



## PLANNING COMMISSION STAFF REPORT

DATE: September 23, 2019

STAFF: Vicki Parker, Community Development Director  
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SUBJECT: **ZONING AMENDMENTS TO ALLOW FOR  
COMMERCIAL CANNABIS ACTIVITIES**

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### **REQUESTED ACTION**

Adopt a resolution recommending the City Council adopt amendments to Chapter 19 of the Municipal Code (Zoning) adding Section 19.34.066 and amending Table 2-7 of Section 19.12.030, Section 19.14.030(B) and Section 19.60.020 and finding the amendments exempt from CEQA pursuant to Guidelines Section 15061(b)(3) and California Business and Professions Code Section 26055(H).

### **PROJECT DESCRIPTION AND PLANNING COMMISSION ACTION**

City staff have been developing ordinances and resolutions needed to regulate the operation of commercial cannabis activities in the City. With purview over zoning, the Planning Commission is being asked to make a recommendation on proposed amendments to Chapter 19 (Zoning) of the Municipal Code. As structured, cannabis activities would be permitted through a licensing program which will reside in Chapter 8 (Licensing) of the Municipal Code. Due to the evolving nature of this emergent industry, the administrative processes associated with announcing available licenses, accepting applications for those licenses, selecting operators and establishing parameters for operations, have been placed in a Council resolution rather than Chapter 8. Both the proposed amendments to Chapter 8 and the draft Council resolution have been provided here in order to assist the Commission's deliberations and decision-making. However, only the amendments to Chapter 19, documented in the attached Planning Commission resolution, require an action from the Commission.

### **BACKGROUND**

Medical use cannabis has been legal in California since 1996 when voters enacted the Compassionate Use Act ("Act"). The Act provided qualified patients with defense against criminal charges for possession of a reasonable amount of cannabis needed to treat medical conditions. Seven years later, in 2003, the California Legislature adopted the Medical Marijuana Program Act ("MMPA"). The MMPA allowed for cooperative cultivation and distribution of medical cannabis through collectives and dispensaries. It also introduced and defined "qualified patients" and "primary caregivers." In 2015, the State enacted the Medical Marijuana Regulation and Safety Act ("MMRSA"), instituting a comprehensive state-level licensing and regulatory scheme for cultivation, manufacturing, distribution, transport, laboratory testing and dispensing of medical cannabis. Since then, MMRSA has been renamed the Medical Cannabis Regulation and Safety

Act (“MCRSA”). It legalizes and regulates for-profit commercial medical marijuana activity in the State and phased out the “nonprofit” collective model.

In November 2016, California voters passed Proposition 64, the Control Regulate and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational, or “adult use” cannabis for adults 21 years of age or older. That law mirrored MCRSA in most respects and created a new comprehensive regulatory and licensing structure for commercial, non-medical cannabis businesses. It also required cities and counties to permit adults 21 years of age and older to cultivate up to six (6) cannabis plants inside their residence.

Soon after, in June 2017, the legislature passed SB 94 in an attempt to better align regulations for medical and adult use cannabis. SB 94 repealed much of MCRSA and merged certain of its requirements with AUMA to create a single schema. The new regulatory system, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) is intended to regulate all commercial cannabis activity. The State developed the Bureau of Cannabis Control under the Department of Consumer Affairs. The Bureau, together with the Department of Food & Agriculture and the Department of Public Health, have written and adopted regulations for all of the various license types identified in SB 94 plus three other types that evolved in the rulemaking process.

The City currently has a one-year moratorium on all commercial cannabis activities to allow staff time to develop regulations to govern the types, locations and intensity of commercial cannabis facilities in the City. That moratorium ends November 14, 2019.

In May of this year, staff from the Community Development and Administrative Services Departments facilitated workshops before the Commission and the City Council to discuss potential cannabis operations and taxing. Feedback from those workshops indicated that the community may not be comfortable with the total number of outlets proposed (16) or the inclusion of retail cannabis storefronts. In addition, the taxation discussion indicated that the community desired additional time to consider the possibility of a cannabis business tax.

