest of five (5) percent or more in the person applying for a permit or a permittee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer and the members of the board of directors of the entity engaging in the cannabis business.
- (3) An individual who will be participating in the direction, control, or management of the person applying for a City cannabis business permit.

“Package” means any container or receptacle used for holding cannabis or cannabis products.

“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 and Safety Code Section 11362.5.

“Permit Holder” means person to whom a permit under this Chapter has been issued, including but not limited to a cannabis business permit and cannabis employee permit. For purposes of this Chapter, the term “Permit Holder” is synonymous with “Permittee.”

“Person” includes 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.

“Person with an identification card” shall have the meaning given that term by California Health and Safety Code Section 11362.7.

“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 California Health and Safety Code.

“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. This definition shall have the same meaning as California Business and Professions Code Section 26001(ap), and as may be amended from time to time.

“Retailer” means a cannabis business issued a state license for the retail sale and delivery of cannabis or cannabis products to customers. This definition shall have the same meaning as California Business & Professions Code Section 26070 and as may be amended from time to time.

“Sell,” “sale,” “to sell” and “retail sale” 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.

“State” means the State of California.

“State License” means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.

“Testing laboratory” means a laboratory, facility, or site 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 State of California to engage in cannabis testing activities.

“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 the MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.

Section 6.36.13. Compliance with State and Local Laws.

It is the responsibility of the owners and operators of the cannabis business to ensure that it is always operating in a manner compliant with all applicable state and local laws, policies, rules, and regulations including, but not limited to, the California Health and Safety Code, the California Water Code, the City adopted Building Code, Plumbing Code, Electrical Code, Mechanical Code, Fire Code, Energy Code, Green Building Standards Code, Existing Building Code, Historical Building Code, the Tracy Municipal Code, the Tracy Zoning Code, all requirements and conditions related to the land use entitlement process, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions that violate state law or local law with respect to the operation of a cannabis business. It shall be the responsibility of the owners and the operators of the cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, including for as long as applicable, the Compassionate Use Act ("Prop. 215") and the Medical Cannabis Program Act ("MMPA") (collectively "the Medical Cannabis Collective Laws"), the Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions that violate state law regarding the operation of a commercial cannabis business.

Article 2. – Cannabis Business Permits

Section 6.36.020. Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized in this Chapter, the commercial cultivation, manufacturing, processing, storing, laboratory testing, labeling, retail sale, delivery, distribution or transportation (other than as provided under California Business and Professions Code section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Tracy.

Section 6.36.030. Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.

No person may engage in any commercial cannabis activity within the City of Tracy unless the person (1) has a valid Cannabis Business Permit from the City of Tracy; (2) has a valid State License; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities and land use and zoning requirements, including obtaining a valid conditional use permit pursuant to Title 10 of this Code.

Section 6.36.040. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.

(a) Maximum Number and Type of Authorized Cannabis Businesses Permitted. The number

of each type of cannabis business that shall be permitted to operate in the City at any one given time shall be as follows:

- i. Cultivation (Indoor Only) – no maximum number.
- ii. Distribution – no maximum number.
- iii. Manufacturing – no maximum number.
- iv. Microbusiness – no maximum number.
- v. Retailer - Non-Storefront (Delivery Only) – no maximum number.
- vi. Retailer - Storefront (Dispensary) – a maximum of four (4) storefront retailers.
- vii. Testing Laboratory – no maximum number.

This Section is only intended to create a maximum number of cannabis businesses that may be issued permits to operate in the City under each category. Nothing in this Chapter creates a mandate that the City Council must issue any or all of the cannabis business permits if it is determined that the applicants do not meet the standards which are established in the application requirements or further amendments to the application process.

(b) Each year following the Police Chief's initial award of cannabis business permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by ordinance whether the number of commercial cannabis permits should change.

Section 6.36.050. Application Procedure for a Cannabis Business Permit.

(a) The City Council shall adopt by resolution the procedures to govern the application process, and the manner in which the decision to issue a cannabis business permit(s) is made. Said resolution shall authorize City staff and/or consultants 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 ("Review Criteria") and to prepare the necessary forms, solicit applications, and review and evaluate the applicants. Applications for a cannabis business permit shall include, but not be limited to, the following information:

- i. Applicant Background Information.
 - A. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.
 - B. The phone number and address to which any notices and correspondence regarding the application is to be mailed.
 - C. Owners. The name, address, telephone number, title, respective percentage of ownership, and function of each of the owners.
 - D. Background checks. For each of the interested parties:
 1. A legible copy of one valid government-issued form of photo identification, such as a state driver's license, a passport issued by the United States, or a permanent resident card.
 2. A list of their misdemeanor and felony convictions, if any. For each conviction, the list must set forth the date of arrest, the offense

charged, the offense convicted, the sentence, the jurisdiction of the court, and whether the conviction was by verdict, plea of guilty, or plea of nolo contendere.

3. Consent to fingerprinting and a criminal background investigation.
- ii. Business operations.
 - A. Business plan. A plan describing how the cannabis business will operate in accordance with this code, state law, and other applicable regulations. The business plan must include proof of sufficient capital to start the business and sustain it through the first three months of operation, plans for handling cash and transporting cannabis and cannabis products to and from the site.
 - B. Community relations plan. A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.
 - C. Document(s) demonstrating property owner acknowledgement. Document(s) demonstrating that the property owner is fully aware that the applicant intends to use the property for cannabis business purposes. Document(s) must include name, address, and contact information for the property owner.
 - D. State licenses. Copies of any state licenses relating to cannabis that the applicant holds.
 - E. Tax compliance. A current copy of the applicant's city business operations tax certificate, state sales tax seller's permit, and the applicant's most recent year's financial statement and tax returns.
 - F. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
 - G. Budget. A copy of the applicant's most recent annual budget for operations.
 - H. Price list. A list of the most recent prices for all products and services provided by the applicant.
 - iii. City authorization. Authorization and consent for the City to seek verification of the information contained within the application.
 - iv. Applicant's certification. A statement dated and signed by the applicant, under penalty of perjury, that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the applicant's supervision.
 - v. Indemnification. An agreement, in a form approved by the City Attorney, whereby the applicant: (1) releases the City, and its agents, officers, elected officials, and employees from any and all claims, injuries, damages, or liabilities of any kind arising from: (a) any repeal or amendment of this Chapter or any provision of Title 10 of the Zoning Code relating to cannabis, and (b) any arrest or prosecution of the applicant or its managers, employees, or members for violation of state or federal laws; and (2) defends, indemnifies, and holds harmless the City and its agents, officers, elected officials, and employees from and against any and all claims or actions: (a) brought by adjacent or nearby property owners or any other parties for any damages, injuries, or other liabilities of any kind arising from operations at the commercial cannabis business, and (b) brought by any party for any problems, injuries, damages, or other liabilities of any kind arising out of the distribution of cannabis produced or processed at the site or by the business.

(b) Non-Refundable Application Fee. At the time of filing, each applicant shall pay a non-refundable application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.

(c) Review of Applications. The Development Services Director or designee, Finance Director or designee, and Fire Chief or designee ("Review Committee") shall conduct an initial review of the applications and rank and score the applications utilizing the Review Criteria. The Review Committee shall then make a recommendation to the Police Chief or designee, who shall make a final selection in accordance with Section 6.36.060.

(d) THE CITY'S RESERVATION OF RIGHTS:

The City reserves the right to reject any or all applications. Prior to cannabis business permit issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California 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 Chapter, may be cancelled at any time prior to cannabis business permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.

Section 6.36.060. Selection of Cannabis Business Permittee(s).

(a) The Police Chief or designee shall determine which applicants will be granted a cannabis business permit in accordance with the procedures established referenced in Section 6.36.050, subsection (a). The Police Chief's or designee's decision as to the selection of permittees shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.

(b) Upon issuance of a conditional use permit, a cannabis business permit is valid at only the location granted under the conditional use permit and State License.

(c) Issuance of a cannabis business permit does not constitute a land use entitlement nor does it constitute a land use permit. Following the Police Chief's selection, the prevailing candidates(s) shall apply to the City's Development Services Department to obtain a conditional use permit pursuant to Section 10.08.4250 and any other required land use approvals or entitlements for the permittee's premises. Land use approvals shall include compliance with all applicable provisions of California Environmental Quality Act.

(d) Conditions placed on the conditional use permit issued under Title 10 of this Code are also conditions of the cannabis business permit. Any violation of the conditional use permit's conditions is grounds for suspending or revoking the cannabis business permit.

(e) Furthermore, no permittee shall begin operations, notwithstanding the issuance of a cannabis business permit, unless all of the state and local laws and regulations have been complied with, including but not limited to the requirements of this Chapter and Section 10.08.3196 of this Code.

f) Notwithstanding anything in this Chapter to the contrary, the City reserves the right to reject any or all applications if it 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 cannabis business permit until a permit is issued, and then only for the duration of the term specified in the permit. Each applicant assumes the risk that, at any time prior to the issuance of a cannabis business permit, the City Council may terminate or delay the program created under this Chapter.

(g) If an application is denied for a cannabis business permit, a new application may not be filed for one (1) year from the date of the denial.

(h) Permit Fee. Each person granted a Cannabis Business Permit shall pay the permit fee established by resolution of the City Council, to cover the costs of administering the cannabis business permit regulatory program created in this Chapter.

Section 6.36.070 Grounds for Denial of a Cannabis Business Permit.

- (a) The City may deny a cannabis business permit if the Police Chief or designee(s) determines that one or more of the following circumstances exist:
- i. The application received is incomplete, filed late, or not responsive to the requirements of this article;
 - ii. The application contains a false or misleading statement or omission of a material fact;
 - iii. The operation of a cannabis business described in the application fails to comply with any of the requirements in this code, state law, or any other regulation;
 - iv. The applicant or any of its owners has any unpaid and overdue administrative penalties imposed for violations of this chapter;
 - v. The applicant has not paid the applicable business operations tax pursuant to Chapter 6.04 or subsequent Chapter(s) or taxes which may be amended from time to time by the voters.
 - vi. Within 12 months of the date of application, either the applicant has had its cannabis business permit revoked; or any of its owners were associated with another business that had its cannabis business permit revoked; or
 - vii. Operation of the cannabis business is a threat to the public health, safety, or welfare.

