

Tuesday, April 21, 2020, 7:00 P.M.

Tracy City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

THIS REGULAR MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT

RESIDENTS ARE STRONGLY ENCOURAGED TO PARTICIPATE REMOTELY AT THE APRIL 21, 2020 MEETING

Remote Access to City of Tracy Council Meeting:

In accordance with the guidelines provided in Executive Order N-29-20 on social distancing measures, the City of Tracy will allow for remote participation at the upcoming City Council meeting on Tuesday, April 21, 2020.

As always, the public may view the City Council meetings live on the City of Tracy's website at www.CityofTracy.org or on Channel 26. To view from the City's website, select "Watch Live Council Meetings" from the drop down menu "Select an Online Service" at the top of the City's homepage. You will be directed to the "Council Meeting Videos" page where you may select the video for the appropriate date under "Upcoming Events."

If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.

Remote Public Comment:

During the upcoming City Council meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Email** to publiccomment@cityoftracy.org , or
 - **Phone** by dialing (209) 831-6010, or
 - **Online** by logging into WebEx using the following link:
<https://cityoftracyevents.webex.com/cityoftracyevents/onstage/g.php?MTID=ef108ec7e01a14e98a133ed66947b616>
 - **If unable to use the link above, you can login by visiting <https://cityoftracyevents.webex.com> and using the following **Event Number:** 298 176 437 and **Event Password:** Z2Enjxan32**
- *Protocols for submitting comments by **email**:*
 - *If you wish to discuss an item on the agenda, please send an email to publiccomment@cityoftracy.org **before** the start of the Council meeting at 7pm.*
 - *Identify the item you wish to comment on in your email's subject line. **Emailed comments will only be accepted for agenda items.***

- *Protocols for submitting comments by phone:*
 - *If you wish to discuss an item on the “Consent Calendar” identify the item when calling in. All requests to discuss an item on the “Consent Calendar” must be submitted before the Mayor announces that the time to submit such a request has expired.*
 - *Identify the item you wish to comment on to staff when calling in. Comments received by phone will be accepted for the “Items from the Audience/Public Comment” and “Regular Items” portions of the agenda.*
 - *Comments received by phone for the “Items from the Audience/Public Comment” portion of the agenda must be received by the time the Mayor opens that portion of the agenda for discussion.*
 - *Comments received by phone on each “Regular Item” will be accepted until the Mayor announces that public comment for that item is closed.*

- *Protocols for commenting via WebEx:*
 - *If you wish to comment on the “Consent Calendar”, “Items from the Audience/Public Comment” or “Regular Agenda” portions of the agenda:*
 - *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the “Consent Calendar” “Items from the Agenda/Public Comment” or “Regular Agenda” portions of the agenda will be accepted until the public comment for that item is closed.*

- *The total allotted time for public comment will be as follows:*
 - *Consent Calendar: **10 minutes***
 - *Items from the Audience: **15 minutes***
 - *Regular Items: **10 minutes***

Comments received by publiccomment@cityoftracy.org, phone call, or on Webex outside of the comment periods outlined above will not be included in the record.

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

Addressing the Council on Items on the Agenda - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. To facilitate the orderly process of public comment and to assist the Council to conduct its business as efficiently as possible, members of the public wishing to address the Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the Council. Each citizen will be allowed a maximum of five minutes for input or testimony. In the event there are 15 or more individuals wishing to speak regarding any agenda item including the “Items from the Audience/Public Comment” portion of the agenda and regular items, the maximum

amount of time allowed per speaker will be three minutes. When speaking under a specific agenda item, each speaker should avoid repetition of the remarks of the prior speakers. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak. At the Presiding Officer's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Consent Calendar - All items listed on the Consent Calendar are considered routine and/or consistent with previous City Council direction. One motion, a second, and a roll call vote may enact the items listed on the Consent Calendar. No separate discussion of Consent Calendar items shall take place unless a member of the City Council, City staff or the public request discussion on a specific item.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. The City Council's Meeting Protocols and Rules of Procedure provide that in the interest of allowing Council to have adequate time to address the agenda items of business, "Items from the Audience/Public Comment" following the Consent Calendar will be limited to 15-minutes maximum period. "Items from the Audience/Public Comment" listed near the end of the agenda will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Notice - A 90 day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90 day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