Because a tax would have needed to go on the November 2019 or March 2020 ballots, staff determined that there was insufficient time to complete additional public outreach prior to the election deadlines and no taxation is proposed in the current regulations. A cannabis business tax can be brought back for in the future for further discussion.

The attached ordinances and resolutions reduce the potential number of outlets from sixteen to nine (two of which are already operating in the City and acknowledged in the urgency ordinance), removed storefront retail and provided only for non-storefront retail (delivery only), and included a provision for community benefit agreements to be negotiated with each individual operator in lieu of a business tax.

## **ENVIRONMENTAL ASSESSMENT**

The proposed amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and it has been determined that they are exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that

CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions without any physical project being approved, it can be seen with certainty that there is no possibility that the amendments will have a significant effect on the environment. Specifically and additionally, as part of the review of any Proposal to establish and operate a cannabis business in the City, the City has the authority to determine the appropriate level of environmental review and should same be necessary, require the Proposer to conduct that review as a condition to the awarding of any entitlement or permit under this Ordinance. This ordinance is also exempt under Business and Professions Code Section 26055 (H) which, until July 1, 2021, exempts the adoption of ordinances, rules or regulations on commercial cannabis which require subsequent discretionary review.

## **STAFF ANALYSIS**

The proposed new Municipal Code Section 8-11 (Attachment 2) establishes the specific types of activities and the maximum number of each type of cannabis activity that can be permitted. The proposed types and numbers set forth in the Section are:

- Non-Store Front Retailer – maximum of one (1)
- Testing Laboratory – maximum of two (2)
- Manufacturing – maximum of two (2)
- Indoor Cultivation – maximum of two (2)
- Microbusiness – maximum of one (1)
- Distribution – maximum of one (1) if permitted as a standalone business operation holding a State license Type 11 only. No limit if permitted as an ancillary activity to one of the above listed businesses (1 through 5), where permitted by state law.

Attachment 4 to this staff report details the specific license types that are allowed state-wide. This list of licenses includes those that were established with the approval of SB 94, including varying sizes of cultivation operations (measured by vegetation canopy size) and light sources (outdoor with natural light, indoor with artificial light or “mixed light” which utilizes a combination of natural and artificial light), a nursery type (immature plants only), two types of manufacturing licenses (utilizing volatile or non-volatile solvents), distribution (transfer between licensees), retail sales (both a storefront and a non-storefront type), and a microbusiness type. Microbusiness licenses are a vertically integrated business model which must include at least three of four activities (cultivation less than 10,000 square feet of canopy), manufacturing, distribution or retail. Through adoption of the various regulations by State agencies, three additional license types (N, P & S) were established. All license types are summarized in Attachment 4.

A distinction should be made between cannabis “delivery” and cannabis “distribution.” Distribution is defined similarly to the traditional wholesaler; i.e., it is transport between two licensees. Delivery is transport to retail customer.

All retailers have the right under State law to deliver to their customers but do not have the right to deliver to another licensee without also obtaining a Distribution license. All other commercial cannabis licensees except Testing Labs, can obtain a Distribution license and often select the Type 13 license which allows them to transport their cultivated or manufactured goods to a retailer. As

structured in Section 8-11, there is a limit of one for a standalone Distribution facility but no limit on Distribution licenses which are issued in conjunction with another license type.

Non-Storefront Retail which is proposed to be included in the City's program operates essentially as a delivery service. Goods are stored in a single location and deliveries can occur both within and outside the City limits. Because of its warehousing nature, staff has proposed that Non-Storefront Retail occur also in the industrially zoned areas of the City.