Section 6.36.080. Expiration of Cannabis Business Permits.

Each cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Cannabis business permits may be renewed as provided in Section 6.36.100.

Section 6.36.090. Suspension, Modification, or Revocation of Cannabis Business Permits.

- (a) The Police Chief or designee may suspend, modify, or revoke a cannabis business permit issued pursuant to the provisions of this Chapter for any of the following reasons:
- i. One or more of the circumstances upon which a cannabis business permit could be

- denied, as described in Section 6.36.070, exists or has occurred;
 - ii. One or more conditions of the cannabis business permit has been violated; or
 - iii. The Permittee, its owners, officers, directors, partners, agents, or other persons vested with the authority to manage or direct the affairs of the business have violated any provision of this Chapter.
- (b) The Police Chief's or designee's decision as to the suspension, modification, or revocation of a cannabis business permit shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.

Section 6.36.100. Renewal Applications.

- (a) An application for renewal of a 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 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 Chapter.
- (d) An application for renewal of a cannabis business permit shall be denied if any of the following exists:
- i. One or more of the circumstances upon which a cannabis business permit could be denied, as described in Section 6.36.070, exists or has occurred;
 - ii. The application is filed less than sixty (60) days before its expiration.
 - iii. The cannabis business permit is suspended or revoked at the time of the application.
 - iv. The cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application, unless the applicant has been granted a conditional use permit for a vacant site and is subject to discretionary permit processing and construction.
 - v. The permittee fails to or is unable to renew its State License.
- (e) The Police Chief or designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the Police Chief or 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 Police Chief or designee(s) shall be directed to the City Manager and shall be handled pursuant to Chapter 1.12.
- (f) If a renewal application is denied, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.
- (g) If an existing cannabis business permit holder fails to renew their permit, the City may, in its discretion, solicit and consider permit applications from other applicants pursuant to Sections 6.36.050 and 6.36.060.

Section 6.36.110. Effect of State License Suspension, Revocation, or Termination.

- (a) Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall constitute grounds for revoking a City cannabis business permit.
- (b) Permittee shall inform the Police Chief or designee of any suspension, revocation or termination of their State license within one business day of receiving notice from the State. Failure to do so shall constitute grounds for revoking a City cannabis business permit.

Section 6.36.120. Change in Contact Information; Updated Registration Form.

- (a) Any time the contact information listed on a cannabis business permit has changed, the business shall re-register with the Police Chief or designee(s). The process and the fees for re-registration shall be the same as the process and fees set forth in Section 6.36.100.
- (b) Within fifteen (15) calendar days of any other change in the information provided in the application or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis business ownership or management members, the applicant shall file an updated registration form with the Police Chief or designee(s) for review along with a registration amendment fee, as set forth in Section 6.36.100.

Section 6.36.130. Transfer of Cannabis Business Permit.

- (a) The holder of a cannabis business permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to their State License, if required, and an amendment to the permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief or designee(s) in accordance with all provisions of this Chapter (as though the transferee were applying for an original cannabis business permit) accompanied by a transfer fee in an amount set by resolution of the City Council, and the Police Chief or designee(s) determines that the transferee passed the background check required for permittees and meets all other requirements of this Chapter.
- (b) Cannabis business permits issued through the grant of a transfer by the Police Chief shall be valid for a period of one year beginning on the day the Police Chief approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.
- (c) Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the Police Chief or designee(s) through the transfer process contained in this subsection (a). Failure to comply with this provision is grounds for revocation.
- (d) A permittee may change the form of business entity without applying to the Police Chief or designee(s) for a transfer of permit, provided that either:

- i. The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
- ii. If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and to comply with Section 6.36.130, subsection (b), provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity.

Although a transfer is not required in these two circumstances, the permit holder is required to notify the Police Chief or designee(s) in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

(e) No cannabis business permit may be transferred when the Police Chief or designee has notified the permittee that the permit has been or may be suspended or revoked.

(f) Any attempt to transfer a cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

Section 6.36.140. Limitations on City's Liability.

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

(a) The applicant 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 of Tracy, 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 cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any state or local laws by the cannabis 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 Attorney and/or Risk Manager.

(c) Reimburse the City of Tracy for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Tracy may be required to pay as a result of any legal challenge related to the City's approval of the applicant's cannabis business permit, or related to the City's approval of a commercial cannabis activity. The City of Tracy 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.

Section 6.36.150. Cannabis Employee Permit Required.

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

(b) Any person who is an employee or who otherwise works within a cannabis business must obtain a cannabis employee permit from the City prior to performing any work at any cannabis business.

(c) Applications for a cannabis employee permit shall be developed, made available, and processed by the Police Chief or designee(s), and shall include, but not be limited to, the following information:

- i. Name, address, and phone number of the applicant;
- ii. Verification of the applicant's age and identity. A copy of a birth certificate, driver's license, government issued identification card, passport or other proof that the applicant is at twenty-one (21) years of age must be submitted with the application;
- iii. Name, address of the cannabis business where the person will be employed, and the name and phone number of the primary manager of that business;
- iv. A list of any crimes enumerated in California Business and Professions Code Section 26057(b)(4) of which the applicant has been convicted;
- v. Name, address, and contact person for any previous employers from which the applicant was fired, resigned, or asked to leave and the reasons for such dismissal or firing;
- vi. The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the Police Chief or designee(s).
- vii. A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the cannabis employee permit program. The fee is non-refundable and shall not be returned in the event the employee permit is denied or revoked.

(d) The Police Chief or designee(s) shall review the application for completeness, shall conduct a background check to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:

- i. Has ever been convicted of a violent felony as defined by California Penal Code Section 667.5, or equivalent offenses in other states;
- ii. Has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or; equivalent offenses in other states; or
- iii. Has ever been convicted of the 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.
- iv. Employers who wish to hire an individual notwithstanding this rule shall apply to the Police Chief, who at his/her sole discretion may issue a written waiver. The employer or employee shall submit a statement of rehabilitation for each conviction. The statement of rehabilitation may contain evidence that the employer or employee would like the Police Chief to consider that demonstrates the employee's fitness for a

cannabis employee permit. Supporting evidence may be attached to the statement of rehabilitation and may include, but is not limited to, dated letters of reference from employers, instructors, or professional counselors that contain valid contact information for the individual providing the reference. The Police Chief's or designee's decision as to the selection of an employee shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.

Discovery of facts showing that the applicant has either failed to disclose or has been convicted of any of the above offenses are grounds for denial of the permit. Where the applicant's sentence (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a commercial cannabis employee permit.

(e) The Police Chief or designee shall implement the cannabis employee permit process in accordance with the procedures and rules established by resolution adopted by the City Council.

(f) A cannabis employee permit shall be valid for a twelve (12) month period from date of issuance and must be renewed on an annual basis. Renewal applications shall contain all the information required in Section 6.36.150, subsection (c) above including the payment of a renewal application fee in an amount to be set by resolution of the City Council.

(g) The City may immediately revoke the cannabis employee permit should the permit holder be convicted of a crime listed in subsection (d)(ii) above. The following are additional grounds for revoking a cannabis employee permit based on the specific role and function of that employee:

- i. A cannabis employee permit shall be revoked if the employee permit holder:
 - A. Sells or provides cannabis or cannabis products to a minor;
 - B. Attempts to give away cannabis or cannabis products while working, unless as authorized pursuant to Section 5411 of Chapter 3, Division 42, Title 16 of the California Code of Regulations;
 - C. Acts to illegally divert cannabis or cannabis products to the black market, including stealing cash; stealing the licensee's product for personal consumption; or selling the licensee's product and keeping the proceeds of the sale; or
 - D. Is cited for driving under the influence of alcohol, cannabis or another illicit drug while on- or off-duty.

(h) The applicant may appeal the denial or revocation of a cannabis employee permit to the City Manager by filing a notice of appeal with the City Clerk within ten (10) working days of the date the applicant received the notice of denial or revocation, which appeal shall be conducted as set forth in Chapter 1.12 of this Code.

Article 3. – General Operating Procedures for Cannabis Business Permittees

Section 6.36.160. City Business License.

Prior to commencing operations, a cannabis business shall obtain a City of Tracy business license.

Section 6.36.170. Records and Recordkeeping.

(a) Each owner and operator of a cannabis 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 Chapter), or at any time upon reasonable request of the City, each cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis 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 designee(s).

(b) Each owner and operator of a commercial cannabis 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 cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the Police Chief or designee(s) upon a reasonable request.

(c) All cannabis 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 in accordance with the MAUCRSA.

(d) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) and other applicable regulations, each cannabis business shall allow City of Tracy officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated in writing 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.

Section 6.36.180. Security Measures.

(a) A permitted cannabis business shall implement sufficient security measures to deter and prevent unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent theft of cannabis or cannabis products at the cannabis business. Except as may otherwise be determined by the Police Chief or designee and Fire Chief or designee, these security measures shall include, but shall not be limited to, all of the following:

- i. Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business.
- ii. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- iii. All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault, provided that such secured areas meet the emergency egress requirements in the Building Code. All cannabis and cannabis products that are being sold for retail purposes shall be kept in a manner as to prevent diversion, theft, and loss.
- iv. On-site security guard(s), licensed by the State of California Bureau of Security and Investigative Services, may be required as determined by the Police Chief or designee, and shall be subject to the prior review and approval of the Police Chief or his/her designee(s), with such approval not to be unreasonably withheld.
- v. Installing security surveillance cameras of sufficient resolution to allow the identification of persons and objects to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Police Chief or designee(s), and that it is compatible with the City's software and hardware. In addition, remote access to the video footage from the cameras shall be provided to the Police Chief or designee(s). Video recordings shall be maintained for a minimum of ninety (90) days, or as required under state law, and shall be made available to the Police Chief or designee(s) upon request without unreasonable delay. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.
- vi. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.
- vii. A commercial cannabis business shall notify the Police Chief or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - (1) 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).
 - (2) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
 - (3) The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial cannabis business.
 - (4) Any other breach of security.

