

TO: Honorable Mayor and City Council
Attention: Jeremy Craig, City Manager

FROM: Barton Brierley, AICP, Community Development Director
(Staff Contact: Christina Love, (707) 449-5374)

**SUBJECT: STUDY SESSION ON POSSIBLE VACAVILLE ORDINANCE GOVERNING
CANNABIS AND RELATED ACTIVITIES FOR PERSONAL CULTIVATION**

DISCUSSION:

In September 2017, the City Council adopted an Urgency Interim Ordinance placing a temporary moratorium prohibiting approval, commencement, establishment, or operation of all commercial, industrial, and retail cannabis land uses and all outdoor cannabis cultivation within the City. The moratorium will expire in September 2019. During the 2-year time frame, Council directed staff to research and explore how other jurisdictions are regulating cannabis activities.

To help address the complexity and variety of cannabis activities and uses, an interdepartmental team of City staff from the Police, Fire, Utilities, Finance and Community Development Departments was created. The Cannabis Team chose to create a stepped process for reviewing all cannabis activities, beginning with personal cultivation because it is the one activity that is permitted by right with no State oversight. Essentially, any resident that meets the minimum conditions of the State law can grow cannabis in their place of residence now.

However, as discussed below, local jurisdictions do have the ability to impose minimal regulations on personal cultivation. Staff has done a significant amount of research on this subject, including how other jurisdictions are addressing personal cultivation. Some local jurisdictions have chosen to regulate through implementing personal cultivation permit or registry programs to provide some form of regulating and enforcing restrictions on personal growth. The Cannabis Team explored the idea and recommends a form of personal cultivation permit with specified requirements and enforcement actions, very similar to Home Occupation Permits.

BACKGROUND:

The following is a brief summary of the recent evolution of California cannabis law:

- October 9, 2015 – Governor Brown signed 3 separate legislative bills collectively referred to as the Medical Marijuana Regulation and Safety Act (MMRSA) to regulate and license cultivation, dispensing, distribution, manufacturing, testing and transportation of medical cannabis.

- June 27, 2016 – Governor Brown signed the Medical Cannabis Regulation and Safety Act (MCRSA) to add additional disciplinary grounds, require local license before applying for state license, implement tracking, and require specific testing of cannabis plants.
- November 8, 2016 – Proposition 64, the Adult Use of Marijuana Act (AUMA), passed during the statewide general election.
- June 27, 2017 – Governor Brown approved the 2017 budget trailer bill SB 94, titled Cannabis - Medicinal and Adult Use, to integrate the rules governing medicinal and recreational cannabis. The new consolidated provisions are now known as the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA).

The State cannabis laws, as they relate to personal use and cultivation, now grant persons 21 years or older the right to: (1) Smoke or ingest cannabis or cannabis products out of the view of the public; (2) Possess, process, transport, purchase, obtain, give away without compensation to persons 21 years or older 28.5 grams of cannabis or 8 grams of concentrated cannabis; and (3) Possess, plant, cultivate, harvest, dry or process up to 6 living cannabis plants per legal dwelling unit for personal use.

The State cannabis laws permit local jurisdictions to reasonably regulate, but not ban, personal indoor cultivation of up to 6 living cannabis plants within a private residence for personal use; herein referred to as “home grows.” Private residence includes a house, apartment unit, mobile home or similar dwelling unit. Permitted cultivation activities are not limited to the residence, but may also be in a greenhouse on the same property, provided it is fully enclosed, secure and not visible from a public space. Local jurisdictions are permitted to regulate and/or completely ban outdoor cultivation, meaning open air outside of any form of structure (not in a greenhouse or other accessory structure).

STATE LAW ON PERSONAL CULTIVATION:

California Health and Safety Code defines and governs personal cultivation in California. There are 2 general classifications of personal cultivation: Medicinal or recreational. Within those 2 classifications are a few subtypes. Personal cultivation does not require State permits; however, the City may adopt a permit/regulation program for personal cultivation. Personal indoor recreational cultivation is the only subtype that no jurisdiction can completely prohibit. All other personal cultivation types can be prohibited. Attachment 1 is a table that breaks down the nuances between the subtypes and possible City Code actions. In short:

- The City can prohibit all outdoor cultivation, both recreational and medical;
- The City cannot prohibit indoor personal recreational cultivation;
- The City can prohibit indoor personal medical cultivation;
- The City cannot prohibit indoor medical caregiver cultivation; but this subtype will be invalid January 1, 2019.

CITY OF VACAVILLE CODE AND CONSIDERATIONS:

The City Council approved the temporary moratorium completely banning any and all outdoor cultivation. The reasons for approving the prohibition of outdoor cultivation include: 1) Providing for the public health, safety and welfare; 2) Limiting odor caused by cannabis from impacting adjacent properties; and 3) Preventing the attractive nuisance created by cannabis cultivation, which creates the risk of burglary, trespass, robbery and armed robbery, requiring the expenditure of scarce police and public safety resources.

Consistent with State law, the moratorium cannot completely ban indoor personal cultivation. However, local jurisdictions can elect to reasonably regulate indoor personal cultivation. Currently, residents of Vacaville are permitted by right to grow cannabis plants on private property within an enclosed structure.

Here in Vacaville, Code Enforcement and Police Department representatives have opined that it is imperative that any cannabis cultivation be subject to crime prevention conditions, use of security and consistent regulatory monitoring. This opinion, in part, is from reports from other jurisdictions and YouTube videos of catastrophes within residences. This belief also comes from recent experience from 2 open code enforcement cases where more than 6 plants are grown in multiple locations on the private property, with extension cords used for electrical connections inside and outside, odors and other improper construction for concealing the cultivation. Both sites raise concerns of public health, safety, fire and building integrity with the lack of oversight.

AREAS OF CONCERN:

The following is a discussion of reasons that the Cannabis Team encourages a permit program or registry program to best address identifiable areas of concern.

- Enforcement – The enforcement of any level of regulation within a residence is a balancing act of general health and safety of the public against the privacy of a resident within their homestead. A permit or registry program for personal cultivation will provide a mechanism for allowing safety enforcement officers to inspect grow operations for compliance with fire, building and cannabis codes and laws. Such a program could include a nominal fee with built-in renewal requirements and inspections by safety enforcement officers. Such a program could also include detailed violation procedures and related fines, the same as or more than what is set by State laws.
- Health and Safety Considerations – A common and significant area of concern is that of health and safety of residents in and around personal cultivation sites. The reasons for concerns come from:
 - Improper electrical wiring – the use of extension cords both inside and outside as permanent wiring, and the excessive electrical loads on outlets that can lead to fires.

The City's Building Codes may consider the use of extension cords for cannabis grows as a violation of electrical codes. If used in a cannabis growing operation, any extension cord serving lights or similar equipment that already has a flexible cable is considered a violation of Electrical Code Article 400.8 (a substitute for fixed wiring). Further, for the reasons stated above, the use of an extension cord is also a violation of Electrical Code Article 110.3 B. However, without a program to enforce with clear requirements, getting "in the door" to enforce codes prior to a problem is much more difficult.

- Flammable and hazardous gases – compressed gasses, such as CO₂, are often injected into cultivation areas to increase the growth and harvest rate, or propane or butane is used to power CO₂ generators. Additionally, butane is used in extracting the cannabis hash oil. Both circumstances have led to explosions, even in Vacaville.

- Height and canopy size (girth) – Fire Department personnel trying to enter a room where cannabis plants are growing may be inhibited or entangled. If the size of the plants results in an environment that blocks, obscures or otherwise inhibits the safe navigation into or out of a room where the cannabis plants are located, there is a legitimate concern for health and safety.
- Improper or inadequate ventilation – indoor grows are often rudimentarily constructed in a room with high levels of humidity, especially with hydroponic systems, with little to no ventilation. Prolonged extreme humidity easily leads to hazardous mold conditions in a room or house that is not designed for such conditions.
- Crime – Vacaville has not had a significant history of reported crime for residential cultivation because it has not ever been legal here. However, in the last year, Code Compliance has received 2 verified complaints and opened investigative cases for both sites. Based on reports and shared information from other jurisdictions, such as Sacramento, Concord and Lincoln, both indoor and outdoor personal cultivation attracts burglaries and theft. Outdoor cultivation theft is more difficult to control because a fence is only so strong. Indoor cultivation can include locks on doors and alarmed windows, similar to what is required for pools at home where small children reside. However, burglary and theft of indoor cultivation can be more dangerous to safety.
- Life Safety – City standards require that any installation of grow lights, fans, ventilation devices, or other electrical and mechanical equipment modifications comply with all applicable building and fire code requirements and that any necessary permits be obtained. A permit program would require scheduled inspections to review the resident's compliance with management of stored and used chemicals, adequate ventilation, mold containment, fire and building codes, maintaining emergency exits, and ensuring that smoke detectors and fire sprinklers are unobstructed. Additionally, in the case of renters, a permit program would ensure that the property owner is aware of activity on the owner's property.
- Odor – Growing cannabis may pose odor impacts during any cultivation. A single, blooming marijuana plant may be noticeable up to 150-feet away. According to the Police Department, the City consistently receives complaints about odors from people smoking. Code Enforcement has received 2 complaints about personal cultivation and both resulted in open cases. The complaints were more based on the visibility of the plants from the neighboring residences as opposed to odor. Indoor cultivation has the ability to generally contain and reduce the impacts of odor, be it within a residence or enclosed accessory structure.

OTHER JURISDICTIONS:

Staff researched and contacted numerous cities and counties to learn of their ordinances, programs, operations and forms. The following section provides examples of the three general options for regulating personal cultivation; administrative permit, general registration, or simple codification. What was interesting is that majority of the regulations or standards that are required for compliance are almost identical. For example, almost all ordinances reviewed include:

City of Chico – Permit Program

Chico's personal cultivation ordinance prohibits outdoor cultivation and requires a \$238.00 permit for indoor cultivation through the Community Development Department (See Attachment 2A – City of Chico Indoor Marijuana Cultivation Permit), in compliance with applicable State standards and additional city standards:

1. Must own residence or have written permission from owner, and all other residents within the home.
2. Limited to 50 square feet of home may be devoted to the cultivation, regardless of recreational or medical. Cultivation shall not take place in the kitchen, bathrooms or primary bedrooms of a residence
3. The lighting shall not exceed 1,200 watts.
4. No exterior evidence of the marijuana cultivation from any public right of way.
5. Prohibit the use of flammable or combustible products, such as CO₂ and butane.
6. The cultivation of medical marijuana is not permitted if the cultivation activity adversely affects the health or safety of the residents or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, odor or other impacts.

The City of Lincoln has a very similar permit program that is carried out by the Police Department, include in Attachment 2B.

City of Covina – Registration Program

City of Covina adopted Indoor Cultivation Compliance Standards requiring "Personal Cultivation Registration" and compliance with various building code, zoning code, and health and safety considerations. Residents who will personally cultivate cannabis plants pursuant to State law are required to register with the Covina Police Department (see Attachment 3 – Covina Ordinance). The purpose for the registration is to ensure public safety considerations. The reasons cited for requiring a registration are to address potential issues such as building code considerations, emergency exiting from the residence, as well as crime prevention considerations. The City's registration fee is a one-time charge of \$25.00 to process the registration application.

Sonoma County – Codified Regulations

Sonoma County opted for an ordinance with standards for personal cultivation without a permit or registration program. Attachment 4A is Sonoma's ordinance, including the following standards:

- Standards apply to any cannabis growing environment including, but not limited to, outdoor, mixed light/greenhouse or indoor environments.
- Cultivation of cannabis for personal use is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.
 - All structures should be legally built with all applicable permits (e.g. Building, Grading, Planning).
 - Limit access with locking doors or gates.
 - Equip structures with odor control filtration and ventilation systems.

- Lights should be shielded and confined to the inside of the structure.
- Generators are not allowed.
- Cultivation of cannabis for personal use is limited to no more than 100 square feet per residence, of which up to 6 plants can be cultivated for adult use purposes.
- The use of volatile solvents as defined herein to manufacture cannabis products is prohibited.
- Indoor grows must be in an accessory structure, like a greenhouse or garage. Growing inside a residential structure is not allowed, unless there is no feasible alternative.
 - Structures cannot be in the front and side yard setback areas and must comply with setback requirements.
 - Greenhouses must be screened from public streets or walkways, and there should not be exterior evidence of cultivation.

Similarly, Dixon adopted ordinances with defined requirements for compliance. Dixon determined that a violation of their cannabis codes shall constitute a misdemeanor with penalties of \$250 - \$25,000 per day the violation continues. Dixon's full ordinance can also be reviewed in Attachment 4B.

ENVIRONMENTAL REVIEW:

Staff will complete any necessary California Environmental Quality Act review prior to presenting proposed regulations to the Planning Commission and City Council.

COURSE OF ACTION OPTIONS:

The City Council has a few options for consideration for personal cultivation. Based on the information provided, staff has attempted to simplify possible options down to a few for immediate consideration and direction.

- If Council would like to consider regulating personal cultivation through a Permit Program, it would need to initiate a Municipal Code amendment and direct staff to draft a new Personal Cultivation of Cannabis ordinance for a Permit Program. This option will:
 - Define necessary terms related to personal cultivation.
 - Define specific restrictions and requirements for approval of a permit, including processes for violations.
 - Council would be asked to include specific requirements for staff's analysis.

OR

- If Council would like to codify the existing State regulations for personal cultivation and not require a permit or registry program, it would need to initiate a Municipal Code amendment and direct staff to draft a new Personal Cultivation of Cannabis ordinance to codify State law. This option will:
 - Create an ordinance that would supersede the existing ordinance.
 - Could include other minimum requirements, such as prohibit outdoor grows and limit the size of the indoor space used.
 - Could include processes for violations and fines.

OR

- Take no action and defer to State regulations. This option will:
 - Allow for all personal cultivation types to operate; both indoor and outdoor; when the Urgency Ordinance expires.

RECOMMENDATION:

That the City Council direct staff on a course of action, based on the options discussed, related to personal cultivation of cannabis.