Delivery can occur from either out-of-City companies or companies located within the City. Both must obtain a Cannabis Delivery Permit. Because the City would not actually be issuing cannabis licenses or permits to those businesses located outside of the City, those operational requirements reside in Section 8-11 and not the Council resolution. All cannabis providing delivery services need to obtain a Cannabis Delivery Permit from the Police Department, must comply with the requirements of Section 8-11, must obtain a City business license and must pay sales tax on their Novato deliveries. Staff is proposing hours of allowable delivery service to be between the hours of 8:00 am to 8:00 pm, seven days/week. State regulations allow 6:00 am to 10:00 pm, seven days/week but allow local agencies to be stricter.

The Council is not required by Section 8-11 to issue all available licenses or to issue to every applicant, even if a license is available. The Chapter also allows the Council, through ordinance amendment, to periodically re-evaluate the number of licenses and adjust if desired. The Code language makes no distinction between adult use and medicinal cannabis. Both could be permitted and are counted the same toward the maximum allowable licenses. Community benefit agreements may be negotiated with different terms for the two if the Council desired.

### **Zoning**

Staff evaluated the likely activities associated with the various license types, alongside existing zoning designations and placed the license types into zones where the activities could be accommodated with the highest degree of compatibility with existing allowable uses.

With the elimination of storefront retail, none of the proposed recommended activities or uses are open to the general public. Most require larger more open floor plans for warehousing, cultivation beds and equipment operation. For those reasons, staff is recommending all activities be placed in the City's Commercial/Industrial and Light Industrial/Office zones as well as any Planned Development (PD) with a General Plan Land Use designation of Commercial/Industrial or Light Industrial Office.

**Cultivation** – Staff is proposing to allow only indoor cultivation. No outdoor cultivation of any size canopy would be permissible within the City limits. Outdoor cultivation potentially introduces nuisance impacts to neighboring properties, such as odor and noise and can be more difficult to secure. Though indoor cultivation can utilize more energy than cultivation using natural light, the evolution of LED technology and more energy efficient equipment can mean that operations are not the high energy users that they have been in the past. Indoor cultivation results in more harvest cycles than outdoor, so profits and taxes are typically higher and operators are motivated to utilize more efficient lighting and equipment to keep energy costs down. Staff is proposing indoor cultivation in areas zoned for industrial uses.

**Manufacturing** – Staff is proposing to allow both types of manufacturing activities (volatile and non-volatile) with appropriate measures in place for the use, handling and storage of hazardous materials. Uses involving hazardous materials are currently allowed in the same zones as proposed in Table 2-7 so cannabis uses were treated similarly. The Council resolution sets forth additional precautions for hazardous materials. The City’s industrially zoned areas have existing building stock appropriate for higher hazard materials and activities as well as larger floor areas appropriate for manufacturing and warehousing.

**Testing Labs** – These labs test cannabis and cannabis products on behalf of other licensees. They have strong operational requirements under State law for cleanliness and materials handling. They are often located in the same zones as manufacturing and cultivation facilities in order to support those users. Staff is recommending they locate in the same zones as those uses.

**Distribution** – As with other industries, commercial cannabis operators frequently combine distribution with other activities; i.e., manufacturing and distribution operating at a single location. Distribution facilities have a need for warehousing space as well as limited entry opportunity. Staff has recommended they locate in the industrially zoned areas.

**Retail Sales** – Staff is proposing only Non-Storefront Retail which operates primarily as a delivery warehouse. For that reason and similarly to manufacturing activities, the industrial zones have an existing building stock with larger floor areas appropriate for warehousing. These facilities would not be open to the public thus would not create parking impacts on neighboring uses.

**Microbusiness** – This business type under State licensing combines at least three of a maximum four commercial cannabis activities. It allows for cultivation of no more than 10,000 sf of canopy area, Level 1 (non-volatile) manufacturing, distribution and retailing. The proposed regulations would allow Microbusinesses but with only retail delivery; i.e., no storefront open to the public.