Section 6.36.190. Restriction on Alcohol and Tobacco Sales.

- (a) It shall be unlawful to cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis business.

(b) It shall be unlawful to cause or permit the sale of tobacco products on or about the premises of the cannabis business.

Section 6.36.200. Fees and Charges.

No person may commence or continue any cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a cannabis business. Fees and charges associated with regulation of a cannabis business shall be established by resolution of the City Council which may be amended from time to time.

Section 6.36.210. Packaging and Labeling.

All cannabis, cannabis products, and cannabis accessories sold by a cannabis business shall be packaged, labeled and placed in tamper-evident packaging which at least meets the requirements of the MAUCRSA and all state implementing rules and regulations.

Section 6.36.220 Diversion Prohibited.

No person shall give, sell, distribute, or otherwise transfer any cannabis from a permitted cannabis business to any person in any manner that violates local or state law.

Section 6.36.230 Emergency Contact.

Each cannabis business shall provide the Police Chief or designee(s) with the name, telephone number (both landline and mobile, if available) of at least one 24-hour on-call designated employee to serve as a liaison to resolve complaints, to respond to operating problems or concerns associated with the cannabis business, and to notify the Police Chief of any security issues arising per the terms of Section 6.36.180 (a) vii.

Section 6.36.240 Community Relations Manager.

Each cannabis business shall provide the Police Chief or designee(s) with the name, telephone number (both landline and mobile, if available) of at least one employee to communicate with surrounding neighborhoods and businesses. The cannabis business shall make good faith efforts to encourage neighborhood residents to call this person to solve problems, if any, before any calls or complaints are made to the City.

Section 6.36.250 Payment of Taxes.

All cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under state and local law. Each cannabis business shall cooperate with the City or designee(s) with respect to any reasonable request to audit the cannabis 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.

Section 6.36.260 Employee Permit Requirement

(a) It shall be unlawful for any cannabis business Permittee to employ any person or allow a person to volunteer who is not the holder of a valid City cannabis employee permit.

(b) All managers and staff of a cannabis business permittee must retain a copy of the City-issued cannabis employee permit and make it available to City officials upon request.

Section 6.36.270 Cannabis Consumption Prohibited.

No cannabis business permittee shall allow any person to smoke, ingest, or otherwise consume cannabis or cannabis products in any form on, or within 20 feet of, the premises.

Section 6.36.280 Persons Under 21 years of Age Prohibited.

Persons under the age of twenty-one (21) years shall not be allowed on the premises of any cannabis business, unless otherwise provided in this Chapter. It shall be unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.

Section 6.36.290 Site Management.

(a) The cannabis business permittee shall prevent and eliminate conditions on the site that constitute a nuisance.

(b) The cannabis business permittee shall maintain the exterior of the site, including any parking lots under the control of the permittee, free of litter, debris, and trash.

(c) The cannabis business permittee shall implement measures that discourage loitering near the business and shall collaborate with the City Police Department to enforce related laws.

(d) The permittee shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations.

(e) Notwithstanding any provisions of this Code to the contrary, the permittee shall remove all graffiti from the site and parking lots under the control of the permittee within 72 hours of its application.

Section 6.36.300 Reporting Criminal Activity.

A cannabis business permittee shall immediately report to the City Police Department all criminal activity occurring on the cannabis business site.

Section 6.36.310 Display of Permit and City Business License.

The original copy of the City cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis business in a location readily-visible to all persons entering the premises.

Section 6.36.320 Miscellaneous Operating Requirements.

- (a) Cannabis businesses may operate only during the hours specified in the conditional use permit issued by the City. The hours of operation provided in the conditional use permit shall not exceed the hours of operation allowed under state law.
- (b) No cannabis, cannabis products, graphics depicting cannabis, or cannabis products shall be visible from the exterior of any property issued a cannabis business permit, or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (c) Reporting and Tracking of Product and of Gross Sales. Each cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis 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. Said tracking system must be in compliance with state's designated track-and-trace system. The commercial cannabis business 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 Police Chief or designee(s) prior to being used by the permittee.
- (d) Odor Control. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, cannabis businesses must install and take all measures, including installing equipment, to control odor as required by the Development Services Director or designee.

Article 4. – Operating Procedures for Specific Business Types

Section 6.36.330. Commercial Cannabis Cultivation Permit Requirements

- (a) No person shall operate a cannabis cultivation business in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued. This section shall not apply to the cultivation of cannabis for personal use allowed under state law.
- (b) Permit Fee. A cannabis cultivation permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis cultivation businesses:
 - i. Specialty Cottage – Indoor cultivation up to 500 square feet of total canopy size on one cultivation site.

- ii. Specialty - Indoor cultivation of less than or equal to 5,000 square feet of total canopy size on one cultivation site.
 - iii. Small - Indoor cultivation between 5,001 and 10,000 square feet of total canopy size on one cultivation site.
 - iv. Medium – Indoor cultivation between 10,001 and 22,000 square feet of total canopy size on one cultivation site.
- (d) Indoor Only. A cannabis cultivation permittee shall only cultivate cannabis in a fully enclosed building. Outdoor cultivation of commercial cannabis is expressly prohibited.
- (e) A cannabis cultivation permittee shall not allow cannabis or cannabis products on the cultivation site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- (f) A cannabis cultivation permittee may conduct all activities permitted by the State License.
- (g) Any cultivation activity that will be conducted by the permittee shall be included on the permit application. No additional cultivation activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- (h) At all times, the cannabis cultivation site shall be compliant with all state regulations for cannabis cultivation including Title 3 of the California Code of Regulations as may be amended.
- (i) Inspections by the Fire Chief or designee may be conducted any time during the business's regular business hours.
- (j) Site Requirements. A cannabis cultivation site shall comply with the following requirements:
- i. Entrances. All entrances into the buildings on the cultivation site shall be locked at all times with entry controlled by the permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - ii. Cultivation area. All cultivation areas in any building on the cultivation site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee from the lobby area. As such, managers and staff of the permittee shall not be required to exit the building in an emergency through the cultivation area.
 - iii. Transport area. Each building with a cultivation area shall have an area designed for the secure transfer of cannabis from a vehicle to the cultivation area.
 - iv. Storage area. Each building with a cultivation area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- (k) Signage. A cannabis cultivation permittee shall post in the lobby of the cultivation site signs that state the following:
- i. "This site is not open to the public."
 - ii. "Retail sales of any goods and services is prohibited."
 - iii. "Persons under 21 years of age are prohibited from entering this site."
 - iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."

- v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the cultivation site.
 - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (l) Restricted Site. No cannabis cultivation permittee shall open their cultivation site to the public.
- i. No cannabis cultivation permittee shall allow anyone on the cultivation site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
 - ii. A manager must be on the cultivation site at all times that any other person, except for security guards, is on the site.
 - iii. While on the cultivation site, managers and staff of the cannabis cultivation business must maintain evidence of their cannabis employee permit, issued by the City, at all times.
 - iv. Any person other than managers or staff who are on the cultivation site must sign in, wear a visitor badge, and be escorted on the site by a manager, or designee, at all times.
 - v. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis cultivation site.
 - vi. Cannabis cultivation sites shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
 - vii. Location Requirements. Cannabis cultivation permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.340. Cannabis Distribution Permit Requirements

- (a) Permit Required. No person shall operate a cannabis distribution business in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) Permit Fee. A cannabis distribution permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis distribution businesses:
- i. Distributor (Type 11): Purchases, sells, arranges for testing, conducts quality assurance review of packaging and labeling, transports cannabis goods between licensees, and collects state cultivation tax from licensed cultivators.
 - ii. Distributor- Self-Distribution Only (Type 13): Transports only its own cannabis goods that it has cultivated or manufactured to testing facilities and retailers.
 - iii. Distributor- Transport Only (Type 13): Transports cannabis goods between licensees, but may not transport any cannabis goods, except for immature cannabis plants and/or seeds, to a retailer or to the retailer portion of a microbusiness.
- (d) The buildings on the sites of a Type-11 or Type-13 cannabis distribution permittee must comply with the following requirements:

- i. Entrances. All entrances into the buildings on the distribution site must be locked at all times with entry controlled by the cannabis distribution permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- ii. Main entrance and lobby. The distribution site must have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance must be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there must be a lobby to receive persons into the site and to verify whether they are allowed in the areas where cannabis or cannabis products are stored.
- iii. Storage area. The distribution site must have adequate storage space for cannabis and cannabis products being distributed. All storage areas in any building on the distribution site must be separated from the main entrance and lobby and must be secured by a lock accessible only to managers and employees from the lobby area.
- iv. Transport area. Each building with a storage area must have an area designed for the secure transfer of cannabis between a vehicle and the distribution site.

(e) Storage of cannabis and cannabis products.

- i. Type-11 and Type-13 (Self-Distribution Only) cannabis distribution permittees shall only store cannabis or cannabis products in a secured room within a limited access area that is covered by video cameras, in a fully enclosed building on the distribution site. No cannabis or cannabis products in possession of the cannabis distribution business may be stored in any other facility, such as a separate storage facility or a cannabis product manufacturing facility.
- ii. Type-11 and Type-13 (Self Distribution Only) cannabis distribution permittees shall not allow cannabis or cannabis products on the distribution site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- iii. Type-13 (Transport Only) cannabis distribution permittees shall not store cannabis or cannabis products on the distribution site.

(f) Transportation. The cannabis distribution business shall use and maintain computer software to record the following information relating to the transportation of cannabis and cannabis products:

- i. A shipping manifest that includes a specific description of the items being transported, whether each item is a medical cannabis or adult-use cannabis product, and the name, address, and license number of the cannabis business to which the items are to be transported;
- ii. The name of the person who transported the items;
- iii. The date and time of the transport; and
- iv. The name of the manager of the cannabis business who confirmed receipt of the items.
- v. A person transporting cannabis or cannabis products on behalf of a cannabis distribution business shall carry the following items:
 - A. A copy of the distributor's current cannabis distribution business permit;
 - B. The person's government-issued identification;
 - C. Evidence of the person's City-issued cannabis employee permit; and
 - D. A copy of the shipping manifest as described in subsection (f) i.