Full copies of the agenda are available at City Hall, 333 Civic Center Plaza, and the Tracy Public Library, 20 East Eaton Avenue, and on the City's website: www.ci.tracy.ca.us

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL

1. ITEMS FROM THE AUDIENCE
2. REGULAR AGENDA
 - 2.A REVIEW AND DISCUSS DRAFT CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES AND PROVIDE DIRECTION TO STAFF
 - 2.B. DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)
3. ITEMS FROM THE AUDIENCE

4. STAFF ITEMS

4.A AUTHORIZED ACTIONS TAKEN BY CITY MANAGER DURING COVID-19
EMERGENCY (VERBAL REPORT)

5. COUNCIL ITEMS

6. ADJOURNMENT

AGENDA ITEM 2.A

REQUEST

REVIEW AND DISCUSS DRAFT CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES AND PROVIDE DIRECTION TO STAFF

EXECUTIVE SUMMARY

This discussion will provide staff with direction needed in order to finalize Procedures and Guidelines (Guidelines) for Cannabis Business Permit applications. Staff anticipates receiving applications for cannabis business permits beginning in July 2020, and the enclosed draft Guidelines provide prospective applicants with the guidance necessary to file an application and obtain a permit.

The Guidelines describe a three-step process to obtain a permit involving, 1) the filing of an application, 2) the review and scoring of the application by staff for eligibility, and 3) the award of a permit, which involves an evaluation and scoring of community benefits. The process includes an opportunity for cannabis businesses to demonstrate local ownership by meeting certain requirements. Staff requests that City Council provide direction on whether the application process should be expanded in any area of interest, or modified, especially as it relates to potential community benefit requirements.

DISCUSSION

This discussion follows a staff report and discussion with City Council on January 21, 2020 where City Council evaluated draft Guidelines and directed staff to make the following changes:

- 1) The lottery system has been replaced with a point-based merit evaluation system;
- 2) The application process requires submission of a local preference plan and social equity considerations for all business types;
- 3) The community benefit has been introduced as a required criterion.

As discussed on January 21, 2020, the final phase of developing the City's cannabis regulations is the adoption of application Guidelines. Pursuant to Chapter 6.36 of the Tracy Municipal Code (TMC), the Guidelines govern the application process and the manner in which the decision to issue a cannabis business permit is made. City staff developed the Guidelines with the intent of presenting clear, easy-to-understand submittal requirements and selection criteria.

The Guidelines establish the required submittal materials, which is comprised of the following key components: application forms, a series of materials in the form of written plans identifying the operational nature of the proposed business, and the required fee to cover City costs incurred for processing the application.

The Guidelines further establish the process of City issuance of the permits. In all cases, the applications are evaluated against the City's Cannabis Business Permit Ordinance and the Guidelines, which may involve the assistance of consultants

depending on the materials submitted and the number of permits filed. Section 6.36.050(a) provides that the resolution establishing the procedures (or guidelines) shall authorize City staff and/or consultants to provide detailed objective review. The City's cannabis ordinance requires a quantitative evaluation, and the Guidelines implement this requirement by establishing a point-based merit system. As discussed below, after application submittal, the process contains two phases: Phase 1 is an eligibility review, and Phase 2 is the award of permits, which involves final scoring of retailer-storefront (dispensary) permit applications based on the proposed community benefit. Phase 2 only applies to cannabis dispensaries because that is the only limited permit type, meaning only four dispensary permits will be issued in 2020.

Application Submittal:

Applications would be accepted by the City from July 1, 2020 to July 31, 2020. The Guidelines, shown in Attachment A (Draft Guidelines), establish the materials required for a complete application. The submittal requirements stem from the City's regulatory ordinance on commercial cannabis activities, contained in Chapter 6.36 of the TMC and include an appendix clarifying each aspect of the required submittal materials. Included in this list of required submittal materials is proof of completion or initiation of the background check process. At the close of the application period, staff would initiate Phase 1 of the selection process.

