

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, October 1, 2019, 6:00 p.m.**
(or as soon thereafter as possible)

Location: **Council Chambers, City Hall**
333 Civic Center Plaza, Tracy

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.

1. Call to Order
2. Roll Call
3. Items from the Audience - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2015-052 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting.*
4. WORKSHOP TO DISCUSS DRAFT REGULATORY ORDINANCE FOR COMMERCIAL CANNABIS ACTIVITY AND PROVIDE DIRECTION TO STAFF
5. Adjournment



Mayor

Thursday, September 26, 2019

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6105), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Tracy City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 333 Civic Center Plaza, Tracy, during normal business hours.

AGENDA ITEM 4

REQUEST

WORKSHOP TO DISCUSS DRAFT REGULATORY ORDINANCE FOR COMMERCIAL CANNABIS ACTIVITY AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

Staff is returning to the City Council to conduct a workshop on regulating commercial cannabis activity in Tracy. Staff is presenting a draft cannabis regulatory ordinance for Council discussion. The proposed ordinance, is one of two ordinances, in which the City exercises local control over cannabis by establishing a local permitting scheme and zoning restrictions.

Tonight's workshop will highlight the aspects of the regulatory ordinance that are consistent with State minimums and where the City is electing to regulate cannabis above the State minimums.

DISCUSSION

In preparing the draft regulatory ordinance, staff conducted two prior workshops with the City Council. At the August 13th workshop, the City Council provided direction related to what types of cannabis business activities to allow in Tracy and the zoning and locational requirements for these business types. During the September 3rd workshop, the City Council provided further direction on types of business activities, including outdoor cultivation and volatile manufacturing. In addition, the Council discussed and provided direction for specific regulations that are above the minimums established by State cannabis regulations which include Proposition 64 and implementing laws and regulations such as Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"). In this workshop, staff will highlight the sections of the ordinance that incorporated the Council's prior direction.

The regulatory ordinance seeks to amend Chapter 6.36 "Commercial Cannabis Activity" of the Tracy Municipal Code ("TMC"). The ordinance is organized into the following five articles:

- Article 1. – General Provisions
- Article 2. – Cannabis Business Permits.
- Article 3. – General Operating Procedures for all Cannabis Business Permittees.
- Article 4. – Operating Procedures for Specific Cannabis Business Types.
- Article 5. – Enforcement.

- Article 1 provides the purpose, intent and authority of the ordinance. In addition, this section includes the definitions, including the definition for "owner" as discussed on September 3rd.
- Article 2 covers allowable business types, number of cannabis business permits issued by types and the requirement to apply and renew these permits. This

section also includes the requirement that employees of cannabis businesses obtain a City-issued cannabis employee permit.

- Article 3 is the “General Operating Procedures for All Cannabis Business Permits.” Article 3 demonstrates where the City, acting as a regulatory body, adopts the same standards that exist in State cannabis regulations, allowing the City to monitor, enforce, and, if needed, prosecute cannabis business activities.
- Article 4 is distinct from Article 3 as the article focuses on regulation related to a particular cannabis business type (e.g. retail, distribution, manufacturing, etc). Like Article 3, the City is incorporating Proposition 64 regulations into the City regulatory process for local control and enforcement. The added regulation of employee badges resulting from City issued employee permits (Article 2: 6.36.150) is layered throughout the various business types in Article 4.
- Article 5 incorporates the City’s ability to inspect and enforce compliance, Title 6.36 of the Municipal Code.

Below is a short list of items discussed during the workshops and the related sections in Chapter 6.36. Attached is a memorandum drafted by the City’s consultant highlighting the differences between State cannabis regulations and the City’s regulatory ordinance.

- Definitions Section 6.36.012
 - “Owner”: 5% financial interest ownership
- Section 6.36.040: Allowable Business types no limit on permits:
 - Distribution
 - Manufacturing: non-volatile
 - Microbusiness
 - Retailer - Non-Storefront (Delivery Only)
 - Testing Laboratory
- Allowable Business types with limit on permits:
 - Retailer - Storefront (Dispensary) 4 permits (To be increased to 6 by amendment to the TMC)
- Prohibited business types for future consideration
 - Outdoor cultivation
 - Volatile manufacturing
- City-issued Cannabis Employee Permit
 - City issued permit following completion of employee background checks pursuant to Section 6.36.150(d).
 - Employee badges are issued with the employee permit and must be worn managers and staff while working. (Section 6.36.260)
- City-issued Cannabis Business Permit (Article 2)
 - Section 6.36.050-Review of Permit applications: subcommittee of Development Services, Finance, and Fire
 - Section 6.36.060 –
 - Approval of application: Police
 - Appeal of application: Tracy Municipal Code Title 1.12 Appeal Process

Other areas discussed with the City Council relate to land use matters that will be found in Title 10

- The definition of “youth center” presented to Council on September 3rd.
- Maintain State law 600-foot buffer around sensitive uses such as youth centers, licensed day care centers, and schools
- Conditionally permitted uses in areas designated as commercial and industrial zones

FISCAL IMPACT

Staff will return to the City Council with potential fiscal impacts based upon City Council policy direction. The City Council may consider placing cannabis general tax measure on the November 2020 ballot.