- vi. Upon demand of a peace officer or city employee authorized to enforce this chapter, a person transporting cannabis or cannabis products pursuant to this section shall present the items listed in subsection (f) v. for examination.
 - vii. No person shall transport cannabis or cannabis products to anyone except a lawfully operated cannabis business. The person transporting the cannabis or cannabis products shall obtain a signature from a manager of the cannabis business confirming receipt of the items listed in the shipping manifest, before leaving the items.
 - viii. A cannabis business shall maintain the information described in subsection (f) v. for at least three years on the site and shall produce the information upon request by the City.
- (g) **Restricted Site.** No cannabis distribution permittee shall open their distribution site to the public.
- i. No cannabis distribution permittee shall allow anyone on the distribution site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
 - ii. A manager must be on the distribution site at all times that any other person, except for security guards, is on the site.
 - iii. While on the distribution site, managers and staff of the cannabis distribution business must maintain evidence their City-issued cannabis employee permit at all times.
 - iv. Any person other than managers or staff who are on the distribution site must sign in, wear a visitor badge, and be escorted on the site by a manager, or designee, at all times.
- (h) **Signage.** A cannabis distribution permittee shall post in the lobby of the distribution site signs that state the following:
- i. "This site is not open to the public."
 - ii. "Retail sales of any goods and services is prohibited."
 - iii. "Persons under 21 years of age are prohibited from entering this site."
 - iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
 - v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the distribution site.
 - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (i) **Retail Sales Prohibited.** No person shall conduct any retail sales of any good or services on or from a permitted cannabis distribution site.
- (j) **Location Requirements.** Cannabis distribution permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.350 Cannabis Manufacturing Permit Requirements.

- (a) No person shall operate a cannabis manufacturing business in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.
- (b) **Permit Fee.** A cannabis manufacturing permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.
- (c) Cannabis Business Permit(s) will only be issued for the following types of cannabis manufacturing businesses:
- i. Type 6 (non-volatile), for a business involving all aspects of a cannabis manufacturing business, including the extraction of substances from a cannabis plant and the activities allowed with a Type N and Type P permit as described below.
 - ii. Type N, for a business involving the production and preparation of cannabis products (such as infusing cannabis extracts or concentrates into edibles and topicals) and the activities allowed with a Type P permit as described below. A business holding a Type N permit cannot engage in the extraction of substances from a cannabis plant.
 - iii. Type P, for a business involving only the packaging and labeling of cannabis or cannabis products. A business holding a Type P permit cannot engage in the extraction of substances from a cannabis plant, or the production and preparation of cannabis products.
- (d) **Indoor Only.** A cannabis manufacturing permittee shall only manufacture cannabis in a fully enclosed building. Outdoor manufacturing of cannabis is expressly prohibited.
- (e) A cannabis manufacturing permittee shall not allow cannabis or cannabis products on the manufacturing site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
- (f) A cannabis manufacturing permittee may conduct all activities permitted by the State License. This includes, but is not limited to, non-volatile extractions, repackaging and relabeling, and infusions.
- (g) Any manufacturing activity that will be conducted by the permittee shall be included on the permit application. No additional manufacturing activity can be conducted without applying for and receiving written permission from the City for that additional activity.
- (h) At all times, the cannabis manufacturing facility will be compliant with all state regulations for cannabis manufacturing including California Health and Safety Code 11362.775 and as it may be amended.
- (i) Inspections by the Fire Chief or designee may be conducted any time during the business's regular business hours.
- (j) **Site Requirements.** A cannabis manufacturing site shall comply with the following requirements:
- v. **Entrances.** All entrances into the buildings on the manufacturing site shall be locked at all times with entry controlled by the permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - vi. **Manufacturing area.** All manufacturing areas in any building on the manufacturing site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee from the lobby area.
 - vii. **Transport area.** Each building with a manufacturing area shall have an area

designed for the secure transfer of cannabis from a vehicle to the manufacturing area.

- viii. Storage area. Each building with a manufacturing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.

(k) Signage. A cannabis manufacturing permittee shall post in the lobby of the manufacturing site signs that state the following:

- vii. "This site is not open to the public."
- viii. "Retail sales of any goods and services is prohibited."
- ix. "Persons under 21 years of age are prohibited from entering this site."
- x. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
- xi. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the manufacturing site.
- xii. Each sign shall comply with California's accessibility requirements for persons with visual impairments.

(l) Restricted Site. No cannabis manufacturing permittee shall open their manufacturing site to the public.

- i. No cannabis manufacturing permittee shall allow anyone on the manufacturing site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.
- ii. A manager must be on the manufacturing site at all times that any other person, except for security guards, is on the site.
- iii. While on the manufacturing site, managers and staff of the cannabis manufacturing business must maintain evidence of their City-issued cannabis employee permit at all times.
- iv. Any person other than managers or staff who are on the manufacturing site must sign in, wear a visitor badge, and be escorted on the site by a manager, or designee, at all times.
- vi. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis manufacturing site.
- vii. Cannabis manufacturing sites shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

(m) Location Requirements. Cannabis manufacturing permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.360 Cannabis Microbusiness Permit Requirements

(a) No person shall operate a cannabis microbusiness in the City without a valid cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.

(b) Permit Fee. A cannabis microbusiness permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.

(c) All cannabis commercial activity that will be conducted by the permittee shall be included on the permit application. No additional cannabis activity can be conducted without applying for and receiving written permission from the City for that additional activity. Microbusinesses will count towards dispensary limit unless otherwise directed by the City Council.

(d) Location Requirements. Cannabis microbusiness permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.370 Cannabis Non-Storefront (Delivery Only) Retailer Permit Requirements.

(a) Permit Required. No person shall operate a cannabis delivery only business in the City (without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.

(b) Permit Fee. A cannabis delivery-only permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.

(c) Permissible Delivery Locations and Customers. Cannabis delivery-only retailers are subject to the following requirements:

- i. Cannabis, cannabis products and cannabis accessories shall only be delivered to customers located at a residential address including a nursing or assisted living facility;
- ii. The delivery of Cannabis, cannabis products and cannabis accessories to any location or facility owned, leased or occupied by a public agency, including but not limited to, a public school, library, and community center, is expressly prohibited;
- iii. No deliveries shall be conducted on private property open to the public, including but not limited to, business and professional offices, retail stores and their adjoining parking lots, places of assembly, eating and drinking establishments.

(d) All cannabis and cannabis products being delivered shall be obtained from the site of the cannabis business that is authorized to deliver cannabis. No cannabis or cannabis products may be delivered from any other facility, such as a separate storage facility or a cannabis product manufacturing facility.

(e) No person delivering cannabis, cannabis products and cannabis accessories shall possess more than \$3,000 worth of cannabis and cannabis products at any time.

(f) The cannabis delivery only business shall use and maintain computer software to record the following information relating to each delivery:

- i. A delivery request that includes the date of the request, the full name of the person requesting the delivery, a specific description of the items requested, whether each item is a medical cannabis or adult-use cannabis product, and the address to which the items are to be delivered;

- ii. The name of the person who delivered the items; and
- iii. The date and time of the delivery.

(g) A person delivering cannabis or cannabis products on behalf of a cannabis non-storefront retailer shall carry the following items:

- i. A copy of the dispensary's current dispensary permit;
- ii. The person's government-issued identification;
- iii. Evidence of the person's City-issued cannabis employee permit; and
- iv. A copy of the delivery request as described in subsection (f).

(h) Upon demand of a peace officer or City employee authorized to enforce this chapter, a person delivering cannabis or cannabis products pursuant to this section shall present the items listed in subsection (g) for examination.

(i) No person shall deliver cannabis to anyone except the person who requested the delivery. The person delivering the cannabis shall confirm compliance with sections 6.36.370 (g) (medical cannabis dispensing operations) and 6.36.370(f) (adult-use cannabis dispensing operations), as applicable, by inspecting the relevant identification and documentation before handing the cannabis or cannabis product to the customer.

(j) A cannabis delivery-only retailer shall maintain the information described in subsection (f) for at least three years on the site and shall produce the information to the city upon request.

(k) **Delivery-Only Vehicle Requirements.** Prior to commencing operations, a Cannabis Non-Storefront Retailer shall provide the City with all information requested by the Police Chief or designee(s) regarding the vehicles used to deliver cannabis to customers. Such information shall include, but not be limited to the following:

- i. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
- ii. Proof of insurance as required in section 6.36.140 (b) for any and all vehicles being used to deliver cannabis or cannabis products.
- iii. The make, model, color, and license number of all vehicles owned or leased by the commercial cannabis retailer and used to deliver cannabis or cannabis products.

(l) **Retail Sales Prohibited.** No person shall conduct any retail sales of any good or services on or from a permitted cannabis delivery-only retailer site.

(m) **Location Requirements.** Cannabis non-storefront retail permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.380 Cannabis Storefront (Dispensary) Retailer Permit Requirements.

(a) **Permit Required.** No person shall operate a cannabis storefront retailer in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.

(b) Permit Fee. A cannabis storefront retailer permit program fee is established and imposed. The City Council shall establish by resolution the amount of the cannabis business permit fee for a storefront retailer and any related penalties.

(c) Operating Hours. The maximum hours of operation for a cannabis storefront retailer shall be established by the conditional use permit issued by the City, provided that the hours shall not exceed the maximum hours of operation allowed under state law.

(d) Indoor Operations Only. A cannabis storefront retailer permittee shall not allow cannabis, cannabis products, or cannabis accessories on the dispensary site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.

(e) Restricted Access to Cannabis Storefront Retailer Premises. An A-licensee shall not allow any person under 21 years of age access to a licensed cannabis dispensary, unless the A-licensee also holds an M-license and the licensed premises for the A-license and M-license are the same. A M-licensee may allow access to a licensed cannabis dispensary to any person 18 years of age or older who possesses a valid government-issued identification card and either a valid county-issued identification card under Section 11362.712 of the California Health and Safety Code, or who is a qualified patient in possession of a valid physician's recommendation in their name, or who is a primary caregiver for a person in possession of a valid physician's recommendation, or any person 21 years of age or older, if the M-licensee holds an A-license and the licensed premises for the M-license and A-license are the same.