Phase 1 Eligibility Review:

Upon closure of the application period, applications would be routed to City staff (and possibly to consultants) for review of the materials for compliance with the Guidelines and the City's ordinances. The City's review process is anticipated to take up to 90 days, however this time frame could be extended depending on the number of applications filed. This review involves scoring applications against the criteria, and will result in an eligibility list of those applications receiving a score of 80% or higher. Those applications that have scored 80% or higher will be deemed eligible to continue on to Phase 2. For all permit types, except for retailer-storefront (dispensary) applications, the application submittal will include a proposed public benefit, which will be evaluated and scored as part of Phase 1.

Phase 2 Evaluation of Community Benefit Contribution and City Issuance of Cannabis Business Permits:

For all permit types, except retailer-storefront (dispensaries), eligible applications (as determined in Phase 1) may be awarded a permit by the Chief of Police.

For retailer-storefront (dispensaries) permits, the City's ordinance only allows up to four (4) permits, and the City expects to receive many more applicants than the maximum four permits available. The draft Guidelines establish that after the retailer-storefront (dispensary) applications are screened for eligibility in Phase 1, those eligible applicants would be able to submit a proposed community benefit, which would be scored as part of Phase 2. For retailer-storefront (dispensary) applications, the cumulative score from Phase 1 and Phase 2 would become the final score, and the four highest point earners would be eligible to receive permits from the Chief of Police. In the event of a tie in final

scores for high-scoring retailer-storefront (dispensary) applicants, the Chief of Police would use a random drawing selection process at a public hearing in order to break the tie.

Council has the option to reconsider limiting the number of other permits (e.g. commercial cultivation).

It should be noted that by not limiting the number of permits for 'all other permit types,' we are likely to lose our leverage to ensure the City receives a meaningful community benefit proposal because all other permit types automatically receive a permit if they score at least 80%. Because there is no incentive, council has the option to re-think limiting the number of other permits (e.g. commercial cultivation). Any such changes could be brought back in a clean-up ordinance.

Following issuance of the Cannabis Business Permit by the Chief of Police, applicants will proceed with the remaining regulatory requirements: State permits, conditional use permit, building permit(s), business licenses, etc.

Community Benefit

City Council directed staff on January 21, 2020 to include community benefit contributions as a criterion for the merit based evaluation of applications. The following are possible examples of what could comprise a potential community benefit that an applicant could propose as part of its application. City staff will incorporate the City Council preferred criteria for the community benefit into the Guidelines. Additionally, selected applicants will have to enter into an agreement with the City in order to ensure the community benefit contribution is satisfied. Such an agreement may take the form of either a Community Benefit Agreement or Development Agreement.

Option A:

- 1) Applicants could describe the degree to which the business or operators of the business would further the City achieving one or more of the City Council's adopted Strategic Priorities, or
- 2) Applicants could describe a monetary contribution to a City Capital Improvement Project, or to further a City identified objective, such as the Mayor's Community Youth Support Network, or to further city services related to public safety such as cannabis DUI-related testing, or
- 3) Applicants could propose and describe other community benefit(s)

Option B:

- 1) Applicants could propose a monetary contribution to the Tracy Community Foundation

Community Benefit versus Cannabis Tax

Under State law, the City may impose a tax on cannabis commercial sales, if approved by voters. The City prepared a cannabis sales tax for the November 2018 ballot that did not receive the required 2/3 voter approval for a special tax. The 2018 Cannabis Business Tax was a special tax on cannabis sales gross receipts and canopy square foot of cultivation that was dedicated to fund public safety and code enforcement.

It is common for jurisdictions to either require a community (or public) benefit in lieu of a cannabis tax or have in addition to the tax. When agencies had both, a community benefit component and a tax, the community benefit component was voluntary and one-time; whereas, the tax is on-going. Some agencies that have chosen to implement only a community benefit have drafted such benefits similar to a gross receipts tax. These are considered on-going sources of revenue. There is concern that these types of community benefit can be legally challenged due to their similarity to a tax without voter approval. As a result, they are not commonly used.

Finding a balance between community benefit and cannabis tax is essential, but has also proven to be challenging, which is why there are a variety of approaches among cities. Consideration of a cannabis tax has been seen as critical to ensure a consistent source of revenue to support and address cannabis-related impacts; however, projections by state and local government have been significantly lower than anticipated for two primary reasons. The first is that the number of permitted cannabis businesses is lower than original assumptions. Second, the compounded taxation of a cannabis tax coupled with local and state taxes are considered too high for the cannabis businesses to compete with the illegal markets. As a result, many agencies have applied a lower tax rate than their ordinance allows. The same aspect holds true for community benefit contributions. Agencies are becoming more mindful when they apply a compounding tax and community benefit requirement to avoid creating a financial barrier that would prohibit small businesses from entering the market.