ATTACHMENTS:

Attachment 1: Table of the Breakdown of Medicinal vs. Recreational Personal Cultivation
Attachment 2A: Sample Ordinance with Personal Cultivation Permit Program: City of Chico
Attachment 2B: Sample Ordinance with Personal Cultivation Permit Program: City of Lincoln
Attachment 3: Sample Ordinance with Personal Cultivation Registry Program: City of Covina
Attachment 4A: Sample Ordinance with Personal Cultivation Regulations: Sonoma County
Attachment 4B: Sample Ordinance with Personal Cultivation Regulations: City of Dixon

ATTACHMENT 1: PERSONAL CULTIVATION

RECREATIONAL USE		MEDICINAL USE	
Indoor	Outdoor	Personal	Caregiver
City CANNOT prohibit, but private property owners (including apartment complexes) may elect to not allow.	City CAN prohibit, but private property owners (including apartment complexes) may elect to not allow.	City CAN prohibit medical indoor and outdoor medical cultivation.	City CANNOT prohibit indoor caregiver cultivation, however this type of use will be invalid January 1, 2019.
Up to 6 plants, per single private residence (dwelling unit) on premise (lot).	Up to 6 plants, per single private residence (dwelling unit) on premise (lot).	Up to 6 mature or 12 immature plants.	Up to 6 mature or 12 immature plants per qualified patient.
Must be in either inside residence or inside completely enclosed accessory structure.	May be inside completely enclosed accessory structure or out in open.	Must be qualified patient and 18 years old or older.	Must be designated by qualified patient, consistently assumed responsibility and care of said qualified patient, and 18 years old or older.
Must be 21 years old or older.	Must be 21 years old or older.	Must be for personal use only.	Can be cultivated and sold/distributed to 5 or fewer patients.
Cultivated product CANNOT be sold, bartered, or exchanged but can be given away for free.	Cultivated product CANNOT be sold, bartered, or exchanged but can be given away for free.	No State license required.	No State license required.
		City may require permit.	City may require permit.
CITY CODE		CITY CODE	
Can amend to require permits with restrictions, conditions, limitations (i.e., – annual inspections for fire and public safety, limit to one room with locking door, proper electrical and ventilation).	Can amend to require permits with restrictions, conditions, limitations (i.e., – annual inspections for fire and public safety, limit to one structure with locking door, proper electrical and ventilation).	State law still being written and unclear on jurisdictional authority.	
		Can amend to require permits with restrictions, conditions, limitations (i.e., – annual inspections for fire and public safety, limit to one room with locking door, proper electrical and ventilation).	Possible to require Home Occupation Permit, Type 2 (could have patients arrive at house) City Code.

ATTACHMENT 1: PERSONAL CULTIVATION

RECREATIONAL USE		MEDICINAL USE	
Indoor	Outdoor	Personal	Caregiver
CONCERNS/UNKNOWN IMPACTS		CONCERNS/UNKNOWN IMPACTS	
Water usage	Water usage	Water usage	Water usage
Electricity Usage (and GHG emissions)	Electricity Usage (and GHG emissions)	Electricity Usage (and GHG emissions)	Electricity Usage (and GHG emissions)
	Odor	Odor	Odor
Increased humidity leads to increased mold and condensation in electrical outlets		Increased humidity leads to increased mold and condensation in electrical outlets	Increased humidity leads to increased mold and condensation in electrical outlets
Improper electrical connections increase overload and fire possibilities		Improper electrical connections increase overload and fire possibilities	Improper electrical connections increase overload and fire possibilities
	Safety and Security (soft security of fenced yard more susceptible to theft)	Safety and Security (plants & any money received & stored w/in residence)	Safety and Security (plants & any money received & stored w/in residence)

ORDINANCE NO. 2505

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICO, CALIFORNIA, ADDING CHAPTER 19.75 TITLED “CANNABIS REGULATIONS” TO TITLE 19 OF THE CHICO MUNICIPAL CODE TO EXPLICITLY PROHIBIT COMMERCIAL CANNABIS ACTIVITY, IMPLEMENT A PERMITTING AND REGULATORY SCHEME FOR INDOOR PERSONAL CANNABIS CULTIVATION FOR MEDICAL AND RECREATIONAL/NON-MEDICAL USE, EXPLICITLY PROHIBIT THE SMOKING OF CANNABIS IN DESIGNATED AREAS WITHIN THE CITY, AND ADOPT PROVISIONS TO BE CONSISTENT WITH THE ADULT USE OF MARIJUANA ACT AND SB 94

WHEREAS, the City of Chico (“City”) is a Charter City, incorporated under the laws of the State of California, and has the power to make and enforce within its jurisdictional limits all local, police, sanitary, and other ordinances and regulations;

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5 and entitled “The Compassionate Use Act of 1996” or “CUA”);

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to use it without fear of criminal prosecution under limited, specified circumstances. The proposition further provides that “nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes”;

WHEREAS, in 2004 the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code section 11362.7 *et seq.* and referred to as to the “Medical Marijuana Program” or “MMP”) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes;

WHEREAS, Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances;

WHEREAS, in 2011, the City Council passed and enacted Chapter 19.77 of the Chico Municipal Code, to allow and regulate the personal cultivation of medical marijuana in residential zoning districts within the City, pursuant to explicit requirements and restrictions;

WHEREAS, in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that “[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land” Further, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that “there is no right – and certainly no constitutional right – to cultivate medical marijuana” The Court in *Maral* affirmed the ability of a local government entity to prohibit the cultivation of marijuana under its land use authority;

WHEREAS, on October 9, 2015 Governor Jerry Brown signed three bills into law (AB 266, AB 243, and SB 643), collectively currently known as the Medical Cannabis Regulation and Safety Act (“MCRSA”, formerly “MMRSA”). MCRSA establishes a state-licensing scheme for commercial medical marijuana uses, while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a state license. MCRSA allows the City to completely prohibit commercial medical marijuana activities;

WHEREAS, Business and Professions Code section 19340(a) provides that deliveries of marijuana can only be made in a city that does not explicitly prohibit it by local ordinance;

WHEREAS, on November 8, 2016, California voters approved Proposition 64, titled the “Adult Use of Marijuana Act” (the “AUMA”), which became effective immediately, and enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical (i.e., recreational) marijuana, including marijuana products, for use by adults twenty-one (21) years of age and older;

WHEREAS, the AUMA sets an implementation date for commercial operations of January 1, 2018;

WHEREAS, pursuant to Business & Professions Code section 26200(a), the AUMA allows cities to ban all or part of the uses allowed under its provisions:

Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction. (Emphasis added);

WHEREAS, pursuant to Section 19.02.020(E) of the Chico Municipal Code, if a proposed use of land is not specifically listed under any zoning district or designated zone as a permitted or conditional use, the land use is not allowed. Commercial businesses, land uses, and activities related to marijuana, whether the marijuana is for medical or recreational purposes, are not specifically listed under any zoning district or designated zone, and therefore have been prohibited in the City of Chico;

WHEREAS, while the City Council believes that all commercial marijuana uses are prohibited pursuant to Section 19.02.020(E) of the Chico Municipal Code, it desires to enact this Ordinance to expressly make clear that all such commercial uses are prohibited in all zoning districts and designated zones throughout the City and to enact a comprehensive ordinance consistent with California state marijuana law provisions that authorize the City to enact local regulations consistent with its intent to prohibit all commercial marijuana activity, whether the marijuana is for medicinal or recreational purposes;

WHEREAS, the City Council has determined that allowing commercial medicinal and recreational businesses to locate in the City of Chico would not be in the best interests of the health, safety and general welfare of the community;

WHEREAS, the AUMA added, among other provisions, subdivision (a)(3) to Section 11362.1 of the Health and Safety Code (which all subsequent statutory references being to such Code) making it legal under state and local law for persons twenty-one (21) years and older to possess, plant, cultivate, harvest, dry, or process not more than six (6) living marijuana plants, and possess the marijuana produced by the plants, upon the grounds of a private residence (hereinafter also, "personal cultivation activities"), provided such personal cultivation activities comply with various requirements set forth in Section 11362.2;

WHEREAS, notwithstanding the foregoing, in subdivision (b) of Section 11362.2 the AUMA allows cities to completely prohibit persons from engaging in outdoor personal cultivation activities, and while cities may not completely prohibit indoor personal cultivation activities, cities may enact and enforce reasonable regulations on indoor personal cultivation activities;

WHEREAS, personal cultivation activities give rise to, or pose a significant risk of giving rise to, various health and safety concerns and negative impacts to residents of the City of Chico, including but not limited to burglaries and robberies, trespassing, personal and property crimes, fire and building hazards, chemical and waste disposal, mold growth, offensive odors, and possession and use by persons under the age of twenty-one (21);

WHEREAS, in light of such concerns, in accordance with the intent and language of the AUMA, the City Council for the City of Chico desires to ban outdoor personal cultivation activities, and impose reasonable regulations on indoor personal cultivation activities;

WHEREAS, on June 27, 2017, Governor Brown signed Senate Bill 94, the "Medicinal and Adult-Use Cannabis Regulation and Safety Act" ("SB 94" or the "MAUCRSA"). SB 94 creates one state regulatory structure for medical and recreational cannabis use and commercial cannabis activities, reconciling AUMA, with Proposition 215 and MCRSA. SB 94 also retains the provisions of MCRSA and AUMA that granted local jurisdictions control over whether commercial cannabis activity is allowed. Specifically, California Business and Professions Code section 26200 provides that SB 94 shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the state. SB 94 continues to provide that a state licensing authority shall not approve an application for a state license for a

business to engage in commercial cannabis activity if approval of the state license will violate the provisions of any local ordinance or regulation. SB 94 requires that a state licensing authority begin issuing licenses to cannabis businesses on January 1, 2018;

WHEREAS, SB 94 also makes amendments to state law concerning definitions related to marijuana and cannabis activity, and in an effort to be consistent with the most current state laws concerning the regulation of marijuana and cannabis, City Council desires to incorporate said applicable definitions within the City's laws;

WHEREAS, in light of the state's efforts with the passage of SB 94 to reconcile the two separate state regulatory schemes for medical and recreational cannabis, the City Council desires to streamline all marijuana and cannabis related City laws into one City ordinance by (a) repealing Chapter 19.77 and incorporating provisions there from into this Ordinance to allow for the *personal* cultivation of medical and recreational/non-medical cannabis, *but indoors only*, (b) have one, uniform permitting scheme for both, (c) explicitly prohibit commercial cannabis activity citywide, (d) regulate the smoking of cannabis in public, and (e) ensure consistency with SB 94, the most current state law regulating cannabis (i.e., changes to definitions);

WHEREAS, from an administrative and enforcement perspective, the City also wishes to streamline its laws concerning cannabis regulations into one ordinance in order to provide City staff enforcing said laws uniform guidelines, as well as requiring City residents desiring to cultivate in their private residences to have to adhere to only one permitting scheme. Those who do not wish to comply may exploit two separate ordinances, which may create enforcement and prosecutorial challenges for the City. Accordingly, one ordinance will provide City staff enforcing said laws one, uniform regulatory scheme, as the state will soon do; and

WHEREAS, the City Council for the City of Chico finds and declares that this Ordinance constitutes a valid exercise of police power in accordance with the City's Charter, is consistent with the language and intent of the AUMA and SB 94, as well as marijuana and cannabis related state laws mentioned hereinabove, and furthers the health, safety, and general welfare of the residents of the City of Chico.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHICO

SECTION 1. Incorporation of Recitals

The City Council for the City of Chico finds and declares that the foregoing recitals are true and correct, and incorporates said recitals fully into this Ordinance as substantive findings.

SECTION 2. Chapter 19.77 ("Cultivation of Medical Marijuana") of Division V, "Site Planning and General Development Standards," of Title 19, "Land Use and Development Regulations" of the Chico Municipal Code, is hereby repealed in its entirety.

SECTION 3. The Table of Contents of Division V, "Site Planning and General Development Standards," of Title 19, "Land Use and Development Regulations" of the Chico Municipal Code, is hereby amended to read as follows:

DIVISION V. SITE PLANNING AND GENERAL DEVELOPMENT STANDARDS

- 19.60 General Property Development and Use Standards**
- 19.62 Affordable Housing Incentives/Residential Density Bonuses**
- 19.64 Agricultural Preservation Standards**
- 19.66 Foothill Development Standards - *repealed by Ord. 2440***
- 19.68 Landscaping Standards**
- 19.70 Parking and Loading Standards**
- 19.72 Planned Development Standards - *deleted - Ord. 2382***
- 19.74 Signs**
- 19.75 Cannabis Regulations**
- 19.76 Standards for Specific Land Uses**
- 19.78 Wireless Telecommunications Facilities**

SECTION 4. Chapter 19.75, “Cannabis Regulations” is hereby added to Division V, “Site Planning and General Development Standards,” of Title 19, “Land Use and Development Regulations” of the Chico Municipal Code, to read as follows:

Section:

- 19.75.010 Purpose.**
- 19.75.020 Definitions.**
- 19.75.030 Prohibitions.**
- 19.75.040 Indoor Personal Cannabis Cultivation.**
- 19.75.050 Permissive Zoning.**
- 19.75.060 Smoking.**
- 19.75.070 Public Nuisance.**
- 19.75.080 Violations.**
- 19.75.090 Effect on Other Ordinances.**
- 19.75.100 Applicability of Provisions – Non-Compliance.**
- 19.75.110 Severability.**

19.75.010 Purpose.

A. The purpose of this Chapter is to expressly prohibit commercial cannabis activity in the City of Chico, whether the cannabis is for medical or recreational commercial purposes.

B. The purpose of this Chapter is also to enact and enforce reasonable regulations on personal cannabis cultivation activities, for medical and recreational purposes, by enacting a permitting and regulatory scheme for this action in residential zoning districts.

C. Personal cultivation activities give rise to, or pose a significant risk of giving rise to, various health and safety concerns and negative impacts to residents of the City of Chico, including but not limited to burglaries and robberies, trespassing, personal and property crimes, fire and building hazards, chemical and waste disposal, mold growth, offensive odors, and possession and

use by persons under the age of twenty-one (21). In light of such concerns, the City Council for the City of Chico desires to ban outdoor personal cultivation activities, and impose reasonable regulations on indoor personal cultivation activities for both medicinal and recreational purposes.

D. The City Council finds that a prohibition on all commercial cannabis activity, including commercial cultivation and cannabis deliveries, is necessary for the preservation and protection of the public health, safety and welfare for the City and its community. The City Council's prohibition of such activity is within the authority conferred upon the City Council by the City's Charter and applicable state law, and is an exercise of its police powers to enact and enforce regulations for the public benefit, safety, and welfare of the City and its community.

19.75.020 Definitions.

For purposes of this Chapter, the following definitions shall apply:

A. "Accessory structure" shall mean a fully enclosed, lawful structure that is physically detached from, and secondary and incidental to, the existing primary structure of a "private residence," as that term is defined herein.

B. "California Adult Use of Marijuana Act" shall mean and refer to the provisions of California law added by Proposition 64, approved by California voters at the election occurring on November 8, 2016.

C. "Cannabis" shall mean all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The terms "marijuana" and "cannabis" shall be synonymous and have the same meaning. It does not include:

1. Industrial hemp, as defined in Section 11018.5 of the California Health and Safety Code; or

2. The weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or other product.

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

E. "City" shall mean the City of Chico.

F. "Code" shall mean the Chico Municipal Code, including all laws, ordinances, and regulations adopted and incorporated therein.