(f) Adult Use Only. A cannabis storefront retailer with an A-license from the State shall only sell adult-use cannabis to persons who are 21 years of age or older, and who are in possession of a valid government-issued identification card.

(g) Medical Cannabis Dispensing Operations. A cannabis retailer that is expressly authorized to sell medical cannabis pursuant to this Chapter and state law shall sell medical cannabis only to:

- i. A person 18 years of age or older who possesses a valid government-issued identification card and either a valid county-issued identification card under Section 11362.712 of the California Health and Safety Code; or
- ii. Qualified patients with a currently valid physician's recommendation in compliance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq.), and valid government-issued identification such as a Department of Motor Vehicles driver's license or State Identification Card; or
- iii. Primary caregivers with a verified primary caregiver designation by their qualified patients, a copy of their qualified patient's valid physician's recommendation in compliance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq.), and valid official identification such as a Department of Motor Vehicles driver's license or State Identification Card.
- iv. No cannabis business that is expressly authorized to sell medical cannabis pursuant to this chapter shall have a physician on the dispensary site to evaluate patients or provide a recommendation for medical cannabis.

(h) Maintenance of Medical Cannabis Records. A cannabis retailer shall maintain records of the following information for each member and customer of the dispensary that purchases medical cannabis:

- i. The name, date of birth, physical address, and telephone number; and their status as a qualified patient or primary caregiver.
- ii. A copy of each qualified patient's written physician recommendation and their designation of a primary caregiver.
- iii. These records shall be maintained by the cannabis retailer for a period of not less than three years and shall be produced to the city within 24 hours after receipt of the City's request.
- iv. The storefront cannabis dispensary shall report any loss, damage or destruction of these records to the Police Chief within 24 hours of the loss, damage or destruction.

(i) Cannabis Accessories. A cannabis dispensary that is expressly authorized to sell cannabis pursuant to this chapter, whether medical cannabis or adult-use cannabis, may also sell cannabis accessories and display cannabis accessories.

(j) Restrictions on Alcoholic Beverages. No storefront cannabis dispensary or manager shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages; or operate a business on or adjacent to the dispensary site that sells alcoholic beverages.

(k) Site Requirements.

- i. Floor Plan. A cannabis storefront retailer must have a lobby waiting area at the entrance to receive persons to verify that they are members of that dispensary or are otherwise allowed to be on the dispensary site. A dispensary must also have a separate and secure area designated for selling cannabis, cannabis products, and cannabis accessories to its customers, provided that such secured areas do not violate the emergency egress requirements in the Building Code. The main entrance must be located and maintained clear of barriers, landscaping, and similar obstructions so that it is clearly visible from public streets or sidewalks.
- ii. Storage. A cannabis storefront retailer must have adequate locked storage on the dispensary site, identified and approved as a part of the security plan, for after-hours storage of cannabis and cannabis products. Cannabis and cannabis products must be stored at the dispensary site in secured rooms that are completely enclosed and do not violate the emergency egress requirements in the Building Code or in a safe that is bolted to the floor.

(l) Signage. A cannabis storefront retailer shall post in the lobby of the dispensary site signs that state the following:

- i. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
- ii. A cannabis storefront retailer that is only authorized to sell medical cannabis must have a sign stating, "Medical cannabis sales only. Only qualified patients and primary caregivers may enter. Any qualified patient or primary caregiver under 18 years of age must be in the presence of their parent or legal guardian."
- iii. A cannabis storefront retailer that is only authorized to sell adult-use cannabis must have a sign stating, "Adult-use cannabis sales only. Persons under 21 years of age are prohibited from entering."

- iv. A cannabis storefront dispensary that is authorized to sell both medical and adult-use cannabis must have a sign stating, "Medical and adult-use cannabis for sale. Persons under 21 years of age are prohibited from entering this property unless they are a qualified patient or a primary caregiver. Any qualified patient or primary caregiver under 18 years of age must be in the presence of their parent or legal guardian." If separate rooms are provided for medical cannabis and adult-use cannabis, the signs may be posted next to each room as appropriate.
- v. Each sign described in must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons in the normal course of a transaction.
- vi. The signs must not obstruct the entrance or windows of the dispensary.
- vii. Each sign shall comply with California's accessibility requirements for persons with visual impairments.

(m) **Restricted Site.**

- i. All entrances into a storefront cannabis dispensary's building shall be locked from the exterior at all times with entry controlled by dispensary personnel, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- ii. A manager must be on the dispensary site at all times that any other person, except for security guards, is on the site.
- iii. While on the dispensary site, managers and staff of the cannabis dispensary permittee must maintain evidence of their City-issued cannabis employee permit at all times.
- iv. Any person other than managers or staff who are on the dispensary site must sign in, wear a visitor badge, and be escorted on the site by a manager, or designee, at all times.

(n) **Cannabis Cultivation Prohibited.** No cannabis storefront dispensary shall grow or cultivate cannabis, except for immature nursery stock cannabis plants, on the dispensary site.

(o) **Location Requirements.** Cannabis storefront retail permittees shall locate in a site consistent with Section 10.08.3196.

Section 6.36.390 Cannabis Testing Laboratory Requirements.

(a) **Permit Required.** No person shall operate a cannabis testing laboratory business in the City without a valid City cannabis business permit issued pursuant to this Chapter, or in a manner that is inconsistent with the permit issued.

(b) **Permit Fee.** A cannabis testing laboratory permit program fee is established and imposed. The City Council shall establish by resolution the amount of the cannabis business permit fee for a cannabis testing laboratory and any related penalties.

(c) **Indoor Testing Only.** A cannabis testing laboratory permittee shall only test cannabis in a fully enclosed building.

(d) **Site Requirements.** A cannabis testing laboratory site shall comply with the following requirements:

- i. Entrances. All entrances into the buildings on the laboratory site shall be locked at all times with entry controlled by the cannabis testing laboratory permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - ii. Testing area. All testing areas in any building on the laboratory site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
 - iii. Transport area. Each building with a testing area shall have an area designed for the secure transfer of cannabis from a vehicle to the testing area.
 - iv. Storage area. Each building with a testing area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis testing laboratory permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.
- (e) Signage. A cannabis testing laboratory permittee shall post in the lobby of the laboratory site signs that state the following:
- i. "This site is not open to the public."
 - ii. "Retail sales of any goods and services is prohibited."
 - iii. "Persons under 21 years of age are prohibited from entering this site."
 - iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."
 - v. Each sign must be at least 8 inches by 10 inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the testing site.
 - vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.
- (f) Restricted Site. No cannabis testing laboratory permittee shall open their laboratory site to the public.
- i. No cannabis testing laboratory permittee shall allow anyone on the laboratory site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and cannabis transporters.
 - ii. A manager must be on the laboratory site at all times that any other person, except for security guards, is on the site.
 - iii. While on the laboratory site, managers and staff of the cannabis testing laboratory permittee must maintain evidence of their City-issued cannabis employee permit at all times.
 - iv. Any person other than managers or staff who are on the laboratory site must sign in, wear a visitor badge, and be escorted on the site by a manager, or designee, at all times.
- (g) Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis testing laboratory site.
- (h) Location Requirements. Cannabis testing laboratory permittees shall locate in a site consistent with Section 10.08.3196.

Article 5. – Enforcement.

Section 6.36.400. Promulgation of Regulations, Requirements, Standards and Other Legal Duties.

(a) In addition to any regulations adopted by the City Council, the City Manager or designee is authorized to establish any additional regulations, requirements, and standards governing the issuance, denial or renewal of cannabis business permits; the operation of cannabis businesses that are necessary to protect the public health, safety and welfare; and the City's oversight of cannabis businesses, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter. Such regulations, requirements or standards shall take effect as determined by the City Manager or designee, and existing cannabis business permit holders shall comply as amended.

(b) Regulations shall be published on the City's website.

(c) Regulations promulgated by the City Manager or designee shall become effective as determined therein. Cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or designee.

Section 6.36.410. Fees Deemed Debt to City of Tracy.

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

Section 6.36.420. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Tracy, whether committed by the permittee or any employee, volunteer, or agent of the permittee, which violations occur in or about the premises of the cannabis business, and violations which occur during deliveries to off-site locations, whether or not said violations occur within the permit holder's presence.

Section 6.36.430. Inspection and Enforcement.

(a) The City Manager or designee(s), Chief of Police or designee(s), and Fire Chief or designee(s) charged with enforcing the provisions of the Tracy Municipal Code, or any provision thereof, may enter the location of a cannabis business during normal business hours, without notice, and inspect the location of any cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.

(b) It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other

documents required to be maintained by a cannabis business under this Chapter or under state or local law.

Section 6.36.440. Compliance with State Regulations.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of Tracy in compliance with all provisions MAUCRSA and any subsequent state legislation.

Section 6.36.450. Violations Declared a Public Nuisance.

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

Section 6.36.460. Each Violation a Separate Offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Tracy Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, and any permit issued pursuant to this Chapter shall be deemed null and void, entitling the City to disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity, including the imposition of a civil penalty not to exceed one thousand dollars (\$1000) for each day, or part thereof, such violation or failure to comply occurs. The City of Tracy may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the Police Chief or designee(s), may take immediate action to temporarily suspend a cannabis business permit issued by the City, pending a hearing before the City Manager.

Section 6.36.470. Criminal Penalties.

Each and every violation of the provisions of this Chapter may be prosecuted as a misdemeanor at the discretion of the City Attorney 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 six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 6.36.480. Remedies Cumulative and Not Exclusive.

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

Section 6.36.490 Service of Notices.

All notices required by this chapter are deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed to the applicant or cannabis business at the mailing address identified in its application, the last updated address on file with the City Manager's office, or the mailing address on the appeal form; or the date upon which personal service of the notice is provided to the applicant or a manager identified on the application or appeal form.

Tracy Press

PROOF OF PUBLICATION

Stamp

(2015.5 C.C.P.)