As noted earlier in this report, the City has opted to not limit the number of permits for non-storefront cannabis businesses, which de-incentivizes participation in a community benefit program. For these businesses, a cannabis tax is more likely to generate a revenue than a community benefit. These are important assumptions to take into consideration for all business types when establishing a cannabis tax rate and community benefit requirement.

Staff has outlined above the options that would provide a one-time public benefit along with a general cannabis tax. Should the Council provide direction, staff is prepared to return to the City Council with a draft cannabis tax for the November 2020 ballot. Staff recommends that if Council chooses to place a tax on cannabis commercial sales on the November 2020 ballot, that it be a general tax, which only requires majority voter approval to be enacted. The revenues generated by a general tax can be used for any general fund purpose. The cumulative total of such a tax may be as high as 15% on commercial cannabis activities with the tax on gross receipts on cannabis gross retail being as much as 6%. The City Council may apply a tax lower than the max tax rate through resolution. It is estimated that a retail-store may generate between \$50,000 to \$100,000 per store in gross receipts tax annually (or \$200,000 to \$400,000 for four retail

stores). Additional tax may be generated if other cannabis commercial businesses decide to open in Tracy.

Property Owner Consent/Acknowledgment

At the January 21, 2020 meeting, City Council asked staff to return with a draft property owner consent/acknowledgement form to determine whether applicants should be required to submit this form as part of the application. TMC Section 6.36.050(a) requires applicants to submit information regarding their business operations. For applicants that are not the property owner of record, the required information regarding their business operations includes document(s) demonstrating that the property owner is fully aware that an applicant intends to use the property for cannabis business purposes. Attachment B to the staff report is a draft property owner consent/acknowledgment form for the applicant to submit to meet the requirement under TMC Section 6.36.050(a)ii.C.

When the proposed Guidelines were initially discussed on January 21, 2020, prospective applicants may have believed that the City's ordinance (and thus Guidelines) require an applicant to have first secured a property, such as by leasing the property. This is not the case; the ordinance and Guidelines require property owner acknowledgment that the applicant is seeking a cannabis business permit and intends to use the property for cannabis business purposes. Staff also understands the concern that this requirement may be making the application process difficult for certain applicants. Therefore, staff requests that the City Council provide direction on whether to include this requirement as part of the information that must be submitted with an application. If the City Council's decision is to remove this requirement, the application would not include the form shown in Attachment B and staff would return with a request to amend Section 6.36.050(a)ii.C, deleting the requirement. It should be noted that any future Conditional Use Permit, does have a requirement for property owner signature.

FISCAL IMPACT

Staff will return to the City Council with potential fiscal impacts based upon City Council policy direction on the Guidelines, including a fee resolution to set the application-processing fee. The City Council may consider placing cannabis general tax measure on the November 2020 ballot.

RECOMMENDATION

City staff recommends that City Council discuss the draft Guidelines; Council's feedback will be used to prepare the final Application Procedures and Guidelines for City Council adoption.

Next steps:

- May 2020 City Council approval of Cannabis Business Permit Procedures and Guidelines and application processing fee
- May 2020 City Council consideration of adding a Cannabis Business Tax on the November 2, 2020 ballot
- July 1, 2020 – July 31, 2020 Application filing period open

- October-November, 2020 City to issue up to 4 Cannabis Business Permits for dispensary / retail storefront permits, and permits for non-retail business types (if any).
- Permitted applicants and City draft Community Benefit Agreement (or other agreement as necessary) to ensure community benefits.
- Permitted applicants begin application process to obtain Conditional Use Permits, consistent with TMC Title 10.
- Permitted applicants obtain building permits for tenant improvements, as necessary

Prepared by: Bill Dean, Assistant Development Services Director

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ATTACHMENTS

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

Attachment B – Draft Property Owner Consent/Acknowledgement Form



City of Tracy

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

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

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

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

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

Phase 2 is the final evaluation and scoring by the City following which the Chief of Police awards the Cannabis Business Permits, if any. Applicants must submit a form with a property owner acknowledgement that the applicant intends to use the property for cannabis related business and activities. However, applicants do not need to have secured a physical location in order to submit an application for a Cannabis Business Permit.