The proposed amendments to Table 2-7 of the Zoning Code call out both the activity type and the specific license type as some of the licenses vary in intensity and size. Table 2-7 limits the activities of the licensing section (8-11) to specific locations, sizes and type of activities.

To aid the Commissioner’s evaluation of appropriateness of proposed zoning categories and land use designations (in the case of Planned Districts), following are links to the City’s zoning and land use maps:

[Zoning](#)

[General Plan Land Use](#)

For a brief summary of the regulations of other Marin jurisdictions, please see Attachment 5.

### **Separation from Youth-Oriented Facilities**

An important requirement of State regulations is the separation requirement for commercial cannabis activities and youth-oriented facilities. No commercial cannabis activity licensed by the State can be located within a 600-radius (measured property line to property line) of a school

or youth center, unless the local agency adopts a different radius. Specifically, Business and Professions Code section 26054, reads:

“A premises licensed under this division shall not be 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 that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius.”

The City can adopt a more stringent separation requirement if compatibility issues are a concern.

The City’s zoning regulations include definitions for “Schools” and “Daycare centers” but please see the proposed definitions in the Commission resolution where a definition for “Youth Center” is proposed to be added.

### **FURTHER ACTION**

If adopted, staff will develop the amendments set forth in the attached Planning Commission resolution into an ordinance for City Council adoption. These amendments, together with the proposed ordinance to add Municipal Code Section 8-11 and the proposed Council resolution will establish the criteria for the selection, establishment, and operations of a commercial cannabis “program” in the City.

### **ATTACHMENTS**

1. Planning Commission Resolution Recommending Zoning Code Amendments
2. Draft Ordinance Adding Municipal Code Section 8-11 (Licensing)
3. Draft City Council Resolution Establishing Operating Requirements for Cannabis
4. State License Types
5. Summary of Cannabis Regulations in other Marin County Jurisdictions

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2019 -

RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL AMENDMENTS TO CHAPTER XIX (ZONING) OF THE NOVATO MUNICIPAL CODE ADDING SECTION 19.34.066 (CANNABIS – COMMERCIAL ACTIVITIES) AND AMENDING TABLE 2-7 OF SECTION 19.12.030 (ALLOWABLE USES AND PERMIT REQUIREMENTS), SECTION 19.14.030(B) (SPECIAL PURPOSE DISTRICT LAND USES AND PERMIT REQUIREMENTS) AND SECTION 19.60.020 (DEFINITION OF SPECIALIZED TERMS AND PHRASES) AND FINDING THE AMENDMENTS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(b)(3) AND CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 26055(H)

WHEREAS, pursuant to its police powers and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transportation and testing within its jurisdiction; and

WHEREAS, the City Council has previously adopted ordinances governing cultivation of cannabis for personal use, as well as urgency ordinances to ban commercial cannabis operations until such time as these permanent regulations were developed and adopted; and

WHEREAS, the City wishes to establish a uniform regulatory structure for commercial cannabis operations in the City in accordance with state law; and

WHEREAS, the proposed municipal code amendments contained herein are consistent with the goals and policies of all elements of the General Plan, as well as any applicable specific plan, or Planned Development in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses. The proposed zoning amendments are internally consistent with other applicable provisions of Chapter 19 of the Code in that the entirety of the Code will apply to medical and adult use cannabis as a new land use classification, such as identifying where the use is allowed, the appropriate permit authority, development standards and locational and operating requirements. The proposed zoning changes will result in land uses in commercially and industrially zoned areas that are compatible with existing and future uses and will not be detrimental to the public interest, health, safety, convenience or welfare of the City; and

WHEREAS, the City of Novato currently regulates only personal cannabis cultivation pursuant to Novato Municipal Code Section 19.34.065; and

WHEREAS, amendments to the City's zoning regulations (Sections 19.12.030, 19.14.030(B) and 19.34.066), together with City Council amendments to Municipal Code Chapter 8 Licensing and Council resolutions adopted hereafter, will create a comprehensive licensing program to regulate commercial cannabis activities in the City; and