STATE OF CALIFORNIA County of San Joaquin

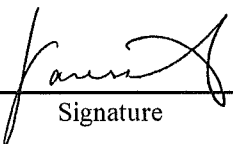
I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a part to or interested in the above entitled matter; I am the principal clerk of the printer of the Tracy Press, a newspaper of general circulation, printed and published one time a week on Friday in the City of Tracy, California, County of San Joaquin, and which of newspaper has been adjudged a newspaper of general circulation by the Superior Court, Department 4, of the County of San Joaquin, State of California, under the date of June 30, 1952, Case Number 53686; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit;

November 22

all in the year, 2019

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Tracy, California, this 26th
day of November 2019



Signature

PROOF OF PUBLICATION

Public Notice #0801

City of Tracy

Public Hearing

Ordinance 1277

#0801

PUBLIC NOTICE

SUMMARY OF PROPOSED ORDINANCE NO. 1277
(GOVERNMENT CODE § 36933(c)(1))

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 6.36 OF TITLE 6, "BUSINESSES, PROFESSIONS, AND TRADE" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LOCAL REGULATIONS FOR REGARDING COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

The proposed ordinance will amend Chapter 6.36 regarding commercial cannabis activity in the City of Tracy. The proposed ordinance will establish regulations on commercial cannabis activities, including the allowable cannabis business types, the number of cannabis business permits issued by type, cannabis business permitting procedures and requirements, the operating procedures for the permitted cannabis businesses, the operating procedures specific to certain cannabis business types, and enforcement.

Proposed Ordinance 1277 was introduced at the November 19, 2019 regular Council meeting, to amend Chapter 6.36 of the Tracy Municipal Code regarding commercial cannabis activity.

A certified copy of the full text of the proposed ordinance is posted and may be read in full in the City Clerk's Office at 333 Civic Center Plaza, Tracy, California, or a copy may be obtained from that office (after paying a fee based on the City's copying costs).

The City Council will consider adoption of said ordinance at its regular meeting to be held on December 3, 2019 at Tracy City Hall located at 333 Civic Center Plaza, Tracy, California, at 7:00 pm.

Adrienne Richardson, City Clerk

Tracy Press: November 22, 2019

Tracy Press

PROOF OF PUBLICATION

Stamp

(2015.5 C.C.P.)

STATE OF CALIFORNIA County of San Joaquin

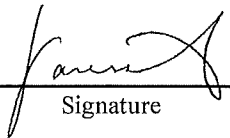
I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a part to or interested in the above entitled matter; I am the principal clerk of the printer of the Tracy Press, a newspaper of general circulation, printed and published one time a week on Friday in the City of Tracy, California, County of San Joaquin, and which of newspaper has been adjudged a newspaper of general circulation by the Superior Court, Department 4, of the County of San Joaquin, State of California, under the date of June 30, 1952, Case Number 53686; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit;

December 6

all in the year, 2019

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Tracy, California, this 13th
day of December 2019



Signature

PROOF OF PUBLICATION

Public Notice #0839

City of Tracy

Summary of Ordinance 1277

0839

PUBLIC NOTICE

SUMMARY OF ORDINANCE NO. 1277
(GOVERNMENT CODE § 36933(c)(1))

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 6.36 OF TITLE 6, "BUSINESSES, PROFESSIONS, AND TRADE" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LOCAL REGULATIONS FOR REGARDING COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

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The City Council adopted said ordinance at its regular meeting to be held on December 3, 2019 at Tracy City Hall located at 333 Civic Center Plaza, Tracy, California, at 7:00 pm.

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE

Signed By: Robert Rickman, Mayor
Attest: Adrienne Richardson, City Clerk

Tracy Press: December 6, 2019



City of Tracy

Development Services Department
333 Civic Center Drive
Tracy, CA 95376
P: 209.831.6400

APPLICATION PROCEDURES & GUIDELINES FOR A CITY OF TRACY CANNABIS BUSINESS PERMIT

OPENS – September 1, 2020
CLOSES – September 30, 2020 @ 3:00 PM

The City of Tracy may issue Cannabis Business Permits to individuals interested in operating a cannabis cultivation, distribution, manufacturing, testing laboratory, retail (storefront and non-storefront), or microbusiness in accordance with Chapter 6.36 of the Tracy Municipal Code (TMC). The application process to obtain a permit to operate a Cannabis Business in Tracy will open on September 1, 2020. Applications will be available from the Development Services Department located in City Hall or online on the City's website, www.cityoftracy.org.

The City's Cannabis Business Permit application process consists of three phases. Phase 1 is a merit-based evaluation/eligibility screening during which applications will be reviewed for completeness and compliance with these guidelines and applicable provisions of the TMC and California state cannabis laws and regulations, as well as evaluated against the selection criteria contained herein by the City's review committee. It is important to note that applications will be evaluated against one-another and provided an eligibility score. The applications will be reviewed and evaluated for clarity and responsiveness to the criteria in Appendix A, and the City will select the applications that best meet the City's criteria.

Phase 2 is a review of the application materials to determine if any waivers to the application requirements or procedures apply. This review is intended to address the City's interest in providing modified submittal requirements for applicants that demonstrate higher points in the review categories related to the Local Preference Plan or the Social Equity Plan. High scoring applicants (as described in Appendix A) in the Local Preference Plan or the Social Equity Plan will qualify for a waiver of the requirement to submit a form with a property owner acknowledgement that the applicant intends to use the property for cannabis related business and activities, if the applicant has been conditionally awarded a Cannabis Business Permit. High scoring applicants in the Local Preference Plan or the Social Equity Plan may have a different point system and thus may have different point totals used to determine their score.

Phase 3 is the final evaluation and final scoring by the City which precedes the award by the Chief of Police of the Cannabis Business Permits, if any. Applicants for all cannabis business types receiving a minimum score of 80% will be permitted to advance to Phase 3 during which applicants must submit to the City the extent of the proposed Community Benefit for final scoring

of the applications.

Also, at this stage, applicants must submit a form with a property owner acknowledgement that the applicant intends to use the property for cannabis related business and activities, unless this requirement is waived to a later time due to the City determining in Phase 2 that the applicant has scored high in the Local Preference Plan or the Social Equity Plan. However, in any instance, applicants do not need to have secured a physical location in order to submit an application for a Cannabis Business Permit.

Pursuant to TMC Section 6.36.040(a)(vi), the City will only issue up to a maximum of 4 Retail-Storefront (Dispensary) permits.

Multiple Applications – Applicants applying for more than one business type that are anticipated to be located at the same location may consolidate their application submittal package. For example, an applicant submitting for an indoor Cultivation permit and a Distribution permit may submit one application, however, the application materials must demonstrate that both businesses/permit types would be operated at the same facility.

If an applicant is applying for multiple Cannabis Business Permit types, and it is not anticipated that the permits will be located at the same location, then the applicant must submit a separate application package for each business.

For questions regarding the application process, please review the information on the City's website: www.cityoftracy.org, which outlines the application process, forms and other, required materials, FAQs, and other information relevant to engaging in commercial cannabis activity in Tracy. Additional information relevant to the application process can be found in California state cannabis laws, regulations and resources, and TMC Chapter 6.36 and Section 10.08.3196.

To be considered for a Cannabis Business Permit, applications **must be** submitted by September 30, 2020 to the City Development Services Department located at 333 Civic Center Plaza, Tracy, CA, 95376 by 3:00 PM. This application process is established pursuant to Section 6.36.050(a) of the TMC.

Applicants should monitor the City's website for any additional information, FAQs or updates. It is the responsibility of the applicant to stay informed of any changes or new information during the application and selection process.

CITY'S RESERVATION OF RIGHTS

The City reserves the right to reject any and/or all applications, with or without any cause or reason. The City may modify, postpone, or cancel the application submittal date for a Cannabis Business Permit application without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category or permit potentially authorized under TMC Chapter 6.36, may be cancelled at any time prior to Cannabis Business Permit issuance. In addition, the City reserves the right to request and obtain additional information from any applicant submitting an application. Late applications WILL BE REJECTED. Furthermore, an application RISKS BEING REJECTED for the following reasons:

1. The Cannabis Business Permit Application is incomplete, non-responsive, or inconsistent with the application form and/or these Application Procedures & Guidelines, or the

provisions of TMC Section 6.36.070.

Furthermore, the City will be placing a Cannabis Tax Measure on the November 2020 ballot for the voters to consider which would tax the sale of cannabis. Therefore, every applicant should be mindful that this should be a component of their business plan and failure to acknowledge or comply with this requirement may disqualify them from eligibility for a Cannabis Business Permit.

COMMUNITY BENEFIT REQUIREMENT

Applicants acknowledge by signing the application form that a requirement of the Cannabis Business Permit award process includes providing community benefits. Those applicants obtaining a screening score of 80% will be eligible to compete for a final score. The final score is determined after evaluating the community benefit. These procedures are further described below.

AMENDMENTS TO APPLICATIONS

Applicants will not be permitted to make amendments to their application or to supplement their application, except as otherwise specifically permitted in these procedures, as may be amended from time to time. At the conclusion of Phase 1, all applicants will be notified as to the status of their application and eligibility to proceed to Phases 2 and 3. Those applicants proceeding to Phase 3 will be eligible to submit information pertaining to the proposed community benefit. Information regarding the applicant's proposed community benefit must be submitted to the City no later than 15 City business days from notification of eligibility to proceed to Phase 3.

Public Records Requests and Proprietary Data

All applications will become property of the City when received. Information received in the applications may become subject to disclosure under the California Public Records Act. Any sections or pages the applicant considers proprietary should be clearly marked within the application, although such marking is not determinative of whether it is proprietary under state law. The City retains the right to disclose and/or withhold any information contained therein in accordance with the law.

APPLICATION PROCESS INSTRUCTIONS TO THE APPLICANT:

The information you provide in your application will be used to evaluate your application for a Cannabis Business Permit. Any interested applicants are advised to review the information regarding the application process and list of required documents. Review your application in its entirety to ensure that it is complete and accurate. Review the information regarding the Cannabis Business Permit application on the City website www.cityoftracy.org. The following procedures outline the application evaluation and selection process, required materials, and other information necessary to apply for a Cannabis Business Permit to operate in Tracy.