G. "Commercial cannabis activity" shall mean, and includes, the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products, whether or not the cannabis or cannabis products is for medical or recreational purposes. "Commercial cannabis activity" is meant to include all cannabis related activities for which a State license is required, pursuant to applicable State laws, as they may be amended from time to time.

H. "Cultivation" shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

I. "Delivery" shall mean the transfer of cannabis or cannabis products, including the use of any technology platform to arrange for or facilitate the transfer of cannabis to or from any location within the City of Chico. "Deliver" or "delivery" shall also mean the actual, constructive, or attempted transfer from one person to another, or to or from any location within the City of Chico.

J. "Indoor" shall mean entirely within and inside a private residence, residential structure, or accessory structure.

K. "Medical cannabis" means cannabis used for medical purposes in accordance with the Compassionate Use Act of 1996 (Proposition 215), in accordance with California Health and Safety Code section 11362.5.

L. "Manufacture" shall mean to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

M. "Outdoor" shall mean any location within the City of Chico that is not within a fully lawfully existing enclosed structure.

N. "Permittee" shall mean any person having been issued and maintaining a valid personal cultivation permit under this Chapter.

O. "Personal cultivation permit" or "permit" shall mean and refer to the permit issued by the City under this Chapter authorizing permittees to possess, plant, cultivate, harvest, dry, or process cannabis, cannabis plants, or the cannabis produced by the plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, pursuant to AUMA, and to a qualified patient or primary caregiver, in accordance with the Compassionate Use Act of 1996 (Proposition 215).

P. "Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

Q. "Primary caregiver" means the individual designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and as defined in Health and Safety Code section 11362.7.

R. "Private residence" shall mean a legally existing house, an apartment unit, a mobile home, or other similar dwelling, and inclusive of any rooms, garages, or structures physically attached thereto, identified by a lawful street address and/or an assessor parcel number. A lawful accessory structure located on the same parcel as a private residence shall be considered a part of that private residence.

S. "Qualified patient" means a qualified patient who is entitled to the protections of the Compassionate Use Act of 1996, and as defined in Section 11362.7 of the Health and Safety Code.

19.75.030 Prohibitions.

A. Commercial Cannabis Activity. Commercial cannabis activity, whether the cannabis is for medical or recreational purposes, is expressly prohibited in the City of Chico, including, but not limited, in all zoning districts and designated zones within the City of Chico. No person shall establish, operate, maintain, conduct, cause, allow or engage in commercial cannabis activity anywhere within the City. This subsection is meant to prohibit all cannabis related activities for which a State license is required. The City shall not issue any permit, license, variance or any other entitlement or permit, whether administrative or discretionary, for any establishment, operation or activity of any such business or commercial operation, or for any such activity for which a State license is required.

B. Medical Cannabis. With the exception of the indoor, personal cultivation of medical cannabis allowed or permitted in residential zoning districts pursuant to, and in accordance with, this chapter, the establishment or operation of any medical marijuana or cannabis collective, cooperative, dispensary, delivery service, operator, establishment, or provider shall be considered an explicitly prohibited use in the City of Chico, including in all zoning districts and designated zones of the City. Accordingly, the City shall not approve or issue any permit, license, variance or any other entitlement or permit, whether administrative or discretionary, for the establishment of any collective, cooperative, dispensary, delivery service, operator, establishment, or provider in any zoning district or designated zone, and no person shall otherwise establish such businesses or operations in any zoning district or designated zone within the City.

C. Personal Cannabis Cultivation for Medical or Recreational Use. With the exception of Section 19.75.040 that allows the personal cannabis cultivation of no more than six (6) plants in a private residence by first securing a permit from the City, personal cannabis cultivation shall be prohibited and considered unlawful in all areas of the City to the extent it is unlawful under California law.

D. Property Owners. A property owner shall not rent, lease, or otherwise allow, cause or allow any business that engages in commercial cannabis activity to occupy real property in the City. A property owner shall not allow any person or business to establish, operate, maintain, conduct, cause, allow, or engage in commercial cannabis activity on any real property owned or controlled by that property owner that is located in the City. This is not intended to prohibit a property

owner from providing written prior permission to lawful tenants for the personal cultivation of medical or recreational cannabis in a residential zoning district, as allowed in Section 19.75.040 of this chapter.

E. Deliveries. To the extent not already prohibited herein, delivery of cannabis or cannabis products, whether the cannabis is for medical or recreational purposes, to or from the City of Chico is expressly prohibited. No person shall conduct or perform any delivery of cannabis or cannabis products where the delivery either originates or terminates within the City. Nothing herein prevents the use and traversing of public roads within the City of Chico by a lawful business pursuant to state law.

F. Outdoor Cultivation. The outdoor cultivation of cannabis is expressly prohibited in the City of Chico, including all zoning districts and designated zones of the City of Chico.

19.75.040 Indoor Personal Cannabis Cultivation.

A. Purpose and Intent. It is the purpose and intent of this section to enact and enforce reasonable regulations to reasonably regulate the ability of an individual twenty-one (21) years of age or older to possess, plant, cultivate, harvest, dry, or process, for personal, noncommercial use, whether it is for medical or recreational uses, not more than six (6) living cannabis plants indoors and to possess the cannabis produced by the plants, all in accordance with the Adult Use of Marijuana Act of 2016 and, specifically, Sections 11362.1 and 11362.2 of the Health and Safety Code, as well as the Compassionate Use Act of 1996 (Proposition 215). The cultivation of cannabis for personal, noncommercial, medical and/or recreational use may only take place in accordance with this Chapter.

B. Indoor Personal Cultivation; Permit Required. It shall be unlawful for any person to plant, cultivate, harvest, dry, or process cannabis, cannabis plants, or the cannabis produced by the plants inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence, without first obtaining and maintaining a valid indoor personal cultivation permit under this Chapter.

C. Indoor Personal Cultivation Permit.

1. Application. Every person required to have a personal cultivation permit under this Chapter shall make an application therefor, in a form prescribed by the Community Development Director of the City. Upon the payment of the fee established by resolution or ordinance of the City Council, and upon determination that none of the grounds for denial as specified in Section 19.75.040(G)(1) exist, the Community Development Director shall issue to such person a permit which shall contain:

- a. The name of the person to whom the permit is issued.
- b. The permit number issued.
- c. The address of the private residence for which the permit has been issued.

d. The date of expiration of such permit.

e. Any conditions imposed by the City, if in addition to those proscribed in this Chapter.

f. If the private residence is leased or rented private residence to the permittee, the name of the property owner(s) whom gave the express, written consent for the cannabis cultivation activities pursuant to this Chapter.

g. Such other information as may be deemed necessary.

2. No more than one (1) permit per private residence shall be issued and maintained at any one time, regardless of the number of persons dwelling or residing in the private residence or upon the grounds thereof, and regardless of how many qualified patients are living in the private residence.

D. Indoor Personal Cultivation Regulations.

1. Permittees issued a personal cultivation permit under this chapter shall, at all times, conduct the activities authorized by said permit in strict accordance with the requirements of this section, Chapter, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (SB 94), California Adult Use of Marijuana Act (Proposition 64), Compassionate Use Act of 1997 (Proposition 215), or whichever is more restrictive, as well as any conditions of approval imposed by the City.

a. All planting, cultivation, harvesting, drying, and processing (or similar actions) of cannabis plants, and the cannabis produced by the plants, shall be conducted entirely within the interior of a private residence or accessory structure.

b. The residential structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. Kitchens, bathrooms or primary bedrooms of a residence shall not be used for cannabis cultivation where such cultivation will prevent their primary use for cooking of meals, sleeping and bathing.

c. Cultivation of cannabis shall not displace required off-street parking.

d. No permittee shall exercise or engage in any of the activities authorized by a personal cultivation permit, or otherwise engage in the planting, cultivation, harvesting, drying, and processing or cannabis plants, and the cannabis produced by the plants, except upon the grounds of a private residence of which the permittee is owner of the private residence, or a lawful, permanent resident who entered into a written lease agreement with the owner of the premises. For purposes of this paragraph, a lawful, permanent resident shall mean any permittee who, as of a given date, obtained the lawful right to occupy the private residence for more than thirty (30) consecutive days.

e. No cannabis may be cultivated in a leased or rented private residence without the prior express, written consent of the property owner. Said permittee shall obtain the written permission, including notarized signatures, of the legal owner(s) consenting to the indoor personal cultivation of cannabis on the private residence.

f. Not more than six (6) living cannabis plants may be planted, cultivated, harvested, dried, or processed upon the grounds of any single private residence.

g. A qualified patient, or his or her primary caregiver, who is in possession of a current, and valid physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the California Business and Professions Code, may submit to the City, as part of his or her permit application, or renewal thereof, that six (6) plants does not meet the qualified patient's needs. In this event, based on the objective, written documentation provided to the Community Development Director by the qualified patient's physician, up to eight (8) living plants in total may be planted, cultivated, harvested, dried, or processed upon the grounds of any single private residence by a qualified patient, or his or her primary caregiver. The intent of this subsection is to provide for an exception to the maximum allowed six (6) plants to qualified patients only, in order to acknowledge a medical need, pursuant to Section 11362.77(b) of the California Health and Safety Act.

h. All living cannabis plants, and any cannabis produced by the plants in excess of 28.5 grams, shall be kept within the private residence or accessory structure in a locked and secured space.

i. No living cannabis plants, cannabis cultivation activities, or equipment, shall be visible, and no odor, light, heat, or other environmental impacts associated with personal cultivation shall be detectable, from a public place, right-of-way, neighboring public or private property, or beyond the bounds of the grounds of the private residence at any time.

j. All structures and buildings, or portions thereof, of a private residence used to cultivate cannabis pursuant to this Chapter shall, at all times, comply with all applicable laws and provisions concerning building and construction of structures, including, without limitation, the City's Land Use and Development Regulations pursuant to Title 19, as well as Building Regulations and Standards, pursuant to Titles 16 and 16R of the Chico Municipal Code, and the adopted and incorporated California Building Standards Code, as amended from time to time.

k. The indoor use of generators and/or gas products, including, without limitation, CO₂, butane, propane, and natural gas shall be prohibited for the cultivation and/or processing of cannabis.

l. Not more potable water than is reasonably necessary to sustain six (6) living plants shall be utilized.

m. The lighting used for cultivation shall not exceed 1200 watts.

n. No nuisance shall be caused or maintained on the grounds of the private residence, including but not limited to those conditions set forth in Chapter 1.14 of this Code.

2. As a condition of approval of any application for any personal cultivation permit, the Community Development Director may, in his or her discretion, impose additional requirements and restrictions in addition to those expressly set forth in this section, to the extent such additional requirements and restrictions are necessary to ensure activities authorized by a personal cultivation permit are exercised in a manner that preserves and protects the public interest. In imposing such additional requirements and restrictions, the Community Development Director may consider such factors as the proximity of the private residence to sensitive land uses, the physical characteristics of the grounds of the private residence, and other relevant matters.

E. Enforcement and Inspection Authority.

1. Upon seventy-two (72) hour written notice, the Community Development Director, and any City police officer or code enforcement officer, shall have the right to enter into and upon the grounds of any private residence, and into or upon a private residence or accessory structure, for which a permit has been issued pursuant to this Chapter for purposes of conducting an inspection to ensure compliance with the requirements of this Chapter, and any applicable state law. A permittee's refusal to allow said inspection shall be grounds for revocation of the permit.

2. Notwithstanding the foregoing, the City shall make reasonable efforts to schedule and conduct the inspection authorized by this section at the date and time agreeable to be the permittee; provided that if the City makes reasonable efforts with a permittee to establish and agreeable date and time for an inspection, the failure of refusal of a permittee to establish an inspection date and time may be construed as a refusal to allow the inspection.

3. This section shall not limit or be interpreted as limiting the authority of the City or any representative thereof to enter upon or into the grounds of a private residence, or the private residence itself, as otherwise may be authorized by law or pursuant to a court-issued warrant.

F. Sale or Transfer of Cannabis Prohibited.

1. It shall be unlawful for any person or permittee to sell, or otherwise transfer for any consideration whatsoever, cannabis plants or the cannabis produced by the plants, to any other person.

2. It shall be unlawful for any person or permittee to sell, transfer, give away, or provide access to cannabis plants, or the cannabis produced by the plants, to any person under the age of 21.

3. All medical cannabis cultivated pursuant to this Chapter, shall be for the personal use only of a qualified patient residing on the private residence and may not be distributed to any other person, collective, or cooperative.

G. Grounds for Permit Denial.

1. Grounds for denial. The Community Development Director shall deny any application for a permit or for the renewal thereof if the Community Development Director makes any of the following determinations:

a. The applicant has not first obtained or has not maintained in full force and effect the permit required under this Chapter prior to engaging in the activities authorized by the permit.

b. The private residence or accessory structure used, or proposed to be used, to engage in the activities fails to comply with all applicable health, safety, zoning, fire, building and safety laws and regulations.

c. The applicant has knowingly made any false, misleading, or fraudulent statement of material fact in the application for the permit, in the application for or renewal of the permit, or submitted any false, misleading or fraudulent documentation in support of a permit or renewal permit application.

d. The applicant is in violation of a provision of the Chico Municipal Code or owes taxes, fees, or penalties pursuant to this Chapter or any other provision of the Chico Municipal Code.

e. The applicant of a new permit, or for the renewal thereof, has had a permit denied or revoked by the City within the preceding twelve (12) months.

2. Notice of Denial. Upon determination of the existence of any factors or conditions specified in Section 19.75.040(G)(1) hereinabove, the Community Development Director shall advise the applicant by serving upon the applicant a notice of denial in writing within ten (10) business days of such determination. The notice of denial shall state the Community Development Director's findings and/or determinations that justify denial of the permit application, and shall include a summary of the evidence upon which such findings and/or determinations are based.

H. Permit – Posting or Storage. Permits issued pursuant to this Chapter shall be posted, kept, stored, or maintained in the private residence or accessory structure for which the permit was issued, and shall remain so posted, kept, stored, or maintained during the period the permit remains in force.

I. Permit – Duration and Renewal.

1. Permits issued pursuant to this Chapter shall be valid for two (2) years from the date of issuance, and shall expire immediately thereafter, unless timely renewed.

2. Permits issued pursuant to this Chapter may be renewed upon the filing of an application therefore with the Community Development Director. The application for renewal shall be in the same form as an application for an original permit. It shall be issued or denied in a like manner as in the case of the original permit.

J. Permit Fees. A filing and processing fee, in an amount established by resolution or ordinance of the City Council, shall be submitted with each application for an original permit, or applications for permit renewals. The fee provided for in this section is imposed to cover the cost of processing and reviewing permit applications, and to cover the cost of site inspections provided for in this Chapter. The fee provided for in this section may be amended from time to time by resolution of the City Council.