RECOMMENDATION

Council’s feedback will be used to further develop cannabis regulatory requirements for the Council’s consideration.

Next steps:

- Planning Commission - Recommendation regarding Zoning Ordinance- October
- City Council:
 - First reading of Regulatory Ordinance in November
 - Review and approval of application selection criteria and process - December

Prepared by: Karin Schnaider, Finance Director, and
Bill Dean, Assistant Development Services Director

Reviewed by: Alex Neicu, Interim Police Chief
Midori Lichtwardt, Assistant City Manager
Leticia Ramirez, Interim City Attorney

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A - State-Local Enforcement Prepared by HdL
Attachment B - Proposed Ordinance Amending Chapter 6.36 Commercial Cannabis Activity

State-Local Enforcement

Prepared by HdL

California's Dual Licensing System

California requires both a state license and a local permit or other authorization in order for a commercial cannabis business to operate legally. This provides a significant element of local control. However, to be meaningful, local control also entails *local enforcement*, and to a degree it places the onus on local governments to conduct periodic and timely enforcement activity vis-à-vis cannabis businesses in order for the regulatory system to function effectively.

The League of California Cities fought to achieve exactly this kind of regulatory structure because it wanted to get away from the state-only enforcement model that was established with respect to alcohol licensees. With liquor establishments, the state has control of the only truly meaningful regulatory hammers, the ability to suspend or revoke the state alcohol license.

With the cannabis industry's dual licensing, locals are not dependent on the state for enforcement against wayward businesses – but with that enforcement power comes responsibility, namely the responsibility to direct appropriate resources for inspections and other local enforcement activity, to the degree resources are available.

The State's Regulatory Priorities

When California's cannabis laws were being crafted, policymakers and to a lesser degree the state licensing entities made it clear that the state would have limited enforcement resources, and that local governments would need to have a role on the enforcement front. Given the state's finite resources, its enforcement priorities based on actual activity to date has been focused on the following:

- Shutting down illicit, unlicensed cannabis operators.
- Protecting the public health by prioritizing enforcement action against retailers who are selling non-compliant (untested) product, and against testing laboratories that are improperly certifying product as compliant with state health and safety requirements, when it is not.
- Conducting compliance inspections (as state resources allow).

In many other instances, local governments simply have to be the first line of defense.

Local Police Powers

The Tracy ordinance provisions listed below have no parallel in state law. They relate directly to the city's **local police power** and have **no direct relation to state regulations**. These provisions are necessary in order for any city to have a functioning regulatory structure:

- Section 6.36.020 Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.
 - This specific provision is necessary in the ordinance to clarify what is and what is not allowed in terms of commercial cannabis activity. It provides transparency.

- It stems in part from the fact that state law has deliberately been crafted in such a way that the doctrine of **permissive zoning** has been turned on its head as far as local cannabis regulation is concerned. Because of this development, as a matter of prudent liability management, local ordinances absolutely must be specific in two areas:
 1. Prohibited activity
 2. Areas that may potentially be the subject of local enforcement activity.
- Section 6.36.030 Cannabis Business Permit Required to Engage in a Commercial Cannabis Activity.
 - This is a standard regulation of business activity locally and has ample precedent.
- Section 6.36.040 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.
 - Again, this is entirely consistent with local land use and police powers. State law does not address those issues except to provide generally for these powers within the state's regulatory framework for cannabis.
- Section 6.36.130 Transfer of Cannabis Business Permit.
 - Local jurisdictions have discretion as to whether to allow transfers.
 - This regulatory topic has traditionally been problematic for cities with respect to alcohol licensees, so it is important that this provision be present in the ordinance, depending on whether the city will allow such transfers.
- Section 6.36.150 Cannabis Employee Permit Required.
 - State law does not regulate employees at all. It focuses solely on owner/operators.
 - It is nonetheless important that locals regulate employees as there is abundant evidence from Colorado and Washington State that most problems operators have with product diversion/shrinkage is employee-related.
 - Employee background checks, which may or may not include an employee permit requirement, are an emerging best practice to address the need to have employees who are known to the local government.
- Section 6.36.160 City Business License.
 - This is a standard regulation emanating from local police power, essential to cities, but in which the state has no interest.
- Section 6.36.400 Fees Deemed Debt to City of Tracy.
 - The state has no interest in provisions pertaining to local fees.
- Section 6.36.420 Inspection and Enforcement.
 - The state has the authority to perform inspections and enforcement, but it does not have sufficient resources to conduct inspections on a sufficiently broad scale, or with sufficient frequency, for them to be of any real value in terms of encouraging widespread compliance with either state or local regulations.

- While officially the state does not rely on local governments for most enforcement, as a practical matter the state's finite resources dictate that timely enforcement may be local in nature. Locals therefore are often the first line of defense in this area – while local resources may also be limited, it is far more cost-effective in term of time and expense for local governments to handle compliance inspections, for example (although the state performs them as well) – locals are close at hand, have a greater ability to perform surprise inspections, and therefore have a superior ability to encourage compliance with all rules and regulations.