The City's application process to obtain a Cannabis Business Permit involves the following:

- 1) Application submittal to the City
- 2) Phase 1 Eligibility Review: City review of the applications for completeness and evaluation against the selection criteria. During Phase 1, all applications scoring a minimum of 80% will be deemed eligible to proceed to Phases 2 and 3. The results of Phase 1 shall be communicated in writing to each applicant and the Chief of Police.
- 3) Phase 2: Application of Waivers/City Determination of High Scoring Applicants in the Local Preference Plan or Social Equity Plan: Applications will be evaluated to determine if the Local Preference Plan has attained 75% of the points in that category or if the Social Equity Plan has attained 85% of the points in that category. Applications that have received 75% point totals in the Local Preference Plan category or 85% point totals in the Social Equity Plan category will be deemed by the City to qualify for the waiver(s) from further application requirements, as follows:
 - A) Notarized Owner's Statement of Consent form - This form would be required for submittal, only if the applicant is conditionally awarded a permit.For the purposes of establishing what constitutes a Tracy address, the following ZIP codes shall be used, whether or not such address is located within the City limits or not:
95304, 95376, and 95377
- 4) Phase 3 Final Scoring and Permit Award: Applicants for all types receiving a minimum score of 80% will be permitted to advance to Phase 3 during which applicants must submit to the City the extent of the proposed Community Benefit for final scoring of the applications.

At this stage, applicants must submit the Notarized Owner's Statement of Consent Form, unless this requirement is waived to a later time due to the City determining in Phase 2 that the applicant has attained 75% of the points in the Local Preference Plan or 85% of the points in the Social Equity Plan, as provided, above, in 3).

During this Phase, the Chief of Police awards Cannabis Business Permits, if any, to applicants identified as receiving the highest applicable cumulative score. **Pursuant to TMC Section 6.36,040(a)(vi) the City will only issue up to a maximum of four (4) Retail-Storefront (Dispensary) permits.**

- 5) In the event of a tie in final (Phase 3) scores for retail-storefront (dispensary) applicants,

such that there are more than four applications in the top four scoring slots, the City, at a noticed public hearing, will conduct a random drawing or multiple random drawings, if necessary, between the applicants in those top slots in order to issue a maximum of four permits for this business type. The random drawing would be conducted only when necessary to break a tie.

Prior to commencing cannabis business operations, Cannabis Business Permittees must obtain additional permits, including a Conditional Use Permit, Cannabis Employee Permits, and a City Business License. Information on those permits and processes can be found on page four (4) of these Procedures and Guidelines.

Background Check

As part of the application submittal requirements, each owner must undergo a criminal background check demonstrating they do not provide "good cause" for denial per TMC Section 6.36.060 and 6.36.070 and pay applicable fees and charges. The Background Check Authorization Form will be available on the City website or in the Police Department located at 1000 Civic Center Drive, Tracy, CA 95376 (adjacent to City Hall). Owners must submit the Background Check Authorization Form to the Police Department. After the Background Check Authorization Form has been processed, owners will receive a Request for Live Scan services, State of California Form BCIA 8016 from the Police Department. At that time, the owners may conduct the Live Scan at the Police Department. Documentation demonstrating that owners' background checks have been completed or are in process is required on or before 3:00 pm on September 30, 2020 in order for your application to proceed. Owners who do not meet criminal history eligibility requirements will be disqualified and their application will be deemed disqualified.

APPLICATION SUBMITTAL REQUIREMENTS

Applicants must hand-deliver five hard copy of all materials, and a complete electronic copy (PDF format) of all materials on a USB thumb drive (i.e. flashdrive), at the time of application submittal. All applicants must submit, with the exception of site or building plans, all hard copy materials single sided in a simple 3-ring binder of 8.5 x 11 inch sized paper, in size 12 font. No applications in a "Spiral" or "Comb" type of binding, or stapled documents will be accepted. For larger size hard copy materials such as site or building plans, submit sheets no greater than 30x42 inches, folded, collated, unstapled, and secured together with rubber bands.

A complete application will consist of the following:

1. Application Forms:
 - a) City of Tracy Cannabis Business Permit Application Form with signatures
 - b) Applicant Indemnification Form with signatures - Applicant will execute a waiver and release of liability and an agreement indemnifying the City from any liability
 - c) Proof of Insurance for cannabis business, if operational
 - d) Notarized Owner's Statement of Consent from property owner acknowledging that the applicant intends to use the property for cannabis related business

and activities.

Note: Applicants will be required to submit the Owner's Statement of Consent at Phase 3 to the City AFTER Phase 1 eligibility review, and AFTER Phase 2 of the City's application of waivers process. For high scoring applicants in the Local Preference Plan or the Social Equity Plan, as determined by the City in Phase 2, those applicants will be required to submit the Owner's Statement of Consent to the City within ninety (90) business days upon notification from the City of conditional award, in order for the permit to become valid.

2. Background Check Authorization Form and Proof of Live Scan payment for each owner
3. The following information, which is further described in Appendix A:
 - a) Copies of State licenses relating to cannabis activities that the applicant holds, if any
 - b) Tax Compliance documentation including copy of state tax seller's permit, and applicant's recent year's financial statement and tax returns
 - c) Business and Operations Plan
 - d) Community Relations Plan
 - e) Safety and Security Plan
 - f) Local Preference Plan
 - g) Social Equity Plan
 - h) Community Benefit proposal required for all permit types during Phase 3, described below.
4. Cannabis Business Application Fee (see below)

FEES

All applicants will be required to pay a fee of \$10,800 for costs associated with City staff and consultant(s) time for reviewing applications and administering the application process. Applicants are advised that they may be required to pay additional amounts as required for the sole purpose of the City's completion of the application review and evaluation process. Payment of the \$10,800 fee must be made by a certified check, cashier's check or money order made payable to the City of Tracy. Please note the City will not accept cash or credit cards and application fees are non-refundable.

APPLICATION EVALUATION PROCESS

THE CITY HAS A THREE PHASE APPLICATION REVIEW/EVALUATION AND SELECTION PROCESS

PHASE 1 – APPLICATION COMPLETENESS / EVALUATION AND ELIGIBILITY REVIEW

Applications received will be logged into the City's permit system, provided a permit number and will be evaluated by the City based on these Application Procedures and Guidelines, and Tracy Municipal Code Chapter 6.36. See APPENDIX A for additional descriptions of the evaluation criteria and scoring. Questions about the application

process from applicants after application submittal should be made in writing and the City will share questions and responses with applicants on the City's website, under FAQs.

For all Cannabis Business Permits, the City's Review Committee will assign points corresponding to conformance with the TMC requirements and these Application Procedures and Guidelines, as may be amended from time to time by Council resolution. It is anticipated that the City's process to review all of the applications could take 90 City business days.

For all business types, an 80% score will enable the application to proceed to Phases 2 and 3.

PHASE 2 - APPLICATION OF WAIVERS/CITY DETERMINATION OF HIGH SCORING APPLICANTS IN THE LOCAL PREFERENCE PLAN OR SOCIAL EQUITY PLAN

After Phase 1 eligibility review, in this Phase 2, the City will determine whether or not one or more filed applications are eligible for waivers from certain application/processing requirements because the applications score 75% in the Local Preference Plan or 85% in the Social Equity Plan. It is not a requirement that any application scores 75% or 85% or higher in these categories; rather, applications that score 75% or higher (of the point total for the Local Preference Plan) or 85% or higher (of the point total for the Social Equity Plan category) shall be entitled to waivers from certain application/processing requirements until after Phase 3. Such waiver(s) include the following:

A) Notarized Owner's Statement of Consent

If an applicant has been deemed by the City to score 75% or higher in the Local Preference Plan or 85% or higher in the Social Equity Plan, the Notarized Owner's Statement of Consent form (form) shall only be required in order for a City- issued Cannabis Business Permit to take effect. In order for a permit to take effect for a Social Equity Applicant, the form shall be submitted within ninety (90) business days from the date the conditional permit issuance is granted by the Chief of Police in Phase 3.

PHASE 3 - CANNABIS BUSINESS PERMIT ISSUANCE

Applications receiving the minimum points as described in Phase 1 and 2 will be eligible to submit for evaluation the proposed community benefit. The City will assign a final score based on the community benefit.

At this stage, applicants must submit the Notarized Owner's Statement of Consent form, unless this requirement is waived to a later time due to the City determining in Phase 2 that the applicant has scored 75% or higher in the Local Preference Plan or 85% or higher in the Social Equity Plan, as provided above, in Phase 2.

The Chief of Police will award Cannabis Business Permits, if any, to applicant identified as receiving the highest applicable cumulative score from all phases in accordance with TMC Section 6.36.060 for all Cannabis Business Permit types. **Pursuant to TMC Section 6.36,040(a)(vi) the City will only issue up to a maximum of four (4) Retail-Storefront (Dispensary) permits.**

In the event of a tie in final (Phase 3) scores, such that there are more than four applications in the top four scoring slots for the Retail-Storefront (Dispensary) permit type, the City, at a noticed public hearing, will conduct a random drawing or multiple random drawings, if necessary, between the applicants in those top slots in order to issue a maximum of four permits. The random drawing would be conducted only when necessary to break a tie.

Furthermore, the City reserves the right to award a lesser number of Cannabis Business Permits than may be deemed eligible for Phase 3, or to award no permits at all.

After the Chief of Police makes the final decision to issue a Cannabis Business Permit, any applicant wishing to appeal the Chief of Police's final decision may appeal that decision to the City Manager within ten (10) City business days from the issuance of the permit. Such appeals shall comply with the requirements of TMC Chapter 1.12.

Written notice of the results of Phase 3 shall be provided within five City business days to all applications/applicants.

Please note that being awarded a Cannabis Business Permit does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for all construction including: electrical, plumbing, fire, planning permits or reviews, and any other permits, licenses, or reviews as may be necessary by the relevant departments or governmental entities in charge of said permits. Nor does it guarantee that the plans submitted via the application process meet the standards or requirements in Chapter 6.36, Section 10.08.3196 or any other permit requirements from other City departments or agencies.