K. Transfer of Permit Prohibited. No permit issued pursuant to this Chapter shall be transferrable or assignable to any other person. The activities authorized by any permit issued pursuant to this Chapter shall only be conducted inside the private residence or accessory structure for which the permit was issued.

L. Permit Revocation.

1. Grounds for Revocation. The Community Development Director shall revoke any permit issued pursuant to this Chapter, if the Community Development Director makes any of the following findings or determinations:

- a. There exists any ground for denial of the permit issued pursuant to this Chapter.
- b. The permittee has knowingly made any false, misleading, or fraudulent statement of material fact in the application for a permit or in any report required to be filed by law.
- c. The permittee has violated or is violating any condition of approval imposed on such permit, or upon any other entitlement granted by the City or other government agency.
- d. The permittee has violated or is violating any ordinance, law, or regulation of the City, Butte County, or State of California in the course of exercising any rights under the permit.
- e. The permittee has been held liable for, or has been convicted of, any offense involving the maintenance of a nuisance resulting from any act performed in exercising any rights under the permit.
- f. The continued activities under the permit would endanger, disrupt or otherwise be detrimental to the public peace, health, safety, morals or general welfare of the City or its inhabitants, or constitute a public nuisance.

2. Order of Revocation. The Community Development Director shall serve a written order of revocation upon the permittee the grounds for revocation and informing the permittee of his/her appeal rights (including method and timeline for requesting appeal). The order shall also advise the licensee/permittee of the effective date of the revocation.

3. Effectiveness of Order. Any permit revoked pursuant to the provisions of this Chapter shall become effective, and the permittee shall cease all activities authorized under such permit, no later than ten (10) calendar days from the service of the order of revocation. Where an appeal

is timely filed in accordance with the provisions of this chapter, the notice of revocation shall be stayed pending the City Manager's resolution of the appeal pursuant to the provisions of this chapter.

M. Appeal of Permit Application Denial or Revocation of a Permit. The denial of any application for a permit, or the revocation of a City-issued permit, may be appealed to the City Manager, and such appeal shall be governed by the standards and procedures set forth in Section 19.12.040 of this Code. The applicant or permittee may seek prompt judicial review of such administrative actions or decision in a court of competent jurisdiction as provided by law, pursuant to Section 1094.6 of the California Code of Civil Procedure.

19.75.050 Permissive Zoning.

Nothing in this Chapter shall be interpreted to the effect that the City's permissive zoning scheme allows any other use not specifically listed herein.

19.75.060 Smoking.

A. No person shall smoke or ingest cannabis, whether for recreational or medical use, in any public place, including, but not limited to, a public right of way, alley, street, sidewalk, park, public building, structure or parking lot, or municipal airport.

B. Smoking of cannabis, whether for medical or recreational use, shall be prohibited in any building, structure, location, area or place where the Code currently prohibits the smoking of tobacco.

19.75.070 Public Nuisance.

A. Any violation of this Chapter is hereby declared a public nuisance and, as such, may be abated pursuant to Chapter 1.14 of this Code, or enjoined from further operation within the City of Chico.

B. All means of enforcement authorized under this Code may be used to address violations of this Chapter, including, but not limited to: civil penalties, nuisance abatement, civil actions, and/or administrative citations. The City's pursuance of one remedy does not preclude the City from invoking any other one or more additional remedies for such violation.

19.75.080 Violations.

A. No person owning, leasing, occupying or having charge, control, or possession of any premises within the City shall cause, allow, suffer, or permit such premises to be used in violation of this Chapter.

B. Except for Section 19.75.060, which shall be subject to an infraction pursuant to state law, any person violating any provision of this Chapter shall be guilty of a misdemeanor, and shall be subject to the penalty therefor, as set forth in Section 1.04.120 of this Code. Any such person

shall be guilty of a separate offense for each and every day a violation of the provisions of this Chapter is committed, continued, or permitted to be continued by such person.

C. Any person violating any provision of this Chapter may also be subject to the issuance of administrative citations, pursuant to Chapter 1.15 of this Code.

19.75.090. Effect on Other Ordinances.

The provisions of this Chapter shall control for regulation of cannabis activities as defined herein if other provisions of the Code conflict therewith. This Chapter shall not, however, relieve any person of his or her duty to comply with such laws if additional obligations, duties, or prohibitions are imposed thereby.

19.75.100 Applicability of Provisions – Non-Compliance.

A. The provisions of this Chapter shall apply to all personal cannabis cultivation, whether maintained prior to or after the effective date of any of the provisions of this Chapter. Those cannabis plants planted, cultivated, harvested, dried, or processed prior to the effective date of any provision enacted hereunder shall be brought into compliance with such provisions within thirty (30) calendar days of the effective date thereof.

B. Any private residence not brought into compliance within the aforementioned time period shall be deemed to be in violation of this Chapter and therefore subject to enforcement or abatement proceedings as authorized in this Chapter against any and all responsible persons.

19.75.110. Severability.

If any section, subsection, sentence, or clause of this Chapter is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter.

SECTION 5. CEQA. The City Council, on the basis of the whole record and exercising independent judgment, finds that this Ordinance is not subject to environmental review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). Sections 15060(c)(2) and 15060(c)(3) pertain to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378.

SECTION 6. Severability. If any section, subsection, line, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid or unconstitutional, either facially or as applied, by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Chico hereby declares that it would have passed this Ordinance, and each and every individual section, subsection, line, sentence, clause, phrase, or word without regard to any such decision.

SECTION 7. Effective Date. This Ordinance shall become effective thirty (30) days after approval by the City Council.

SECTION 8. Publication. The City Clerk shall certify to the adoption of this Ordinance causing it to be posted as required by law.

THE FOREGOING ORDINANCE was adopted by the City Council of the City of Chico at its meeting held on November 7, 2017, by the following vote.

AYES: Coolidge, Fillmer, Sorensen, Morgan

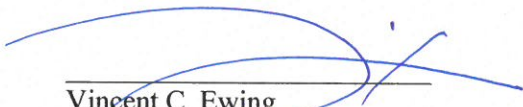
NOES: Ory, Schwab, Stone

ABSENT: None

ABSTAINED: None


DISQUALIFIED: None

APPROVED AS TO FORM:



Vincent C. Ewing
City Attorney*

ATTEST:



Deborah R. Presson
City Clerk

*Pursuant to The Charter of the City of Chico, Section 906(E)



Community Development Department

411 Main Street
P.O. Box 3420
Chico, CA 95927-3420
www.chicoca.gov

(530) 879-6800

Application No. _____

**APPLICATION FOR
Indoor Cannabis
Cultivation Permit**

Applicant Information

Applicant Name		Daytime Phone	
Applicant Street Address			
City		State	Zip
Property Owner		Daytime Phone	
Property Owner Address			
City		State	Zip

Project Information

Property Address/Location	
Assessor's Parcel No(s)	Parcel Size
Present Zoning	Present General Plan Designation
Existing Land Use	

Required Signatures

I hereby certify that this application and all other documents submitted are true and correct to the best of my knowledge and belief, that I have read and understand the City's requirements for an Indoor Cannabis Cultivation Permit, and that I am a qualified medical cannabis patient. **I also certify that I am the owner of the above property or have attached the owner's written consent to file this application. I understand that verification of property ownership or interests in the property or application may be required.** (Before signing, see the information on the back of this application.)

Applicant's Signature	Date
-----------------------	------

For Office Use Only

Application Received By	Receipt No.
Date	Application Fee \$
Assigned Planner	Total Fees \$ (Check payable to City of Chico)

cc: Police Chief, Fire Chief, Building Official, Code Enforcement, GIS, File

See Pages 2 for Additional Information



Requirements for a Complete Indoor Cannabis Cultivation Permit Application

The following items are **REQUIRED** for a complete application:

- Completed and Signed Application Form
- Written Authorization from the Property Owner (If Applicant is not the Owner)
- 8 ½" X 11" Site Plan of Property showing:
 - Workable scale
 - North arrow
 - Property lines
 - Adjacent streets, alleys and properties
 - Footprint and location of existing and new structures
 - Street address and assessor's parcel number(s)
 - Name of applicant
- 8 ½" x 11" Interior Floor Plan showing the area to be used for indoor cultivation, with all rooms clearly labeled and the dimensions of the indoor cultivation area indicated. The floor plan shall also identify the type, location, and wattage of lamps used for cultivation, along with any changes to the homes electrical system. (Note: Consult with the Building Division if such changes are proposed, as a separate permit may be required.)

Time Limits

Please allow ten working days to process this application.

City Standards for Personal Indoor Cannabis Cultivation

The following standards, found in Chapter 19.75 of the Chico Municipal Code, apply in addition to all other applicable provisions of these Regulations and any requirements imposed by the State of California.

1. All planting, cultivating, harvesting, drying and processing of cannabis must take place indoors.
2. If the property is rented, property owner must give written consent to tenant with notarized signatures.
3. The residential structure must remain a residence at all times. Kitchens, bathrooms and/or primary bedrooms shall not be used for cannabis cultivation to an extent that inhibits the function of that room.
4. The cultivation of cannabis shall not displace required off-street parking.
5. Not more than six (6) living cannabis plants may be planted, cultivated, harvested, dried or processed upon the grounds of any single private residence. This may be extended up to eight (8) plants with written documentation from patient's physician.
6. The cultivation of cannabis shall not be visible from beyond the bounds of the grounds of the private residence, and is not permitted if the cultivation activity adversely affects the health or safety of the residents or nearby properties through the creation of mold, mildew, dust, glare, heat, noise, odor, or other impacts.
7. As a condition of approval, the Community Development Director, in his or her own discretion, may impose additional requirements and restrictions.
8. The lighting used for cultivation shall not exceed 1200 watts.

For the full text of this ordinance, visit:

http://www.chico.ca.us/planning_services/documents/FinalCannabisRegsOrdinance_Chico.pdf

ORDINANCE NO. 948B

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINCOLN
REPEALING CHAPTER 18.34, ARTICLES IV AND V, SECTIONS 18.34.120 – 220
AND RE-ENACTING CHAPTER 18.34, ARTICLE IV, SECTIONS 18.34.120 – 200
OF THE LINCOLN MUNICIPAL CODE REGULATING THE SALE, DELIVERY, AND
CULTIVATION OF MARIJUANA, AND ENDING THE MORATORIUM PROHIBITING
THE OUTDOOR CULTIVATION OF MARIJUANA AND
PROHIBITING THE SALE OF MARIJUANA

WHEREAS, Section 1.01.050 of the Lincoln Municipal Code provides for amendments to the Lincoln Municipal Code by the City Council; and

WHEREAS, the City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, section 15061, subdivision (b)(3) (there is no possibility the activity in question may have a significant effect on the environment), and has further determined that the action is exempt from CEQA pursuant to Sections 15060(c)(2)(3), 15064(d)(3), and 15378(a). The Community Development Director is hereby directed to file a Notice of Exemption upon passage of the ordinance: and

WHEREAS, federal law currently prohibits the use, possession, or sale of marijuana. Specifically, it is a Schedule I drug prohibited under the Federal Controlled Substances Act, 21 U.S.C. section 812(c); and

WHEREAS, in 1996, the voters of California approved Proposition 215, known as the Compassionate Use Act of 1996 ("CUA"), allowing the medical use of marijuana and establishing an affirmative defense for certain marijuana-related criminal offenses; and

WHEREAS, in 2004, the Medical Marijuana Program Act ("MMPA") was approved by the state legislature, providing a criminal defense to qualified patients and their primary caregivers who possessed marijuana within the limits set forth in the MMPA; and

WHEREAS, in 2015, the Legislature adopted the Medical Marijuana Regulation and Safety Act ("MMRSA"), which addressed state licensing with respect to medical marijuana cultivation, dispensing, and manufacturing; and

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), legalizing the recreational use of marijuana for adults 21 years of age and older; and

WHEREAS, the CUA, MMPA, and MMRSA allow cities to regulate medical marijuana pursuant to their respective police powers and land use authority; and

WHEREAS, the AUMA, while allowing cities to retain their police powers and land use authority, permits cities to regulate but not prohibit indoor cultivation

of up to a total of six marijuana plants per residence, and to regulate or prohibit the cultivation of seven or more marijuana plants, as well as commercial activity related to marijuana; and

WHEREAS, in light of these developments in state law, and in the interest of applying consistent law enforcement guidelines, the City of Lincoln ("City") now desires to amend its Municipal Code to establish an ordinance addressing all marijuana activities in the City; and

WHEREAS, the City re-affirms and confirms that the zoning code is adopted and operates under the principles of permissive zoning, meaning that any land use not specifically authorized or identified in the zoning code is prohibited; and

WHEREAS, California Health & Safety Code section 11362.777(b)(3) states that the Department of Food and Agriculture may not issue a state license to cultivate marijuana within a city that prohibits cultivation under the principles of permissive zoning and may only issue a license if local regulations have been complied with; and

WHEREAS, the establishment of dispensaries and deliveries of marijuana are only allowed pursuant to the regulations set forth herein; and

WHEREAS, the City enacted a moratorium on November 15, 2016, which prohibits the outdoor cultivation of marijuana and prohibits the sale of non-medical marijuana. Thereafter, the City Council extended the moratorium for an additional 10 months and 15 days on December 13, 2016; and

WHEREAS, the purpose of the moratorium was to give the City an opportunity to study and develop regulations to address the impacts of outdoor cultivation of marijuana and also to study the potential impacts and establish licensing and zoning to regulate the sale of non-medical marijuana, and since such purpose will have been accomplished upon the repeal of Chapter 18.34, Articles IV and V, and re-enactment of Chapter 18.34, Article IV, the moratorium will no longer be necessary and should be ended.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LINCOLN DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings. The recitals set forth above are hereby incorporated by reference. Additionally, the City Council finds as follows:

1. Unregulated marijuana activities, including, but not limited to, cultivation, may have significant health, safety, and welfare impacts on the residents of the City.

2. These impacts include damage to residences and other buildings, dangerous electrical alterations and use, inadequate ventilation, increased robberies and other crimes, and the nuisance of strong and noxious odors.

3. In 2004, the Legislature enacted Senate Bill 420 (codified as California Health and Safety Code section 11362.7, et seq.) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified state criminal statutes.

4. Health and Safety Code section 11362.83 and the AUMA expressly allow cities and counties to adopt and enforce ordinances that are consistent with Senate Bill 420 and the AUMA.

5. Cultivation of any amount of marijuana at outdoor locations or premises within 600 feet of schools, child care centers, or parks creates unique risks that the marijuana plants may be observed by juveniles, and therefore be especially vulnerable to theft or recreational consumption by juveniles. Further, the potential for criminal activities associated with marijuana cultivation in such locations poses heightened risks that juveniles will be involved or endangered. Therefore, cultivation of any amount of marijuana in such outdoor locations or premises is especially hazardous to public safety and welfare, and to the protection of children and the person(s) cultivating the marijuana plants.