WHEREAS, notice of the Planning Commission's public hearing on the Amendments was published in a 1/8<sup>th</sup> page legal ad in the Marin Independent Journal, a newspaper of local circulation, on September 13, 2019; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 23, 2019 to consider and receive public testimony on the proposed amendments to Chapter 19, and

WHEREAS, the Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation on the proposed amendments to the Municipal Code includes, but is not limited to: (1) the staff reports, City files and records and other documents, prepared or and/or submitted to the City relating to the proposed amendments; (2) all documentary and oral evidence received at public meeting and hearings or submitted to the City during the comment period relating to the amendments; (3) the City of Novato 1996 General Plan and its EIR; and (4) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas. The custodian of records is the City Clerk of the City of Novato, 922 Machin Avenue, Novato, CA 94945.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend that the City Council approve the proposed Municipal Code revisions, as described in Exhibit A incorporated herein and attached hereto, and based on the following findings of Novato Municipal Code Section 19.56.070.c.1. and 3:

#### Findings

1. The proposed amendments are consistent with the Novato General Plan.

Facts in Support: The proposed amendments detailed in Exhibit A are intended to create zoning standards applicable to commercial cannabis uses. Following voter approval of Proposition 64, commercial cannabis activities are permissible, so long as local agencies adopt regulations governing the establishment of those activities. The proposed amendments locate commercial cannabis activities in zones, and at intensities, compatible with other similar activities allowed in those zones. Based on this compatibility and the additional regulations adopted to ensure security and management of potential nuisance factors, the proposed zoning amendments are considered to be consistent with the General Plan.

2. The proposed amendments would not be detrimental to the public interest, health, safety, convenience or welfare of the City; and



Facts in Support: The proposed amendments are intended to comply with all state, regional and local regulations necessary to ensure commercial cannabis activities are lawfully established and operated in compliance with all applicable regulations and best practices to ensure safe and legal access to cannabis to the citizens of the City.

3. The proposed amendments have been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines.

Facts in Support: The proposed amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and it has been determined that they are exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions without any physical project being approved, it can be seen with certainty that there is no possibility that the amendments will have a significant effect on the environment. Specifically and additionally, as part of the review of any Proposal to establish and operate a cannabis business in the City, the City has the authority to determine the appropriate level of environmental review and should same be necessary, require the Proposer to conduct that review as a condition to the awarding of any entitlement or permit under this Ordinance. This ordinance is also exempt under Business and Professions Code Section 26055 (H) which, until July 1, 2021, exempts the adoption of ordinances, rules or regulations on commercial cannabis which require subsequent discretionary review.

4. The proposed amendments are internally consistent with other applicable provisions of the Zoning Ordinance.

Facts in Support: The proposed amendments include revisions to all applicable sections of the Zoning Ordinance that regulate the definition of specialized terms, the location and permitting processes for commercial cannabis uses. The proposed amendments do not alter zoning standards regulating other uses addressed in the Zoning Ordinance. Therefore, the amendments would not create any internal inconsistencies with other provisions of the Zoning Ordinance.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the 23 day of September, 2019, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\* \* \* \* \*

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the 23<sup>rd</sup> day of September, 2019.