ADDITIONAL CITY APPROVALS REQUIRED PRIOR TO OPERATING A CANNABIS BUSINESS IN TRACY

Conditional Use Permit & Building Permit

Upon receiving a Cannabis Business Permit, applicants are then required to submit for a Conditional Use Permit (CUP), which will be reviewed by the Planning Commission and may require review pursuant to the California Environmental Quality Act (CEQA). After a CUP is obtained, applicants may then submit applications for building permits for any necessary renovation or construction. Information and application forms and requirements for a CUP can be found [here](#) and information and application forms for Building Permits can be found [here](#).

Please note that the CUP and the Building Permit require the payment of separate processing fees for each of those permits, in addition to the fee required for the Cannabis Business Permit.

City Business License

Prior to commencing any cannabis business operation, a City business license must be obtained. Information on obtaining a City business license may be found [here](#).

Cannabis Employee Permit

Pursuant to TMC Section 6.36.150, any person who is an employee or who otherwise works within a cannabis business must obtain a cannabis employee permit from the City prior to

performing any work at any cannabis business. Information on obtaining a City of Tracy cannabis employee permit may be found [here](#).

Community Benefit Agreement or Development Agreement

Prior to commencing any cannabis business operation, a Community Benefit Agreement or a Development Agreement must be executed between the permit holder and the City to ensure completion of the community benefit.

CONTACT INFORMATION

If you have any questions or would like an update on the status of your application, please call the Development Services Department at [209.831.6400](tel:209.831.6400) or by email at des@cityoftracy.org.

APPENDIX A: DESCRIPTION OF APPLICATION AND EVALUATION CRITERIA

SECTION 1: Application format and completion of required forms

This section relates to the form of the application and the thoroughness with which the application forms have been completed. Please note that if any of the required forms are not submitted, the application will be disqualified.

1. Are all of required forms included with signatures?
 - Commercial Cannabis Application Form
 - Applicant Indemnification Forms
 - Notarized Owner's Statement of Consent Form (when and if applicable, see Phase 2 information)
2. Has the application followed the required format?
3. Is there a flash drive?
4. Have the requisite number of copies been submitted?

SECTION 2: Background Check Authorization Form and Proof of Live Scan Payment

This section relates to the completion of a background check. If this process has not been initiated and documentation of proof of payment has not been completed, the application will be disqualified.

1. Has proof of the Live Scan payment been submitted?

SECTION 3: Information Pertaining to the Cannabis Business

This section relates to the Merit Based Selection Criteria (attached) for Commercial Cannabis Businesses. The detail and quality of responses will be used in scoring applications; applications will be reviewed against the criteria, the TMC, and each other. The City will review applications for clarity, responsiveness, and which applications best meet and are most responsive the City's criteria. The attached criteria establish the potential points per category, and also identifies required application components.

SECTION 4: Information Pertaining to the Community Benefit:

The community benefit should be quantified and described. The community benefit will be scored by the City. Examples of community benefit include those items identified in the merit based selection criteria.

CITY OF TRACY - MERIT BASED SELECTION CRITERIA FOR COMMERCIAL CANNABIS BUSINESS
via City Council Resolution 2020-137
PERMIT APPLICATION/ELIGIBILITY SCREENING

Revised July 21, 2020

DESCRIPTION OF CRITERIA	All Cannabis Business Types	Points Awarded
<p>The detail and quality of responses will be used in scoring applications against one another. All criteria are required meaning that if an application fails to address a criterion, or if the application lacks sufficient detail to demonstrate how the criterion will be met, the application will be deemed ineligible to receive a permit.</p>	<p>86-point system: Eligibility, then Final Score</p>	
<p>SECTION 1: BUSINESS AND OPERATIONS PLAN (18 possible points)</p>		
<p>a) Finances and Budget - Describe the budget for the construction, operation, maintenance, compensation of employees, equipment, property lease, security equipment and staff, City fees, state fees, utility costs, product purchases and other anticipated contingency costs. The budget must demonstrate sufficient capital in place to pay start-up costs and at least three months of operating costs, as well as a description of the sources and uses of funds.</p>	<p>0-3</p>	
<p>b) Daily Operations - With as much detail as necessary, the Business and Operations Plan should describe the day-to-day operations that meet the industry best practices for the type of business permit sought, and how such practices have been included into the business Standard Operating Procedures (SOPs).</p>	<p>0-3</p>	
<p>c) Conformance with Local and State Laws - Describe how the Cannabis Business will conform to local and state laws.</p>	<p>0-3</p>	
<p>d) Professional Qualifications – Do the owners demonstrate bona fide business experience? List and describe special business or professional qualifications or licenses of owners that would add to the number or quality of services that the Cannabis Business would provide, especially in areas related to medicinal cannabis, such as scientific or health care fields.</p>	<p>0-3</p>	
<p>e) Cannabis Business Experience - Describe any and all commercial cannabis activity engaged in as an owner, manager, lender, employee, volunteer, or agent by the Applicant and all owners of the Commercial Cannabis Business, officers and managers including but not limited to the location of such activity and a copy of any permits, licenses, or other written forms of permission for such activity by a local or state government entity.</p>	<p>0-3</p>	
<p>f) Conformance with State Testing – Describe the SOPs for how all cannabis products on the premises have met the testing requirements as defined by the State.</p>	<p>0-3</p>	

DESCRIPTION OF CRITERIA	All Cannabis Business Types	Points Awarded
SECTION 2: COMMUNITY RELATIONS PLAN (9 possible points)		
a) Customer Education - Describe the proposed process to educate customers regarding cannabis products, including the potency and effects of products, as well as variety. Describe the SOP for 24-hour minimum response time to issue cannabis recall notifications.	0-3	
b) Good Neighborliness - Describe how the Cannabis Business will proactively manage its private, semi-private, and surrounding public areas to avoid becoming a nuisance or having negative impacts on neighbors and surrounding community.	0-3	
c) Odor Control – Describe methods and plan for odor control and compliance with TMC Section 6.36.020 (d)	0-3	
SECTION 3: SAFETY AND SECURITY PLAN (18 possible points)		
a) Safety/Security Experience – Describe the security experience of the individual/firm designing the security plan. Does the firm have licensed professionals in areas of fire prevention and suppression?	0-3	
b) Employee Safety Education – Describe the employee safety education plan, including training regarding product handling, security and burglary/robbery protocols, and other potential hazards of the cannabis business.	0-3	
c) Security Guards – Describe the anticipated security guard plan for the business, including number of guards and hours.	0-3	
d) Video Camera Surveillance – Describe video camera surveillance and how they meet or exceed state requirements. Include detail on the number of cameras and resolution of cameras.	0-3	
e) Inventory Control/Visitor Access Control – Describe the visitor access control measures, and operational security related to inventory control.	0-3	
f) Alarm System – Describe the plan for alarm systems and how they are professionally monitored and how all alarms are responded to by a private security company.	0-3	
SECTION 4: LOCAL PREFERENCE PLAN (13 possible points)		
a) 51% Local Ownership – State the extent to which the Cannabis Business will be a locally managed enterprise whose owners (at least 51%) reside within Tracy, as defined by the following ZIP codes: 95304, 95376, and 95377. Applicants must show proof that at least 51% of the owners have been residents of Tracy for at least 2 years prior to June 6, 2020. Such proof shall consist of a utility bill with owners name(s), a lease, a deed, or other similar documentation.	0-5	

DESCRIPTION OF CRITERIA	All Cannabis Business Types	Points Awarded
b) Number of years of residency in Tracy of owners beyond 2 years	0-5	
c) Economic Inclusion (Production) – Describe future plans for how the Cannabis Business could incorporate products from cultivators or manufacturers located in San Joaquin County.	0-3	
SECTION 5: SOCIAL EQUITY PLAN (13 possible points)		
<p>Describe, in detail, the extent to which the Cannabis Business would implement any of the following, such as but not limited to:</p> <ul style="list-style-type: none"> a) Business practices or characteristics that emphasize women in leadership roles. b) Opportunities for seniors and individuals from underrepresented groups in the Cannabis Business ownership. c) Competitive compensation package to be offered to employees, including salary (above State minimum wage), health insurance, other insurance, retirement plan, and paid leave. d) A Cannabis Business ownership that includes either (i) individuals who, at the time of application, have annual family incomes below 80% of the Area Median Income (AMI) in San Joaquin County; or (ii) individuals who are residents or former residents of San Joaquin County that have lived in a low income household (below 80% of AMI in San Joaquin County). e) A Cannabis Business ownership that includes individuals that (i) have been arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis, excluding those offenses, which would be disqualifying for cannabis licensure under current State law; or (ii) have a parent, guardian, child, or sibling convicted of a crime relating to the sale, possession, use, or cultivation of cannabis, excluding those offenses, which would be disqualifying for cannabis licensure under current State law. 	0-13	
SECTION 6: COMMUNITY BENEFITS PROPOSAL (15 points)		
<ul style="list-style-type: none"> a) City Council Strategic Priorities – Describe and quantify the community benefit and how it facilitates or better furthers one or more of the City Council’s adopted Strategic Priorities, for example, by: Total Financial Contribution – Quantify the extent of the financial contribution as a component of the community benefit. The higher the contribution, the higher the points awarded; and/or by: Total Hours of Commitment – Quantify the extent of the involvement in volunteer hours that will be dedicated to furthering one or more of the City Council’s Strategic Priorities. The higher the contribution, the higher the points awarded 	0-15	

DESCRIPTION OF CRITERIA	All Cannabis Business Types	Points Awarded
b) Describe how the Cannabis Business would implement the proposed community benefit.		
Phase 1 Point Total: Points from Eligibility Screening (passing eligibility score for in all business types is 57= 80% of 71 points)		
Phase 2 Point Total: Points from Local Preference Plan or Social Equity Plan (Score required is 75% of 13 points from the Local Preference Plan or 85% of 13 points for the Social Equity Plan categories. 75% of 13=10 points required; 85% of 13 = 11 points required. Such a point total of 10 points in the Local Preference Plan category or 11 points in the Social Equity Plan category enables applicant to be eligible for waiver(s) from certain application / processing requirements as established in the Guidelines.		
Points from Community Benefit (total of 15 points)		
Total Cumulative Points from Eligibility Screening and Community Benefit Proposal Combined (71 possible points from eligibility screening + 15 possible points from community benefit = 86 total possible points)		