6. As recognized by the Attorney General's August 2008 Guidelines for the security and non-diversion of marijuana grown for medical use, the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

7. It is the purpose and intent of this chapter to require that marijuana be cultivated only in residential structures, so as not to be visible to the general public, to provide for the health, safety and welfare of the public, to prevent odor created by marijuana plants from impacting adjacent properties, and to ensure that marijuana grown remains secure and does not find its way to non-patients (if under 21) or illicit markets. Nothing in this chapter is intended to impair any viable legal defense available to a person using or in possession of marijuana pursuant to the CUA (Health and Safety Code section 11362.5) or the MMPA (Health and Safety Code section 11362.7 et seq.) Nothing in this chapter is intended to authorize the cultivation, possession, or use of marijuana for purposes in violation of state or federal law.

8. It is the purpose and intent of this chapter to provide a means for regulating marijuana activities in a manner that is consistent with state law, and which balances the needs of patients and recreational users while promoting the health, safety, and welfare of the residents and businesses in the City. This chapter is intended to be consistent with Proposition 215, Senate Bill 420, the

MMRSA, and the AUMA, and to that end, is not intended to prohibit persons from individually, collectively, or cooperatively exercising any right otherwise granted by state law. Rather, the intent and purpose of this chapter is to establish reasonable regulations upon the manner in which marijuana may be cultivated, dispensed, and delivered in the City.

9. The limited right of people under state law to cultivate marijuana plants does not confer the right to create or maintain a public nuisance. By adopting the regulations contained in this chapter, the City will achieve a significant reduction in the aforementioned harms caused or threatened by the unregulated cultivation of marijuana in the City.

10. Government Code section 65858 authorizes a city to adopt an interim ordinance prohibiting a land use that may be in conflict with a city's general plan, a specific plan, or zoning proposal, and that the city intends to study within a reasonable time. Pursuant to Government Code section 65858, the City enacted a moratorium prohibiting the outdoor cultivation of marijuana and prohibiting the sale of non-medical marijuana on November 15, 2016. Thereafter, the City Council extended the moratorium for an additional 10 months and 15 days on December 13, 2016.

11. The purpose of the moratorium was to give the City an opportunity to study and develop regulations to address the impacts of outdoor cultivation of marijuana and also to study the potential impacts and establish licensing and zoning to regulate the sale of non-medical marijuana. Such studies have been completed and regulations have been developed, and the moratorium is no longer necessary and should therefore be ended.

Section 2. Repeal and Enactment. Chapter 18.34, Articles IV and V, sections 18.34.120 – 220, inclusive, of the City of Lincoln Municipal Code are hereby repealed upon the effective date of this ordinance and re-enacted as Chapter 18.34, Article IV, sections 18.34.120-18.34-200 to read as follows:

Article IV. Marijuana Regulation

18.34.120 – Purpose.

It is the purpose and intent of this chapter to regulate personal cultivation and prohibit all commercial cultivation and sale of recreational and medical marijuana to the extent permissible by law in order to promote the health, safety, moral, and general welfare of the residents and businesses of the City of Lincoln.

18.34.130 – Definitions.

For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates otherwise. If a word is not defined in this chapter, the common and ordinary meaning of the word shall apply.

“Accessory Structure” means a structure that is accessory to a principal residential structure and customarily a part thereof, which is clearly incidental and secondary to the principal structure and is significantly smaller in area than the principal structure and does not change the character of the principal structure or the principal use of the primary structure. An Accessory Structure must be a fully-enclosed space within a lawfully permitted building that complies with the California Building Code (“CBSC”), as adopted in the City of that has a complete roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, is accessible only through one or more lockable doors, and is not visible from a public right-of-way. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California building, electrical, and fire codes as adopted in the City of Lincoln and all provisions of this Ordinance. A garage, whether attached or detached and temporary buildings such as a temporary shed, greenhouse, pre-fabricated structures or other non-permanent and non-permitted structures are not Accessory Structures under this Ordinance.

“Authorized grower” means a person twenty-one years and older who is authorized by, and in compliance with state law to cultivate marijuana indoors for personal or medical use. Authorized grower also means a person eighteen years and older who is a qualified patient, as that term is described in Health and Safety Code section 11362.77.

“Child care center” means any licensed child care center, daycare center, or child care home, or any preschool.

“Commercial marijuana business” includes the commercial cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, distribution, delivery or sale of marijuana and marijuana products as provided for in Business and Professions Code section 26000, et seq.

“Cultivation” means the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.

“Delivery of medical marijuana” means the commercial transfer of medical marijuana or cannabis products from a dispensary, up to an amount determined by the Bureau of Medical Cannabis Regulation, to a primary caregiver or qualified patient as defined in Section 11362.7 of the California Health & Safety Code, or a testing laboratory. Delivery also includes the use by a dispensary or any technology platform owned and controlled by the dispensary or independently licensed that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a

licensed dispensary of medical cannabis or medical cannabis products as defined in California Business and Professions Code section 19300.5(m).

"Legal parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Section 66410, et seq. of the Government Code).

"Marijuana" shall mean any or all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not, the seeds thereof, the resin or separated 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, including marijuana infused in foodstuff or other ingestible or consumable product containing marijuana. The term "marijuana" shall also include "medical marijuana" as defined in California Health and Safety Code section 11362.5 and "medical cannabis," "medical cannabis product" and "cannabis product" as defined in California Business and Professions Code section 19300.5 (af).

"Marijuana dispensary" means any business, office, store, facility, location, retail storefront, or wholesale component of any establishment, cooperative or collective that delivers medical marijuana as defined in California Business and Professions Code section 19300.5(m), or as may be amended that dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the purposes set forth in California Health and Safety Code section 11362.5, or as may be amended.

"Medical marijuana" means marijuana used for medical purposes in accordance with the Compassionate Use Act (Health and Safety Code § 11362.5) and the Medical Marijuana Program Act (Health and Safety § 11362.7 et. seq.)

"Mobile marijuana dispensary" means any clinic, cooperative, club, business, group or person which transports or delivers, or arranges the transportation or delivery, of medical marijuana or medical marijuana products to a person or entity. Mobile marijuana dispensary shall not include deliveries of medical marijuana made by a permitted, lawful marijuana dispensary, operating under state law and the provisions of this chapter, to a qualified patient or primary caregiver.

"Premises" means a single, legal parcel of property. Where contiguous legal parcels are under common ownership or control, such contiguous legal parcels shall constitute a single "premises" for purposes of this chapter.

“Primary caregiver” means a “primary caregiver” as defined in Section 11362.7(d) of the Health and Safety Code.

“Residential structure” means any building or portion thereof legally existing which contains living facilities, including provisions for sleeping, eating, cooking and sanitation on a premises or legal parcel located within a residential zoning district.

"Smoking" means inhaling, exhaling, burning or carrying any lighted combustible substance containing marijuana in any manner or in any form and use of electronic devices with electrical ignition or vaporization (e-cigarettes/cigars or similar devices) with marijuana or its byproducts in the device.

18.34.140 – Marijuana dispensaries and commercial marijuana businesses prohibited. Any land use related to marijuana that is not specifically permitted in this Article is hereby prohibited, including but not limited to marijuana dispensaries, including mobile marijuana dispensaries, and commercial marijuana businesses. Such uses are prohibited in all zones, districts, properties, and areas within the city. No person or entity shall operate or permit the operation of a marijuana dispensary or commercial marijuana business in or upon any public or private property or premises within the city. The city shall not issue, approve, or grant any permit, license, or other entitlement for the establishment or operation of a marijuana dispensary or commercial marijuana business in any zoning district.

18.34.150 – Marijuana delivery prohibited. Delivery of marijuana and medical marijuana, as defined in Section 18.34.130, is prohibited and it shall be unlawful and violation of this chapter for any person to deliver marijuana within the city. This section does not prohibit the delivery of medical marijuana to qualified patients by their primary caregiver.

18.34.160 – Outdoor Cultivation prohibited. It is hereby declared to be unlawful, a public nuisance, and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within any zoning district in the city to cause or allow such premises to be used for the outdoor cultivation of marijuana plants.

18.34.170 – Indoor Cultivation for personal use. Indoor cultivation of no more than six marijuana plants and in a total area of not greater than fifty (50) square feet and only for personal, non-commercial use shall be permitted subject to the following conditions.

A. Locations Permitted.

1. It is unlawful and a public nuisance for any person to cultivate marijuana inside any residential structure or Accessory Structure without a marijuana cultivation permit issued by the Chief of Police or his or her

designee pursuant to Section 18.34.190 to ensure compliance with the requirements of this Chapter.

2. Cultivation of marijuana is prohibited in all zones within the city except the following residential zones: R-1 (Single-Family Residential), R-2 (Duplex Residential), R-3 (Multiple Residential), R-E (Residential Estate), LDR (Low-Density Residential), MDR (Medium-Density Residential) and HOR (High-Density Residential).

3. There shall be no exterior visibility or evidence of marijuana cultivation outside the private residence or Accessory Structure from the public right-of-way, including, but not limited to, any marijuana plants, equipment used in the growing and cultivation operation, and any light emanating from cultivation lighting.

B. Minimum Standards. The indoor cultivation of non-commercial marijuana in a residential zone shall only be conducted within a private residential structure, or Accessory Structure conforming to the following minimum standards:

1. No more than six marijuana plants in an area not greater than fifty (50) square feet, are permitted for indoor personal cultivation within a residence or Accessory Structure. The total combined indoor cultivation on any parcel with a private residence and an Accessory Structure shall not exceed 50 square feet. For purposes of this ordinance the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live plants on the premises.

2. The Building Official shall consult with the Director of Development Services and Chief of Police, or his or her designee, in consideration of any building permit application seeking a building permit for the construction or alteration of any residence for the purposes of marijuana cultivation.

3. Indoor grow lights shall not exceed one thousand two hundred (1,200) watts each and shall comply with the California Building, Electrical, and Fire Codes as adopted by the city. Gas products (including, without limitation, CO₂, butane, propane, and natural gas), or generators shall not be used within any structure used for the cultivation of marijuana.

4. The residence shall include a fully functional and usable kitchen, bathroom, and bedroom areas for their intended use by the resident authorized grower, and the premises shall not be used primarily or exclusively for marijuana cultivation.

5. The authorized grower shall reside full-time in the residence where the marijuana cultivation occurs.

6. Nothing in this ordinance shall prohibit an owner of a residential structure or Accessory Structure from prohibiting the growing of marijuana on his or her property and as provided in Section 18.34.190, a property owner's written consent to the cultivation of marijuana at the premises, if different from the authorized grower is required.

7. Marijuana cultivation for sale is prohibited.

8. The area used for cultivating marijuana shall not be accessible to persons under twenty one (21) years old.

9. A minimum set back of ten (10) feet from the property line is required for an area in which marijuana is cultivated in a residential structure or Accessory Structure.

10. Any fully enclosed and secure Accessory Structure or residential structure used for the cultivation of non-medical marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure and that shall comply with the building regulations of the City of Lincoln Municipal Code.

18.34.190 – Cultivation permit. Prior to commencing any marijuana cultivation, the person(s) owning, leasing, occupying, or having charge or possession of any legal parcel or premises where marijuana cultivation is proposed to occur must obtain a marijuana cultivation permit from the Chief of Police or his or her designee, to ensure compliance with the requirements of this Chapter.

A. Permit Requirements. The following information will be required with the initial permit application and subsequent permit extensions:

1. The physical site address of where the marijuana will be cultivated.

2. The name of each person owning, leasing, occupying, or having charge of any legal parcel or premises where marijuana will be cultivated.

3. Property owner's written consent to the cultivation of marijuana at the premises, if different from the authorized grower.

B. Permit Duration. The initial permit shall be valid for two (2) years, and thereafter may be extended in increments of two (2) years upon the determination by the Chief of Police or his or her designee, to ensure the standards and conditions set forth in this Article are being met.

C. Adjudication of Permits by the Chief of Police. The Chief of Police may deny an application for a marijuana cultivation permit, or extension thereof, that does not demonstrate satisfaction of the minimum requirements of this chapter.

D. Permit Fees. The City may establish, by resolution, a fee or fees required to be paid upon filing of an application for permit(s) as provided by this chapter, which fees shall not exceed the reasonable cost of administering this chapter.

18.34.200 – Enforcement. Violations of this chapter shall constitute a public nuisance and may be enforced pursuant to the provisions of Chapters 1.16, 1.18, and 1.20, or any other applicable law. Violations of this Ordinance shall be subject to fines of not less than five hundred (\$500.00) dollars as provided in Section 12.20.020(d) or as otherwise provided by City Council Resolution.

Section 3. End Moratorium.

A. Pursuant to Government Code section 65858, the City enacted a moratorium prohibiting the outdoor cultivation of marijuana and prohibiting the sale of non-medical marijuana on November 15, 2016. Thereafter, the City Council extended the moratorium for an additional 10 months and 15 days on December 13, 2016.

B. The purpose of the moratorium was to give the City an opportunity to study and develop regulations to address the impacts of outdoor cultivation of marijuana and also to study the potential impacts and establish licensing and zoning to regulate the sale of non-medical marijuana. Such studies have been completed and regulations have been developed.

C. Therefore, the City Council hereby ends the moratorium prohibiting the outdoor cultivation of marijuana and prohibiting the sale of non-medical marijuana that was enacted on November 15, 2016 on the effective date of this ordinance.

Section 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Lincoln City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 6. Effective Date and Publication. This ordinance shall take effect thirty (30) days after its passage. Within fifteen (15) days of its passage, this ordinance shall be published once in the *Lincoln News Messenger*, a newspaper of general circulation within the City. In lieu of publication of the full text of this ordinance within fifteen (15) days after its passage, a summary of this ordinance may be published at least five (5)

days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to Government Code Section 36933(c)(1).

This Ordinance was **PASSED and ADOPTED** by the following vote of the City Council of the City of Lincoln on September 26, 2017.

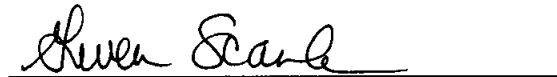
AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:
ABSTAIN: Councilmembers:

Nader, Hydrick, Karleskint, Gilbert
Joiner

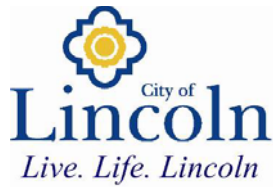


Peter Gilbert, Mayor

ATTEST:



Gwen Scanlon, City Clerk



RESIDENTIAL INDOOR MARIJUANA CULTIVATION APPLICATION

Pursuant to California Health and Safety Code Section 11362.2, adults are allowed to cultivate up to 6 marijuana plants for personal use. Pursuant to City ordinance, personal cultivation of marijuana plants is only allowed to occur inside a private residence or inside an accessory structure to a private residence located on the same property as the private residence, with approval of a Residential Indoor Marijuana Cultivation Permit by the City. \$50.00 is due upon submission of this permit.