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

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

of the TMC.

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

CITY'S RESERVATION OF RIGHTS

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

1. The Cannabis Business Permit Application is incomplete, non-responsive, or inconsistent with the application form and/or these Application Procedures & Guidelines, or the provisions of TMC Section 6.36.070.

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

COMMUNITY BENEFIT REQUIREMENT

Applicants acknowledge by signing the application form that a requirement of the Cannabis Business Permit award process includes providing community benefits. The Retailer-Storefront (Dispensary) applications are not required to list potential community benefits at the time of initial application submittal to the City. Those Retailer-Storefront (Dispensary) applicants obtaining a screening score of 80% will be eligible to compete for a final score. The final score is determined after the City evaluates the community benefit. These procedures are further described below. For permit types other than Retailer-Storefront (Dispensary), community benefit shall be a component of the initial applications, and applications receiving a score of 80% or higher shall proceed to Phase 2, as described below.

AMENDMENTS TO APPLICATIONS

Applicants will not be permitted to make amendments to their application or to supplement their application, except as otherwise specifically permitted in these procedures, as may be amended from time to time. At the conclusion of Phase 1, all applicants will be notified as to the status of their application and eligibility to proceed to Phase 2. Those applicants for Retail-Storefront (Dispensary) permits proceeding to Phase 2 will be eligible to submit information pertaining to the proposed community benefit; such information is required to be submitted to the City no later than 15 City business days from notification of eligibility to proceed to Phase 2.

All applicants will be required to submit to a background check involving aLive Scan process administered by the Department of Justice. All applicants acknowledge, by signing the application and paying the fee, should later results of the Live Scan identify an ineligible activity, the applicant will be disqualified without regard to the outcome of Phase 1 review/evaluation or Phase 2 final scoring, and no refunds will be issued for costs associated with processing their application up to that point.

Public Records Requests and Proprietary Data

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

DRAFT

APPLICATION PROCESS

INSTRUCTIONS TO THE APPLICANT:

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

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

- 1) Application submittal to the City.
- 2) Phase 1 Eligibility Review: City review of the applications for completeness, compliance with these guidelines, applicable provisions of the TMC and state laws and regulations, and evaluation against the selection criteria. During Phase 1, all applications including the Retailer-Storefront (Dispensary) applications scoring a minimum of 80% will be deemed eligible to proceed to Phase 2. During Phase 1, the City will also evaluate each application against any automatic disqualifying criteria. The results of Phase 1 shall be communicated in writing to each applicant and the Chief of Police.
- 3) Phase 2 Final Scoring and Permit Award: Applicants for all types, except for Retailer-Storefront (Dispensary) permits, receiving a minimum score of 80% may be awarded a permit by the Chief of Police. Eligible Retailer-Storefront (Dispensary) applicants (as determined in Phase 1) will be permitted to advance to Phase 2 during which Retailer-Storefront (Dispensary) applicants must submit to the City the extent of the proposed Community Benefit for final scoring of the applications. During this Phase, subject to approval up to the maximum number of cannabis businesses of each type authorized to operate in Tracy (TMC Section 6.36.040 (a)(vi.)) the Chief of Police shall award Cannabis Business Permits, if any. The permits may be awarded to the four (4) Retailer-Storefront (Dispensary) applicants identified as receiving the highest cumulative score from Phase 1 and Phase 2.
- 4) In the event of a tie in Phase 2 final scoring for Retailer-Storefront (Dispensary) applicants, such that there are more than four applications in the top four scoring slots, the City will conduct a random drawing or multiple random drawings, if necessary, between the applicants in those top slots in order to issue a maximum of four permits. The random drawing would be conducted only when necessary to break a tie.