Tracy Ordinance	State Law Equivalent
Cannabis activities locally prohibited unless specifically authorized*	None
Maximum Number and Type of Cannabis Businesses*	None
Transfer of Cannabis Business Permit*	Parallel Regulation
Employee Permit Requirement	None
Background Check for Owners	Parallel Requirement
Background Check for Employees	None
City Business License Required	State License Required
Fees Deemed Debt to City	None
Inspection and Enforcement	Parallel Authority for both
Security Measures (locals have discretion to impose more stringent requirements than the state)	State Security Measures include limited access areas, video surveillance w/90 days storage, security rooms, camera coverage of all entrances/exits
Security Personnel (BSIS-licensed)	Parallel Requirement
Cultivation Regulations (Ban)	Cultivation Licensing Requirements
Manufacturing Regulations (discretion to allow/ban all license types, to regulate types of extraction)	Manufacturing Licensing Requirements

Nuisance (Odor) Regulations*	None
Complaints from Neighbors	None
Burglary/Right of Entry regulations	None

*Denotes a local land use regulation.

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

Article 5. – Enforcement.

Section 6.36.390 Promulgation of Regulations, Standards and Other Legal Duties.
Section 6.36.400 Fees Deemed Debt to City of Tracy.
Section 6.36.410 Permit Holder Responsible for Violations.
Section 6.36.420 Inspection and Enforcement.
Section 6.36.430 Compliance with State Regulation.
Section 6.36.440 Violations Declared a Public Nuisance.
Section 6.36.450 Each Violation a Separate Offense.
Section 6.36.460 Criminal Penalties.
Section 6.36.470 Remedies Cumulative and not Exclusive.
Section 6.36.480 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.

“Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:

“Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.

“Manufactured cannabis batch” means either of the following:

- (1) An amount of cannabis concentrates or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.
- (2) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.

“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.

Attachment B
Proposed Ordinance Amending Chapter 6.36
DRAFT 09-26-2019

“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.

“Dried flower” means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

“Edible cannabis product” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

“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.

“Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

“Lot” means a batch or a specifically identified portion of a batch.

“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.”

“Nonvolatile 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.

“Topical cannabis” means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

“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.

“Unique identifier” means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

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

Attachment B
Proposed Ordinance Amending Chapter 6.36
DRAFT 09-26-2019

- 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.

(g) 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 actually 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.

(h) 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.

(i) 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 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.

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;

Attachment B
Proposed Ordinance Amending Chapter 6.36
DRAFT 09-26-2019

- 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 Chief of Police, who at his/her sole discretion may issue a written waiver.

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 permit holder shall be issued a City Cannabis Employee permit identification badge. The cannabis employee permit identification badge shall be worn in accordance with Section 6.36.260, subsection (b).

(h) 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;

- 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.
- (i) 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 wear their cannabis employee permit identification badge, issued by the City, at all times while working.

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.

- (a) 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.
- (b) Notwithstanding subsection (a) above, a natural person 18 to 20 years of age who possesses a physician's recommendation for medical cannabis shall be allowed on the premises of any cannabis business, for the purpose of purchasing cannabis for medical use only consistent with his or her physician's recommendation.

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

Attachment B
Proposed Ordinance Amending Chapter 6.36
DRAFT 09-26-2019

- (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.

- (h) 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.
- (i) 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 wear 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 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. **[SEE ZONING CODE]**

Section 6.36.330. 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 the 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. The person's city-issued cannabis distribution business badge; 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 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 wear their cannabis employee permit, issued by the City, 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 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.** [SEE ZONING CODE]

Section 6.36.340 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, 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.
- (h) 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.
- (i) 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 wear their cannabis employee permit, issued by the City, 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 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.
- (j) Location Requirements. **[SEE ZONING CODE]**

Section 6.36.350 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. **[SEE ZONING CODE]**

Section 6.36.360 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. The person's city-issued cannabis dispensary badge; 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.** [SEE ZONING CODE]

Section 6.36.370 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 Minors.** No person under 21 years of age shall be in the cannabis storefront retailer building unless they are a qualified patient or a primary caregiver or in possession of a physician's recommendation in their name, for the use of cannabis for a specific ailment. No person under 18 years of age shall be in the cannabis storefront retailer building unless they are a qualified patient or a primary caregiver, and they are accompanied by their parent or legal guardian.

(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 shall sell medical cannabis only to:

- i. 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
- ii. 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.
- iii. 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 wear their cannabis testing identification badge, issued by the city, 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 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. **[SEE ZONING CODE]**

Section 6.36.380 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 wear their cannabis testing identification badge, issued by the city, 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 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.** [SEE ZONING CODE]

Article 5. – Enforcement.

Section 6.36.390. 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 6.36.400. 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 6.36.410. 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 6.36.420. 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 6.36.430. 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 6.36.440. Violations Declared a Public Nuisance.

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

Section 6.36.450. 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 6.36.460. 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 6.36.470. 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 6.36.480 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.