Each person seeking to cultivate marijuana plants for personal use is required to complete this application.

1. APPLICANT SEEKING PERMISSION TO CULTIVATE

Name Phone Number

2. PHYSICAL SITE WHERE CULTIVATION WILL OCCUR

Property Address APN#

3. NAME OF EACH PERSON OWNING, LEASING, OCCUPYING, OR HAVING CHARGE OF ANY LEGAL PARCEL OR PREMISES WHERE MARIJUANA WILL BE CULTIVATED

Name Name

Name Name

Name Name

Name Name

4. PROPERTY OWNER CONSENT

If the applicant is not the owner of the property where marijuana will be cultivated, the property owner must give consent to the cultivation of marijuana at the premises (see attached).

5. PERMIT DURATION

Upon approval, the initial permit shall be valid for two (2) years, and thereafter may be extended in increments of two (2) years upon the determination by the Chief of Police or his or her designee, to ensure the standards and conditions set forth in the Lincoln Municipal Code are being met.

6. ADJUDICATION OF PERMITS BY THE CHIEF OF POLICE

The Chief of Police may deny an application for a marijuana cultivation permit, or extension thereof, that does not demonstrate satisfaction of the minimum requirements of the Lincoln Municipal Code.

7. SIGNATURE/ACKNOWLEDGMENT

The information provided with this application is true and correct to the best of my knowledge and belief. I have read and understand the City of Lincoln's requirements as set forth in Sections 18.34.120 – 220 of the Lincoln Municipal Code and I acknowledge that I am personally responsible to make myself aware of and to comply with all applicable laws and regulations of the City, the State of California, and the United States of America, with respect to the subject matter of this application. I am the owner of the listed property or have the owner's permission to cultivate marijuana as evidenced by the attached notarized OWNER/LANDLORD USE DISCLOSURE AND AUTHORIZATION FOR INDOOR MARIJUANA CULTIVATION document and the property is my primary, legal residence as required under the City's Municipal Code.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Property Owner Signature

Date

Applicant Signature

Date

OFFICE USE ONLY

RESIDENTIAL INDOOR MARIJUANA CULTIVATION PERMIT

DENIED

The applicant does not demonstrate satisfaction of the minimum requirements set forth in Lincoln Municipal Code 18.34.120 – 220 and has been denied a permit for Residential Indoor Marijuana Cultivation.

APPROVED

The applicant demonstrates satisfaction of the minimum requirements set forth in Lincoln Municipal Code 18.34.120 – 220 and has been permitted for Residential Indoor Marijuana Cultivation. This permit is valid for two years from the date listed below.

Chief of Police

Date

Permit issued by Lincoln Police Department, 770 7th St., Lincoln CA 95648 916-645-4040

**CITY OF LINCOLN
OWNER/LANDLORD USE DISCLOSURE AND AUTHORIZATION
FOR INDOOR MARIJUANA CULTIVATION**

I, _____, am the legal owner/landlord of the real property
(Name of legal owner/landlord)

Located at _____ in Lincoln, California.
(Address of the Property)

I hereby authorize the Residential Indoor Cultivation Permit Applicant _____
(Name of Applicant/Tenant)

to use this property to cultivate marijuana indoors in accordance with Lincoln Municipal Code Section 18.34.120 - 220.

(Signature of legal owner/landlord) (Printed Name of legal owner/landlord)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this _____ day of _____, 20____, Lincoln, California.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF PLACER)

On _____, 20____ before me, _____, Notary

Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature (Seal)

ATTACHMENT 3

ORDINANCE 17-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DELETING EXISTING MEDICAL MARIJUANA REGULATIONS AND REPLACING THEM WITH A NEW CHAPTER 17.84 THAT WILL BE ADDED TO TITLE 17 OF THE COVINA MUNICIPAL CODE TO PROHIBIT COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL), AND OUTDOOR CANNABIS CULTIVATION, AND TO ESTABLISH REASONABLE REGULATIONS REGARDING INDOOR CANNABIS CULTIVATION, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(B)(3) OF THE CEQA GUIDELINES

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 Codified as California Health and Safety Code section 11362.5 – The Compassionate Use Act of 1996 (CUA); and

WHEREAS, in 2004, the Legislature enacted Senate Bill 420 (codified as California Health & Safety Code Section 11362.7, *et seq.*, and referred to as the “Medical Marijuana Program” (MMP) to clarify the scope of Proposition 215 and to provide qualified patients and primary caregivers who collectively or cooperatively cultivate marijuana for medical purposes with a limited defense to certain specified State criminal statutes. Assembly Bill 2650 passed in 2010 and Assembly Bill 1300 passed in 2011 amending the MMP to recognize the authority of local governments to “adopt ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances; and

WHEREAS, the California Supreme Court has established that neither the CUA nor the MMP preempt a local ban on medical marijuana dispensaries in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.*, 56 Cal.4th 729 (2013); and

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. § 801, *et seq.*, classifies marijuana as a Schedule 1 Drug, defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana; and

WHEREAS, on October 9, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), effective January 1, 2016, which established a state licensing system for medical cannabis cultivation, manufacturing, delivery, testing, and dispensing, and created licensing requirements and regulations. Under the MCRSA, cities and counties could ban all commercial medical cannabis activity; and

WHEREAS, on November 8, 2016, a majority of California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA makes it lawful for individuals 21 years of age and older, to possess, process, transport, purchase, obtain, or give away, to persons 21 years of age or older, without any compensation whatsoever, up to 28.5 grams of cannabis or not more than eight grams of cannabis in the form of concentrated cannabis contained in cannabis products. The AUMA also makes it lawful for individuals 21 years of age and older, to possess, plant, cultivate, harvest, dry or process not more than six living cannabis plants and possess the cannabis produced by the plants. Further, the AUMA makes it lawful for individuals 21 years of age and older, to smoke or ingest cannabis or cannabis products. Portions of the AUMA took effect the day after the election, specifically non-medical cannabis use by adults, and cannabis cultivation in private residences; and

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity could operate in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a cannabis business if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to cannabis businesses beginning January 1, 2018; and

WHEREAS, the MAUCRSA retains the provisions of the AUMA that allows local governments to reasonably regulate cultivation through zoning and other local laws, and to ban outdoor cultivation outright. The MAUCRSA requires local governments to allow limited indoor cultivation in private residences; and

WHEREAS, on September 3, 2013, the City adopted Ordinance No. 13-2025 prohibiting medical marijuana dispensaries and mobile marijuana dispensaries in the City, and on September 15, 2015 adopted Ordinance No. 2042 amending the definition of medical marijuana dispensaries to include marijuana cultivation and related activities, and on April 4, 2016 adopted Ordinance No. 16-2054 to prohibit the cultivation and delivery of medical marijuana in the City. On November 1, 2016, the City Council adopted Ordinance No. 16-2065, an urgency ordinance adopting a moratorium prohibiting all commercial non-medical marijuana activity, outdoor marijuana cultivation on private residences, and restricts indoor cultivation in private residences, and on December 6, 2016 adopted Ordinance No. 16-2070 extending Interim Ordinance No. 16-2065 to expire on September 17, 2017; and

WHEREAS, if the City fails to regulate or prohibit commercial cannabis activity, the City could face issues of preemption because a business engaged in commercial cannabis activity will not need to obtain a local license before obtaining a State license. The City has an overriding interest in planning and regulating the use of property within the City. Implicit in Ordinance 17-09

any plan or regulation is the City's interest in maintaining the quality of urban life and the character of the City's neighborhoods. Without stable, well-planned neighborhoods, areas of the City can quickly deteriorate, with tragic consequences to social, environmental and economic values; and

WHEREAS, the City Council finds there is a threat to the health, safety, and welfare of City residents arising from the risks associated with the manufacturing, processing, storing and wholesale and retail distribution of cannabis, whether medical or non-medical. Citywide prohibition of all commercial cannabis activities, from cultivation to point of sale, is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities; and

WHEREAS, as recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentrations of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, several California cities have reported negative impacts of cannabis processing and distribution uses, including offensive odors, illegal sales and distribution of cannabis, trespassing, theft, violent robberies and attempted robbery, and fire hazards; and

WHEREAS, until and unless the Department of Food and Agriculture establishes a track and trace program for reporting the movement of cannabis items through the distribution chain, the risk of crime from theft and burglary attendant to manufacturing and distribution facilities is significant. Until traceable, stolen product will have street value for sale to minors; and

WHEREAS, manufacturing of cannabis products can involve the use of chemicals and solvents, and as a result, the manufacture of hash oil concentrate, often added to edibles, drink and liquids, carries a significant risk of explosion due to the distillation process utilized to extract tetrahydrocannabinol. Major burn treatment centers at two hospitals in Northern California reported in 2015 that nearly 10 percent of severe burn cases were attributed to butane hash oil explosions, which was more than burn cases from car accidents and house fires combined; and

WHEREAS, all cannabis businesses are currently prohibited under the City's permissive zoning regulations. The City Council desires to enact this ordinance to expressly clarify that all commercial cannabis activity (both medical and non-medical) is prohibited in all zones throughout the City; and

WHEREAS, this ordinance is not a project subject to the California Environmental Quality Act (CEQA) because it does not have the potential to create a physical environmental effect.

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 17.04.414.5 (Medical marijuana dispensary.) of Chapter 17.04 (Definitions and standards) of Title 17 (Zoning) of the Covina Municipal Code is hereby deleted in its entirety.

SECTION 2. Section 17.60.025 (Unlisted and unpermitted use – Medical marijuana dispensary – Public nuisance declared – Violations.) of Chapter 17.60 (Permitted uses) of Title 17 (Zoning) of the Covina Municipal Code is hereby deleted in its entirety.

SECTION 3. Chapter 17.84 (Compliance and Penalties) of Title 17 (Zoning) of the Covina Municipal Code is hereby renumbered as Chapter 17.85.

SECTION 4. A new Chapter 17.84 (Cannabis Prohibitions and Regulations) is added to Title 17 (Zoning) of the Covina Municipal Code to read as follows:

**Chapter 17.84
CANNABIS PROHIBITIONS AND REGULATIONS**

Sections:

- 17.84.010 Purpose.**
 - 17.84.020 Definitions.**
 - 17.84.030 Prohibitions.**
 - 17.84.040 Exceptions.**
 - 17.84.050 Indoor cultivation – compliance standards.**
 - 17.84.060 Prohibition in public places.**
 - 17.84.070 Violations and penalties.**
-
- 17.84.010 Purpose.**

The purpose and intent of this chapter is to prohibit commercial cannabis activity within the city limits. Under the Federal Controlled Substances Act, cannabis is classified as a “Schedule 1 Drug” which is defined as a drug or other substance that has a high potential for abuse and no medical benefit. Furthermore, the Federal Controlled Substance Act makes it unlawful for any person to cultivate, or dispense cannabis. The Federal Controlled Substance Act contains no statutory exemption for the possession of cannabis for any purpose. Nothing in this chapter shall preempt or make inapplicable any provision of State or Federal law.

In addition, the prohibition of all commercial cannabis activity within the city limits will help protect the public health, safety and general welfare of the city and its residents. There is evidence of an increased incidence of crime-related secondary impacts in locations associated with cannabis dispensaries, cultivation of cannabis and the mobile delivery of cannabis which is contrary to policies that are intended to promote and maintain the public’s health, safety and welfare. This chapter will help preserve the city’s law enforcement services, in that monitoring and addressing the negative secondary effects and adverse impacts will likely burden the city’s law enforcement resources.

17.84.020 Definitions.

As used in this chapter:

A. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, packaging, transportation, delivery or sale of cannabis and cannabis products for non-medical, medical or any other purpose, and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code or any other provision of State law that regulates the licensing of cannabis businesses.

B. "Concentrated cannabis" 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.

C. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

D. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. Delivery also includes the use by a retailer of any technology platform owned and controlled by the retailer.

E. "Edible cannabis" means food or ingestible items made with cannabis or infused with cannabis oils.

F. "Fully enclosed and secure structure" means a space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more lockable doors and inaccessible to minors. The fully enclosed and secure structure must have valid electrical, plumbing, and building permits, if required by other provisions of this Code.

G. "Indoors" means within a fully enclosed and secure structure.

H. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

I. "Cannabis" means all parts of the plant *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, and any product containing cannabis. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes. "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. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code Section 11018.5.

J. "MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act, as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

K. "Outdoors" means any location that is not within a fully enclosed and secure structure.

L. "Operation" means any effort to locate, operate, own, lease, supply, allow to be operated, or aid, abet or assist in the operation of commercial cannabis activity.

M. "Person" means any person, firm, corporation, partnership, joint venture, limited liability company, collective, cooperative, non-profit, trust, estate, association, club, receiver, syndicate, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer or salesperson.

N. "Possession" means to have, own, control, or possess.

O. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling that is lawfully permitted to be used as a residence.

17.84.030 Prohibitions.

A. The delivery of cannabis within city limits by any means is prohibited.

B. Commercial cannabis activity, whether or not for profit, is expressly prohibited in all zones, all specific plan areas, and all overlay zones in the city. No person shall establish, operate, maintain, conduct or allow commercial cannabis activity anywhere within the city. No application for a building permit, conditional use permit, business license, or any other entitlement authorizing the establishment, operation, maintenance, development, or construction of any use that allows for commercial cannabis activity shall be approved.

C. Paragraph B of this section shall prohibit all activities for which a State license is required pursuant to MAUCRSA, as the same may be amended from time to time. Accordingly, the city shall not issue any city permit, license or other entitlement for any activity for which a State license is required under MAUCRSA, as the same may be amended from time to time. The city shall also not issue any temporary local license to a non-profit pursuant to provisions of California Business and Professions Code section 26070.5.

D. The outdoor cultivation of cannabis by any person, including a primary caregiver, qualified patient or person with identification card as those terms are defined in California Health and Safety Code section 11362.7, is prohibited within the city limits.

E. Indoor cannabis cultivation that does not meet the standards set forth in Section 17.84.050 is prohibited.

17.84.040 Exceptions.

A. To the extent that the following activities are permitted by State law, nothing in this chapter shall prohibit a person 21 years of age or older from:

(1) possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

(2) possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;

(3) smoking or ingesting cannabis or cannabis products in a manner consistent with California Health and Safety Code section 11362.3;

(4) possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons 21 years of age or older without compensation whatsoever; or

(5) engaging in the indoor cultivation of six (6) or less live cannabis plants within a single private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secured, to the extent such cultivation is authorized by California Health and Safety Code sections 11362.1 and 11362.2, and to the extent that such cultivation complies with Section 17.84.050.