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

Background Check

As part of the application submittal requirements, each owner must undergo a criminal background check demonstrating they do not provide "good cause" for denial per TMC Section 6.36.060 and 6.36.070 and pay applicable fees and charges. The Background Check Authorization Form will be available on the City website or in the Police Department located at 1000 Civic Center Drive, Tracy, CA 95376 (adjacent to City Hall). Owners must submit the Background Check Authorization Form to the Police Department. After the Background Check

Authorization Form has been processed, owners will receive a Request for Live Scan services, State of California Form BCIA 8016 from the Police Department. At that time, the owners may conduct the Live Scan at the Police Department or visit other Live Scan background service providers. Visit the California Department of Justice website <https://oag.ca.gov/fingerprints/locations?county=San%20Joaquin> for a list of Live Scan service providers in San Joaquin County. Documentation demonstrating that owners background checks have been completed or are in process is required on or before 3:00 pm on June 30, 2020 in order for your application to proceed. Owners who do not meet criminal history eligibility requirements will be disqualified and their application will be deemed disqualified.

APPLICATION SUBMITTAL REQUIREMENTS

Applicants must hand-deliver five hard copy of all materials, and a complete electronic copy (PDF format) of all materials on a USB thumb drive (i.e. flash drive), at the time of application submittal. All applicants must submit, with the exception of site or building plans, all hard copy materials single sided in a simple 3-ring binder of 8.5 x 11 inch sized paper, not to exceed 125 one-sided pages. No applications in a "Spiral" or "Comb" type of binding, or stapled documents will be accepted. For larger size hard copy materials such as site or building plans, submit sheets no greater than 30x42 inches, folded, collated, unstapled, and secured together with rubber bands. Failure to provide the materials in the matter requested may be result in the application being considered incomplete and/or non-responsive.

A complete application will consist of the following:

1. Application Forms:
 - a) City of Tracy Cannabis Business Permit Application Form with signatures
 - b) Applicant Indemnification Form with signatures - Applicant will execute a waiver and release of liability and an agreement indemnifying the City from any liability
 - c) Proof of Insurance for cannabis business and endorsements and certificates of all other insurance related to the operation of the cannabis business
 - d) Notarized Owner's Statement of Consent from property owner acknowledging that the applicant intends to use the property for cannabis related business and activities.
2. Background Check Authorization Form and Proof of Live Scan payment for each owner
3. The following information, which is further described in Appendix A:
 - a) Copies of State licenses relating to cannabis activities that the applicant holds, if any
 - b) Tax Compliance documentation including copy of state tax seller's permit, and applicant's recent year's financial statement and tax returns
 - c) Business and Operations Plan
 - d) Community Relations Plan
 - e) Safety and Security Plan
 - f) Local Preference Plan

- g) Social Equity Plan
- h) Community Benefit proposal - Required for all permit types, except for Retail-Storefront (Dispensary) permit types, at time of application submittal; required for all Retail-Storefront (Dispensary) permit types during Phase 2, described below.

4. Cannabis Business Application Fee (see below)

FEES

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

APPLICATION EVALUATION PROCESS

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

PHASE 1 – APPLICATION COMPLETENESS / EVALUATION AND ELIGIBILITY REVIEW

Applications received will be logged into the City's permit system, provided a permit number and will be evaluated by the City based on these Application Procedures and Guidelines, applicable provisions of the TMC, and state laws and regulations. See APPENDIX A for additional descriptions of the evaluation criteria and scoring. Questions about the application process from applicants after application submittal should be made in writing and the City will share questions and responses with applicants.

For all Cannabis Business Permits, the City's Review Committee will evaluate the applications and assign points... It is anticipated that the City process to review all of the applications could take 90 City business days. Applicants receiving an 80% score, with exception to Retail-Storefront (Dispensary) applicants, will proceed to Phase 2 for review by the Chief of Police to determine issuance of a Cannabis Business Permit.

For Retail-Storefront (Dispensary) applications, all eligible applications receiving an 80% score will proceed to Phase 2, during which the applicant must submit to the City a community benefit proposal for final scoring by the City prior to the four (4) highest point earners (cumulative points from Phase 1 and Phase 2) may be issued a Cannabis Business Permit by the Chief of Police.

PHASE 2 - CANNABIS BUSINESS PERMIT ISSUANCE

Applications receiving the minimum points as described in Phase 1 will be forwarded to the Chief of Police who will review the applications as a result of Phase 1 and make the final determination to issue Cannabis Business Permits in accordance with TMC Section 6.36.060 for all Cannabis Business Permit types, except Retailer-Storefront (Dispensary) applications.

For Retailer-Storefront (Dispensary) applications, applicants will submit the proposed community benefit to the City for evaluation. The City will assign a final score based on the community benefit, and the highest four (4) cumulative point earners will proceed for permit award by the Chief of Police. In the event of a tie in final scores for Retailer-Storefront (Dispensary) applicants, such that there are more than four applications in the top four scoring slots, the City will conduct a public random drawing or multiple random drawings, if necessary, between the applicants in those top slots in order to issue a maximum of four permits. The random drawing would be conducted only when necessary to break a tie.

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

Written notice of the results of Phase 2 shall be provided within five City business days to all applicants.

The City reserves the right to award a lesser number of Cannabis Business Permits than may be deemed eligible for Phase 2, or to award no permits at all.

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

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

Conditional Use Permit & Building Permit

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

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

City Business License

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

Cannabis Employee Permit

Pursuant to TMC Section 6.36.150, any person who is an employee or who otherwise works within a cannabis business must obtain a cannabis employee permit from the City prior to performing any work at any cannabis business. Information on obtaining a City of Tracy cannabis employee permit may be found [here](#).

Community Benefit Agreement or Development Agreement

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

CONTACT INFORMATION

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

DRAFT

APPENDIX A: DESCRIPTION OF APPLICATION AND EVALUATION CRITERIA

SECTION 1: Application format and completion of required forms

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

1. Are all of required forms included with signatures?
 - Commercial Cannabis Application Form
 - Applicant Indemnification Forms
 - Proof of Insurance
 - Property Owner Statement of Consent Form
2. Has the application followed the required format?
3. Is there a flash drive?
4. Have the requisite number of copies been submitted?

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

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

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

SECTION 3: Information Pertaining to the Cannabis Business

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

SECTION 4: Information Pertaining to the Community Benefit:

The community benefit should be quantified and described. The community benefit will be scored by the City. Examples of community benefit include but are not limited to the following:

To be discussed with City Council on 3/17/2020

**CITY OF TRACY - MERIT BASED SELECTION CRITERIA FOR COMMERCIAL CANNABIS BUSINESS
PERMIT APPLICATION/ELIGIBILITY SCREENING**

DRAFT (3/6/2020)

DESCRIPTION OF CRITERIA	Retail Storefront (dispensary)	All other Business Types	Points Awarded	Automatic Disqualifiers ¹
The detail and quality of responses will be used in scoring applications against one another	69-point system: Eligibility, then Final Score	69-point system		
SECTION 1: BUSINESS AND OPERATIONS PLAN (18 possible points)				x
a) Finances and Budget - Describe the budget for the construction, operation, maintenance, compensation of employees, equipment, property lease, security equipment and staff, City fees, state fees, utility costs, product purchases and other anticipated contingency costs. The budget must demonstrate sufficient capital in place to pay start-up costs and at least three months of operating costs, as well as a description of the sources and uses of funds.	0-3	0-3		
b) Daily Operations - With as much detail as necessary, the Business and Operations Plan should describe the day-to-day operations that meet the industry best practices for the type of business permit sought, and how such practices have been included into the business Standard Operating Procedures (SOPs).	0-3	0-3		
c) Conformance with Local and State Laws - Describe how the Cannabis Business will conform to local and state laws.	0-3	0-3		
d) Professional Qualifications – Do the principal demonstrate bona fide business experience? List and describe special business or professional qualifications or licenses of owners that would add to the number or quality of services that the Cannabis Business would provide, especially in areas related to medicinal cannabis, such as scientific or health care fields.	0-3	0-3		
e) Cannabis Business Experience - Describe any and all commercial cannabis activity engaged in as an owner, manager, lender, employee, volunteer, or agent by the Applicant and all owners of the Commercial Cannabis Business, officers and managers including by not limited to the location of such activity and a copy of any permits, licenses, or other written forms of permission for such activity by a local or state government entity.	0-3	0-3		

¹ This is a required criterion meaning that if this item is not satisfactorily included in the application, the application will be deemed ineligible to receive a permit.