B. This chapter shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

C. This chapter shall also not prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA.

17.84.050 Indoor cultivation – compliance standards.

The indoor cultivation of seven (7) or more cannabis plants in a private residence is prohibited. The indoor cultivation of six (6) or fewer cannabis plants in a private residence shall be permitted to the extent permitted by State law, and subject to the following standards:

A. A person may not cultivate cannabis without first registering on forms available at the Covina Police Department, and paying the registration fees that shall be set by resolution of the City Council. The registration form shall contain language stating that the registrant shall acknowledge that he or she will cultivate cannabis in conformity with the standards set forth herein, and shall allow, with reasonable notice, access by the City and/or the Police Department to his or her private residence to confirm compliance with the standards set forth in this Chapter, and all applicable local and State laws.

B. The maximum number of cannabis plants that may be cultivated per private residence is limited to six (6), regardless of the number of persons that reside in the private residence. Only one person may register for each private residence, and a person may not register at more than one private residence in the city.

C. The cultivation shall only occur either inside of a private residence, or inside of a fully enclosed and secure structure located upon the grounds of a private residence.

D. Cultivation lighting shall not exceed 600 watts. The cultivation shall not draw more power than the structure and electrical service is designed to handle and shall not constitute a fire hazard.

E. The use of compressed gases, including but not limited to carbon dioxide and butane, for cultivation or processing is prohibited.

F. The property shall remain at all times a private residence with a legal and functioning kitchen, bathrooms and bedrooms for their intended use and such cultivation shall not prevent the property's primary use as a residential use. The cultivation activities shall be conducted in a manner that maintains a clear and unobstructed path to outdoor window(s) and interior door(s) at all times.

G. If cultivation occurs in a garage, it shall be conducted in a manner that does not reduce required off street parking.

H. The cultivation area shall include an adequate ventilation and filtration system to ensure that odors from cultivation are not detectable beyond the subject property, and shall be designed to prevent mold and moisture in order to protect the health and safety of persons inhabiting the residence.

I. Any chemicals used for cultivation shall be properly and safely stored outside the habitable area of the residence.

J. The cultivation shall not use more water than is reasonably required to cultivate the maximum number of permitted cannabis plants.

K. The cultivation area shall comply with all applicable provisions of the Building and Fire Codes.

L. The cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts and shall not be hazardous due to the use or storage of materials, processes, products or wastes, or from other actions related to the cultivation.

M. The maximum plant height of any indoor cultivated cannabis plant shall not exceed six (6) feet, as measured from the base of the floor to the highest point of the cannabis plant(s).

N. The fully enclosed structure where the cannabis cultivation is occurring must have valid building, electrical, and plumbing permits, if applicable.

O. Any cannabis cultivation that does not meet the requirements set forth in this subsection is prohibited, is unlawful and constitutes a public nuisance.

17.84.060 Prohibition in Public Places.

The smoking, consumption, and use of cannabis in any and all forms shall be prohibited in all public places. Public places is defined herein to include, but is not limited to, all public parks, buildings and other facilities owned, leased or operated by or on behalf of the city. Public

places shall include, but is not limited to, all municipal parking lots, public sidewalks, trails, and streets and roadways.

17.84.070 Violations and penalties.

In addition to any other enforcement permitted by this Chapter 17.85 of the Covina Municipal Code, the city attorney may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this chapter, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in Chapter 17.85 of the Covina Municipal Code, this Chapter 17.84 does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 *et seq.* or Section 11362.1 *et seq.*, as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Chapter 17.85 of the Covina Municipal Code and any penalties set forth in state law, the maximum penalties allowable under state law shall govern."

SECTION 5. Planning Department Staff has determined that the proposed Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Ordinance to prohibit commercial cannabis activity and outdoor cannabis cultivation, and to regulate indoor cannabis cultivation will have a significant effect on the environment. Placing such a restriction on the use of property will not result in a permanent alteration of property nor the construction of any new or expanded structures. The City Council has reviewed Planning Department Staff's determination of exemption, and based on its own independent judgment, concurs with Staff's determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

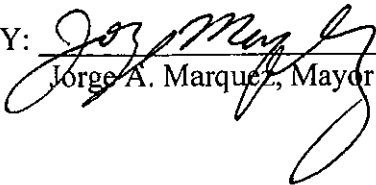
SECTION 6. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 7. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Covina hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 8. The City Clerk shall certify to the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a local weekly newspaper of general circulation and which is hereby designated for that purpose.

PASSED, APPROVED and ADOPTED this 5th day of September, 2017.

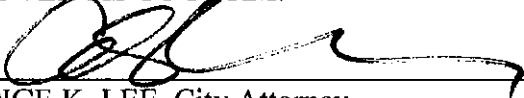
City of Covina, California

BY:  _____
Jorge A. Marquez, Mayor

ATTEST:

 _____
SHARON F. CLARK, Chief Deputy City Clerk

APPROVED AS TO FORM:

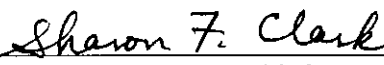
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CANDICE K. LEE, City Attorney

CERTIFICATION

I, Sharon F. Clark, Chief Deputy City Clerk of the City of Covina, do hereby certify that Ordinance 17-09 was introduced for first reading at a regular meeting on the 15th day of August, 2017. Thereafter, said Ordinance was duly approved and adopted at a regular meeting of said City Council on the 5th day of September, 2017, by the following vote:

AYES:	COUNCIL MEMBERS:	DELACH, KING, LINARES, ALLEN, MARQUEZ
NOES:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE

Dated: September 6, 2017

 _____
SHARON F. CLARK, Chief Deputy City Clerk

Section 26-88-258 Cannabis Cultivation – Personal

(a) **Purpose.** This section establishes development criteria and operating standards for personal cannabis cultivation for medical or adult use. Cultivation of cannabis for personal use shall be subject to the following standards and limitations as allowed in the base zone in compliance with Section 26-88-250. These standards shall apply to any cannabis growing environment including, but not limited to, outdoor, mixed light/greenhouse or indoor environments.

- 1) **Residency Requirement.** Cultivation of cannabis for personal use is limited to parcels with a residence and a full-time resident on the premises where the cultivation is occurring.
- 2) **Maximum Personal Cultivation.** Cultivation of cannabis for personal use is limited to no more than 100 square feet per residence, of which up to 6 plants can be cultivated for adult use purposes.
- 3) **Prohibition of Volatile Solvents.** The use of volatile solvents as defined herein to manufacture cannabis products is prohibited.
- 4) **Outdoor Personal Cultivation.** Cannabis plants shall not be located in front and side yard setback areas and shall not be visible from a public right of way. Outdoor cannabis cultivation is prohibited on parcels with multi-family units or in the medium and high density residential zones (R2 and R3).
- 5) **Indoor and Mixed-Light Personal Cultivation.**
 - i. Indoor and mixed light personal cultivation must be contained within an enclosed accessory structure, greenhouse or garage. Cultivation within a structure approved for residential use as set forth in Chapter 7 of the County Code is prohibited, unless there is no other feasible alternative location.
 - ii. All structures (including greenhouses) used for cultivation must be legally constructed with all applicable permits such as grading, building, electrical, mechanical and plumbing.
 - iii. All structures associated with the cultivation shall not be located in the front yard setback area and shall adhere to the setbacks stated within the base zone. There shall be no exterior evidence of cannabis cultivation. Greenhouses shall be screened from the public right of way.
 - iv. All structures used for cultivation shall have locking doors or gates to prevent free access. All cultivation structures shall be equipped with odor control

filtration and ventilation systems adequate to prevent an odor, humidity, or mold.

- v. Light systems shall be fully shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
- vi. The use of generators is prohibited, except as emergency back-up systems.
- vii. All cultivation operators shall comply with the Best Management Practices for Cannabis Cultivation issued by the Agricultural Commissioner for management of wastes, water, erosion control and management of fertilizers and pesticides.

ORDINANCE NO. 17 - 008

AN ORDINANCE OF THE CITY OF DIXON AMENDING CHAPTER 6.12, MEDICAL MARIJUANA BUSINESSES, OF TITLE 6, REPEALING CHAPTER 11.13, MARIJUANA CULTIVATION, OF TITLE 11, AND AMENDING CHAPTER 18.03, CHAPTER 18.15, AND CHAPTER 18.16 OF TITLE 18 OF THE DIXON MUNICIPAL CODE

WHEREAS, on October 9, 2015, Governor Jerry Brown signed three bills into law (Assembly Bill 266, Assembly Bill 243, and Senate Bill 643), which are collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"). MCRSA established the first statewide regulatory system for medical cannabis businesses; and

WHEREAS, in 2016, the voters of California approved Proposition 64 entitled the "Control, Regulate and Tax Adult Use of Marijuana" ("AUMA"). AUMA legalized the adult-use and possession of cannabis by persons 21 years of age and older and the personal cultivation of up to six cannabis plants within a private residence; and

WHEREAS, On October 11, 2016, the City Council adopted Ordinance 16-009 to allow up to two medicinal cannabis dispensaries; and

WHEREAS, on November 8, 2016, Dixon voters approved Measure K, which authorized the City Council to impose a business license tax of up to fifteen percent (15%) of the gross receipts of any cannabis-related business; and

WHEREAS, in June of 2017, the City Council approved the circulation of a request for proposals to establish a Cannabis Pilot Program to evaluate potential City regulation of other cannabis businesses and gauge local interest in that regulation; and

WHEREAS, on June 27, 2017, Governor Jerry Brown signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which created a single regulatory scheme for both medical and adult-use cannabis businesses. MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether businesses engaged in commercial cannabis activity may operate in a particular jurisdiction; and

WHEREAS, the City Council finds that establishing a structure to regulate all cannabis businesses contemplated by state law is in the best interest of the health, welfare, and safety of the public;

NOW, THEREFORE, THE COUNCIL OF THE CITY OF DIXON DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6.12 is hereby amended to read as follows:

CHAPTER 6.12 Cannabis Business Pilot Program

6.12.010 Title.

These regulations shall be known and cited as the "Cannabis Business Code" and may hereinafter be referred to as the "Code."

6.12.020 Purpose and intent.

The purpose and intent of this Code is to establish a cannabis business pilot program containing a comprehensive set of regulations with regulatory permits applicable to the operation of cannabis businesses and to protect the health, safety, and welfare of the residents of the City of Dixon. The regulations in this Code do not interfere with a qualified patient's right to obtain, cultivate, and use medicinal cannabis as authorized under state law, nor do they criminalize the possession or cultivation of cannabis by qualified patients or their primary caregivers. Cannabis businesses shall comply with all provisions of the Dixon Municipal Code, state law and regulations, and all other applicable local codes and regulations. It is neither the intent nor the effect of this Code to condone or legitimize the illegal use or consumption of cannabis under federal, state, or local law.

6.12.030 Definitions.

- A. "Applicant" means a person that files an application to operate a cannabis business pursuant this Code.
- B. "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.
- C. "Business" means a profession, trade, occupation, gainful activity, and all and every kind of calling whether or not carried on for profit.
- D. "Cannabis" means all parts of the plant *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. "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.
- E. "Cannabis business" means any business engaged in commercial cannabis activity. "Cannabis business" does not include any of the following:

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1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the Health and Safety Code.
5. The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by Section 11362.7 of Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, Sections 11362.5 and 11362.765 of the Health and Safety Code.

F. "Cannabis cultivation business" means any cannabis business that, pursuant to a Type 1, Type 1A, Type 1B, Type 1C, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, Type 5B, or Type 12 state cannabis license, cultivates cannabis or cannabis products.

G. "Cannabis dispensary" means a business at a particular location or real property involving the distribution of cannabis to qualified patients, primary caregivers, persons with identification cards, or customer pursuant to a Type 10 state cannabis license that is consistent with state law and this chapter.

H. "Cannabis manufacturing business" means any cannabis business that, pursuant to a Type 6, Type 7, or Type 12 state cannabis licenses manufactures cannabis or cannabis products.

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

J. "Cannabis testing laboratory" means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license.

K. "Commercial cannabis activity" includes the cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis or cannabis products that requires a state license.

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L. "City" means the City of Dixon, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged, or reincorporated form.

M. "City Manager" has the same meaning as that term is described in Chapter 2.09 of the D.M.C.

N. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

O. "Identification card" means a document issued by the State Department of Health Services that document identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

P. "Juvenile" means any natural person who is under the age of eighteen (18) years of age.

Q. "License" means a state license issued pursuant to Cal. Bus. & Prof. Code § 26000.

R. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

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

T. "Primary caregiver" has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

U. "Qualified patient" has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

6.12.040 State and local requirements.

A. Any cannabis business that does not have the applicable state license is prohibited within the city.

B. Any cannabis business allowed in the city shall obtain all of the following:

1. A development agreement.
2. A conditional use permit pursuant to the procedure in Chapter 18.25. Any conditional use permit relating to the location of a cannabis business may be approved based on all of the following findings:
 - i. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of Title 18 of the D.M.C.

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- ii. The proposed use is consistent with the General Plan and any applicable specific plan.
- iii. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity.
- iv. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints.
- v. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.
- vi. The proposed project has been reviewed in compliance with the California Environmental Quality Act.

C. At the time of application to the city, every cannabis business applicant shall submit to the Community Development Director a copy of its license or license application required for its operation.

D. A cannabis business shall only be allowed to operate in the areas identified in Title 18 of the D.M.C.

6.12.050 Applications for a cannabis business.

A. A person may apply to operate a cannabis business by filing an application with the City Manager on a form provided by the City. Every completed application shall be filed with a filing fee established by resolution adopted by the City Council.

B. A person shall not knowingly make a false statement of fact or knowingly omit any information that is required in an application to operate a cannabis business.

6.12.060 Inspections and record retention.

A. Authority to inspect.

- 1. City officials or law enforcement may reasonably enter and inspect the cannabis business at any time between the hours of seven a.m. and nine p.m. on any day of the week or at any reasonable time to ensure compliance and enforcement of this Code.
- 2. City officials may inspect and demand copies of records maintained by the cannabis business, except for private medical records that shall be made available to law enforcement agencies only pursuant to a properly executed search warrant, subpoena, or court order.

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3. A person shall not refuse, impede, obstruct, or interfere with an inspection pursuant to this Code.

B. Records.

1. A cannabis business shall maintain accurate records of commercial cannabis activity for a minimum of seven (7) years in accordance with Chapter 16 (commencing with Section 2610) of Division 10 of the Business and Professions Code.