DESCRIPTION OF CRITERIA	Retail Storefront (dispensary)	All other Business Types	Points Awarded	Automatic Disqualifiers ¹
f) Conformance with State Testing – Describe the SOP for how all cannabis products on the premises have met the testing requirements as defined by the State.	0-3	0-3		
SECTION 2: COMMUNITY RELATIONS PLAN (9 possible points)				x
a) Customer Education - Describe the proposed process to educate customers regarding cannabis products, including the potency and effects of products, as well as variety. Describe the SOP for 24-hour minimum response time to cannabis recall notifications.	0-3	0-3		
b) Good Neighborliness - Describe how the Cannabis Business, including its private, semi-private, and surrounding public areas, will be proactively managed to avoid becoming a nuisance or having negative impacts on neighbors and surrounding community.	0-3	0-3		
c) Odor Control – Describe methods and plan for odor control and compliance with TMC Section 6.36.020 (d)	0-3	0-3		
SECTION 3: SAFETY AND SECURITY PLAN (18 possible points)				x
a) Safety/Security Experience – Describe the security experience of the individual/firm designing the security plan. Does the firm have licensed professionals in areas of fire prevention and suppression?	0-3	0-3		
b) Employee Safety Education – Describe the employee safety education plan, including training regarding product handling, security and burglary/robbery protocols, and other potential hazards of the cannabis business.	0-3	0-3		
c) Security Guards – Describe the anticipated security guard plan for the business, including number of guards and hours.	0-3	0-3		
d) Video Camera Surveillance – Describe video camera surveillance and how they meet or exceed state requirements. Include detail on the number of cameras and resolution of cameras.	0-3	0-3		
e) Inventory Control/Visitor Access Control – Describe the visitor access control measures, operational security related to inventory control.	0-3	0-3		
f) Alarm System – Describe the plan for alarm systems and how they are professionally monitored and how all alarms are responded to by a private security company.	0-3	0-3		
SECTION 4: LOCAL PREFERENCE PLAN (6 possible points)				x
a) 51% Local Ownership – State the extent to which the Cannabis Business will be a locally managed enterprise whose owners (at least 51%) reside within the City of Tracy. Applicants must show proof that at least 51% of the owners have been	0-3	0-3		

DESCRIPTION OF CRITERIA	Retail Storefront (dispensary)	All other Business Types	Points Awarded	Automatic Disqualifiers ¹
residents of Tracy for at least 5 years prior to June 6, 2020. Such proof shall consist of a utility bill with owners name(s), a lease, a deed, or other similar documentation.				
b) Economic Inclusion (Production) – Describe the extent to which products will be purchased from cultivators or manufactures located in San Joaquin County.	0-3	0-3		
SECTION 5: SOCIAL EQUITY PLAN (3 possible points)				x
a) Business Practices – Describe the business practices or characteristics that emphasize women in leadership roles, the degree of economic inclusion of employees (i.e. description of benefits), and opportunity for seniors, and methods to include individuals from minority groups in the business ownership.	0-3	0-3		
SECTION 6: COMMUNITY BENEFITS PROPOSAL (15 points)	0-15	0-15		x
a) <i>To be discussed with City Council on 3/17/2020</i>				
b)				
c)				
d)				
Points from Eligibility Screening (passing score for Retail-Storefront Dispensaries = 80% of 54 points; passing score for all other business types = 80% of 69 points)				
Points from Community Benefit				
Total Cumulative Points				

COMMERCIAL CANNABIS BUSINESS PERMIT APPLICATION

PROPERTY OWNER’S STATEMENT OF CONSENT

If the applicant is not the owner of record of the subject site, the following Statement of Consent must be completed by the owner or the owner’s authorized representative, granting the applicant permission to apply for a cannabis business permit. **THIS FORM MUST BE NOTARIZED.**

To: City of Tracy
Development Services Department
333 Civic Center Plaza
Tracy, CA 95831

I, the undersigned legal owner of record, hereby grant permission to:

Applicant: _____ Phone: _____

Mailing Address: _____

to operate a commercial cannabis business on the property described below.

The subject property is located at: _____

Assessor’s Parcel Number: _____

Address of Owner of Record: _____

Phone: _____ Email address: _____

Upon the City issuing a cannabis business permit to applicant, I agree to abide by and conform to all provisions of the Tracy Municipal Code pertaining to the establishment and operation of the commercial cannabis activity. I acknowledge that the approval of the cannabis business permit shall, in no way, permit any activity contrary to the Tracy Municipal Code, or any activity which is in violation of any applicable law.

Signature of Owner of Record: _____ Date: _____