6.12.070 Commercial cannabis cultivation.

- A. A cannabis cultivation business may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis cultivation business shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. A cannabis cultivation business shall not cultivate outdoors.
- D. All cannabis cultivation businesses shall maintain any applicable license, conditional use permit, and comply with all of the following:
 1. Floor plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas.
 2. Site plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
 3. Statement of owner's consent. Written consent of the owner or landlord of the proposed site to operate a cannabis cultivation business, specifying the street address and parcel number.
 4. Security.
 - i. Security surveillance cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the cultivation site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least thirty (30) days. The video recordings shall be made available to the City upon request.

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- iii. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
- 5. Odor control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
- 6. Tax compliance. A cannabis cultivation business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
- 7. Cultivation site restricted. A cannabis cultivation business shall not open their cultivation site to the public. A cannabis cultivation business shall not 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 cannabis transporters. A juvenile shall not be on the cultivation site or operate a cannabis cultivation business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
- 8. 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.
- 9. Waste Management Plan. A cannabis cultivation business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed. If applicable, the plan shall include a description of measures to be taken relating to light bulb recycling.

6.12.080 Cannabis dispensaries.

- A. Up to two (2) cannabis dispensaries may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis dispensary shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. Any commercial cannabis activity related to delivery is prohibited unless that activity is performed by a cannabis dispensary authorized by this Code. The city reserves the right to prohibit a cannabis dispensary from performing delivery services.
- D. All cannabis dispensaries shall maintain any applicable license, conditional use permit, and comply with all of the following:

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1. Floor plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas.
2. Site plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
3. Statement of owner's consent. Written consent of the owner or landlord of the proposed site to operate a cannabis dispensary, specifying the street address and parcel number.
4. Security.
 - a. Security surveillance cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the dispensary site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - b. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least thirty (30) days. The video recordings shall be made available to the city upon request.
 - c. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
5. Odor control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
6. Tax compliance. A cannabis dispensary shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
7. 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.
8. Waste Management Plan. A cannabis cultivation business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

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6.12.090 Cannabis manufacturing.

- A. A cannabis manufacturing business may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis manufacturing business shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. All cannabis manufacturing businesses shall maintain any applicable license, conditional use permit, and comply with all of the following:
 - 1. Floor plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas. All manufacturing areas within a 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 cannabis manufacturing business.
 - 2. Site plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries.
 - 3. Statement of owner's consent. Written consent of the owner or landlord of the proposed site to operate a cannabis manufacturing business, specifying the street address and parcel number.
 - 4. Security.
 - a. Security surveillance cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the manufacturing site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - b. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least thirty (30) days. The video recordings shall be made available to the city upon request.
 - c. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
 - 5. Odor control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.

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6. Manufacturing site restricted. A cannabis manufacturing business shall not open their manufacturing site to the public. A cannabis manufacturing business shall not 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. A manager must be on the manufacturing site at all times that any other person, except for security guards, is on the site. A juvenile shall not be on the manufacturing site or operate a cannabis manufacturing business in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
7. Tax compliance. A cannabis manufacturing business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.
8. 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.
9. Waste Management Plan. A cannabis manufacturing business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

6.12.100. Cannabis Testing Laboratory.

- A. A cannabis testing laboratory may be permitted within city limits pursuant to a development agreement and conditional use permit.
- B. A cannabis testing laboratory shall only be allowed within a fully enclosed building in a district identified in Title 18 of the D.M.C.
- C. All cannabis testing laboratories shall maintain any applicable license, conditional use permit, and comply with all of the following:
 1. Floor plan. A scaled floor plan for each level of each building that makes up the business site, including the entrances, exits, walls, and operating areas.
 2. Site plan. A scaled site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas, and boundaries. The site plan shall comply with all of the following:
 - 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 business' managers and staff.
 - ii. Main entrance and lobby. The laboratory site shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance,

there shall be a lobby to receive persons into the site and to verify whether they are allowed in the testing areas.

- iii. 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.
 - iv. 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.
 - v. 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.
3. Statement of owner's consent. Written consent of the owner or landlord of the proposed site to operate a cannabis manufacturing business, specifying the street address and parcel number.
 4. Security.
 - i. Security surveillance cameras. Security surveillance cameras and a video recording system shall be installed to monitor all doors into the buildings on the laboratory site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the laboratory site. The recording system shall be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
 - ii. Security Video Retention. Video from the security surveillance cameras shall be recording at all times (twenty-four (24) hours a day, seven (7) days a week) and the recording shall be maintained for at least thirty (30) days. The video recordings shall be made available to the city upon request.
 - iii. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.
 5. Odor control. A detailed plan describing the air treatment system, or other methods that will be implemented to prevent cannabis odors from being detected outside the business site.
 6. Tax compliance. A cannabis manufacturing business shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.

7. Laboratory site restricted. A cannabis testing laboratory shall not open their laboratory site to the public. A cannabis testing laboratory shall not 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. A manager must be on the laboratory site at all times that any other person, except for security guards, is on the site. A juvenile shall not be on the laboratory site or operate a cannabis testing laboratory in any capacity, including, but not limited to, as a manager, staff, employee, contractor, or volunteer.
8. 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.
9. Waste Management Plan. A cannabis manufacturing business shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

6.12.110. Exemptions.

- A. A person twenty-one (21) years of age or older who cultivates, possesses, stores, or transports cannabis exclusively for his or her personal, adult-use pursuant to the limitations of state law is not engaged in commercial cannabis activity and is therefore exempt from the requirements of this Code.
- B. A qualified patient or primary caregiver who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute medical cannabis to any other person is not engaged in commercial cannabis activity and is therefore exempt from the requirements of this Code.

6.12.120 Violation and penalties.

- A. A violation of any provisions of this Code, or failure to comply with any of its requirements shall constitute a misdemeanor; except that, notwithstanding any other provision of this Code, a violation constituting a misdemeanor under this Code may, at the discretion of the City Attorney, be charged and prosecuted as an infraction.
- B. In addition to any other remedy allowed by this Code or law, any person who violates a provision of this Code is subject to the penalties in Chapter 1.06.
- C. Any person who violates a provision of this Code is liable for civil penalties of not less than two hundred fifty dollars (\$250.00) or more than twenty-five thousand dollars (\$25,000.00) for each day the violation continues.

D. Each person shall be charged with a separate offense for each day during which any violation of a provision of this Code is committed, continued or permitted by that person and shall, upon conviction, be punished accordingly.

E. All remedies prescribed under this Code shall be cumulative and the election of one or more remedies shall not bar the City from the pursuit of any other remedy for the purpose of enforcing the provisions hereof.

6.12.130 Cost Recovery.

A. The City shall be entitled to recover its abatement and enforcement costs incurred in obtaining compliance with this Code. Costs incurred by the city are recoverable even if a public nuisance, D.M.C, or other violation of law is corrected by the property owner or other responsible party.

B. The cost of abating a public nuisance or enforcing this Code shall either be a special assessment and lien on the subject property or the personal obligation of the owner of the subject property or the responsible party. If there is more than one responsible party, each party shall be jointly and severally liable for the costs.

C. For purposes of this Code, the following additional definitions shall apply:

1. "Abatement costs" include the actual and reasonable costs incurred by the city to abate a public nuisance. These costs include all direct and indirect costs to the city that result from the total abatement action, including but not limited to, investigation costs, costs to enforce the D.M.C. and any applicable State or County law, clerical and administrative costs to process paperwork, costs incurred to provide notices and prepare for and conduct administrative appeal hearings, and costs to conduct actual abatement of the nuisance. Costs include personnel costs, administrative overhead, costs for equipment such as cameras and vehicles, staff time to hire a contractor, and reasonable attorneys' fees incurred by City.
2. "Enforcement costs" include all actual and reasonable costs incurred by the city to enforce compliance with the D.M.C. and any applicable State, County, or city public health and safety law that are not included within abatement costs. Enforcement costs shall also include, but are not limited to, costs of fringe benefits for personnel, administrative overhead, costs of equipment, costs of materials, costs related to investigations, costs related to issuing and defending administrative or court citations, costs incurred investigating and abating violations of the D.M.C. or State or County law violations, and reasonable attorneys' fees related to these activities.
3. "Responsible party" means a person or entity responsible for creating, causing, committing, or maintaining the violation of this Code or State or County law.
4. "Subject property" means the real property that is the subject of any

abatement or enforcement action by the city for which the city incurred costs and seeks recovery under this Code.

6.12.140. Notice.

A. All notices required by this Code shall be deemed issued and served upon the date they are deposited in the mail, via certified mail, or the date on which personal service is provided.

B. A mailed notice shall be 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 address on the appeal form.

6.12.150. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Code or part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this code or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

6.12.160. Consistency with statewide regulation.

This Code shall be read consistent with any statewide regulation of cannabis that is promulgated by the California legislature or by voter approval in the future.

SECTION 2. Chapter 11.13 of Title 11 of the Dixon Municipal Code is repealed.

SECTION 3. Section 18.03.020 "Land Use and Zoning Matrix" is amended as follows:

**Chapter 18.03
LAND USE AND ZONING MATRIX**

A. The table set entitled "Summary of Uses in Commercial Zoning Districts" is amended to add a row as follows:

Uses in Commercial Zoning Districts	CN	CC	CH	CD	CS	PMU	PAO	PS	A	T
Cannabis⁽¹⁴⁾ Business		C	C		C	C	C	C	C	C

(14) A cannabis business, as defined by Section 6.12.030, may be allowed pursuant only to all of the following:

- (1) A conditional use permit pursuant to Chapter 18.25.
- (2) A development agreement pursuant to Chapter 6.12.
- (3) A cannabis business is prohibited from being located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center, as those terms are defined in Chapter 6.12, that is in existence at the time of application. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, day care center, or youth center to the closest property line of the lot on which the cannabis business is to be located without regard to intervening structures.

B. The table set entitled “Summary of Uses in Industrial Zoning Districts” is amended as follows:

Uses in industrial Zoning Districts	ML	MH
Cannabis Business	C ⁽⁷⁾	C ⁽⁷⁾

(7) A cannabis business, as defined by Section 6.12.030, may be allowed pursuant only to all of the following:

- A. A conditional use permit pursuant to Chapter 18.25.
- B. A development agreement pursuant to Chapter 6.12.
- C. A cannabis business is prohibited from being located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center, as those terms are defined in Chapter 6.12, that is in existence at the time of application. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school, day care center, or youth center to the closest

property line of the lot on which the cannabis business is to be located without regard to intervening structures.

- C. **Except as specifically amended in subsections A and B, the tables set forth in section 18.03.020 (Land use and zoning matrix) DMC remain unchanged and in full effect.**

SECTION 4. Chapter 18.15 “ML – LIGHT INDUSTRIAL DISTRICT” is amended as follows:

18.15.030 Conditional Uses

The following uses shall be permitted upon the granting of a Use Permit in accord with the provisions of Chapter 18.25.

- A. Any use listed in Section 18.15.02 which is located within two hundred fifty (250) feet of an R District.
- B. Outdoor storage when completely screened from view from a public street or highway. Such storage area must be accessory to a permitted use.
- C. Public buildings and grounds including emergency shelters.
- D. Lumber yards including planing or saw mills.

SECTION 5. Chapter 18.16 “MH – HEAVY INDUSTRIAL DISTRICT” is amended as follows:

18.16.030 Conditional uses in the heavy industrial zone

The following uses shall be permitted upon the granting of a use permit as provided in Chapter 18.25 DMC:

- A. Airports and heliports;
- B. Cement, lime, gypsum and plaster of Paris manufacture;
- C. Charcoal, lampblack and fuel briquettes manufacture;
- D. Chemical products manufacture;
- E. Coal, coke and tar products manufacture;
- F. Drop forges;
- G. Dumps and slag piles;
- H. Explosive and fireworks manufacture and storage;
- I. Fertilizer manufacture;
- J. Film manufacture;
- K. Fish products processing and packaging;

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- L. Garbage dumps;
- M. Gas manufacture or storage;
- N. Gas and oil wells;
- O. Gelatin, glue and size manufacture from animal or fish refuse;
- P. Insecticides, fungicides, disinfectants and similar industrial and household chemical compounds manufacture;
- Q. Incineration or reduction or dumping of garbage, offal and dead animals;
- R. Junkyards;
- S. Lard manufacture;
- T. Linoleum and oil cloth manufacture;
- U. Magnesium foundries;
- V. Manure, peat and topsoil processing and storage;
- W. Metal and metal ores reduction, refining, smelting and alloying;
- X. Motor vehicle wrecking yards;
- Y. Paint manufacture including enamel, lacquer, shellac, turpentine and varnish;
- Z. Paper mills;
- AA. Petroleum and petroleum products refining including gasoline, kerosene, naphtha and oil;
- BB. Petroleum and petroleum products storage;
- CC. Rifle ranges;
- DD. Rolling mills;
- EE. Soap manufacture including fat rendering;
- FF. Steam plants;
- GG. Stockyards, slaughter of animals;
- HH. Stone quarries, gravel pits, mines and stone mills;
- II. Storage of used building materials;
- JJ. Tallow manufacture;
- KK. Tanneries and curing and storage of rawhides;
- LL. Wood and bones distillation;
- MM. Wood pulp and fiber reduction and processing.

SECTION 6. If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7. This ordinance shall take effect thirty (30) after its passage by the City Council, following the affirmative vote of a majority of the members of the City Council. Within 15 days of its adoption by City Council, a summary of the ordinance shall be published in a newspaper of general circulation in the City of Dixon, State of California, which summary shall include the names of those Council Members voting for and against

the ordinance. A certified copy of the full text of such adopted ordinance or amendment shall be on file in the office of the City Clerk.

SECTION 8. CERTIFICATION OF COUNCIL ADOPTION AND APPROVAL. The foregoing Ordinance was introduced at a regular meeting of the Dixon City Council duly held on October 24, 2017, and was approved and enacted at a duly held regular meeting of the City Council of the City of Dixon held on November 28, 2017 by the following vote on roll call:

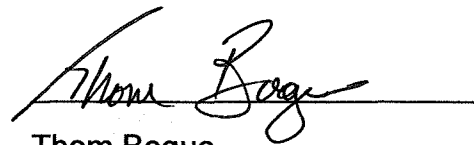
AYES: Bird, Hickman, Pederson, Bogue

NOES: Minnema

ABSTAIN: None

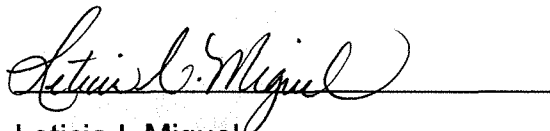
ABSENT: None

APPROVED:



Thom Bogue
Mayor of the City of Dixon

ATTEST:



Leticia I. Miguel
City Clerk of the City of Dixon