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Planning Commission Chair

Attachment: Exhibit A – Commercial Cannabis Activities Revisions

DRAFT

**EXHIBIT A**  
**Chapter 19 AMENDMENTS**  
**COMMERCIAL CANNABIS ACTIVITIES – SEPTEMBER 2019**

**AMEND Zoning Ordinance Section 19.12.030 – Commercial/Industrial District Land Uses and Permit Requirements**

**TABLE 2-7 (EXCERPT)**  
**ALLOWED USES AND PERMIT REQUIREMENTS FOR**  
**COMMERCIAL/INDUSTRIAL LAND USES**

TABLE 2-7 Allowed Uses and Permit Requirements For Commercial/Industrial Districts		P Permitted Use (2) UP Use Permit Required (3) --- Use Not Allowed						
LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	
<b>MANUFACTURING &amp; PROCESSING USES</b>								
Assembly of products from parts produced off-site	—	—	—	—	—	P	P	
<u>Commercial Cannabis – Indoor Cultivation</u> (2),(17),(18)  (State license types 1, 2, 3, & 5)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
<u>Commercial Cannabis – Nursery (indoor cultivation only)</u> (2),(17),(18)  (State license type 4)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
<u>Commercial Cannabis – Manufacturing (non-volatile solvents/no solvents)</u> (2),(17),(18)  (State license type 6)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
<u>Commercial Cannabis – Manufacturing (volatile solvents)</u> (2),(17),(18)  (State license type 7)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>

TABLE 2-7 Allowed Uses and Permit Requirements For Commercial/Industrial Districts					P Permitted Use (2) UP Use Permit Required (3) --- Use Not Allowed			
LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	
<u>Commercial Cannabis – Testing Laboratory</u> (2),(17),(18)  (State license type 8)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
<u>Commercial Cannabis – Distribution</u> (2),(17),(18)  (State license types 11 and 13)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
<u>Commercial Cannabis – Retail, Non-Storefront</u> (2),(17),(18)  (State license type 9 only)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
<u>Commercial Cannabis – Microbusiness</u> (2),(17),(18)  (State license type 12, non-storefront retail only)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
Electronics, equipment, and appliance manufacturing	—	—	—	—	—	P	P	
Food and beverage product manufacturing	—	—	UP	—	—	P	P	
Furniture/fixtures manufacturing, cabinet shops	—	—	—	—	—	P	P	
Handcraft industries, small-scale manufacturing	—	—	UP	—	—	P	P	
Laundries and dry cleaning plants	—	—	—	—	—	P	P	

TABLE 2-7 Allowed Uses and Permit Requirements For Commercial/Industrial Districts		P Permitted Use (2) UP Use Permit Required (3) --- Use Not Allowed						
LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	
Metal products fabrication, machine/welding shops	—	—	—	—	—	P	P	
Printing and publishing	—	—	UP	—	—	P	P	
Quarry materials storage and processing	—	—	—	—	—	UP	UP	
Recycling facilities - Large collection facilities	—	—	—	—	—	UP	UP	<a href="#">19.34.150</a>
Recycling facilities - Processing, light	—	—	—	—	—	—	UP	<a href="#">19.34.150</a>
Recycling facilities - Reverse vending machines	P	P	P	P	P	P	P	<a href="#">19.34.150</a>
Recycling facilities - Scrap and dismantling yards	—	—	—	—	—	—	UP	<a href="#">19.34.150</a>
Recycling facilities - Small collection facilities	—	UP	UP	—	—	P	P	<a href="#">19.34.150</a>
R&D (Research and development)	P	—	P	—	—	P	P	
R&D - Biotechnology, chemical, pharmaceutical	UP	—	UP	—	—	UP	UP	
Storage or use of hazardous materials as accessory use	UP (4)	—	UP (4)	—	—	UP (4)	UP (4)	
Warehouses, wholesaling and distribution	—	—	—	—	—	P	P	
RETAIL USES								
Marijuana Dispensaries	—	—	—	—	—	---	---	

KEY TO ZONING DISTRICT SYMBOLS

BPO	Business and Professional Office	CDB	Downtown Core Business
CN	Neighborhood Commercial	CI	Commercial/Industrial
CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

**Notes:** (Only the notes that apply to this page are shown. A full list of notes is provided online at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section [19.42.020](#)). Design Review may also be required; see [19.42.030](#).
- (3) See [Section 19.42.050](#) for Use Permit processing requirements.
- (4) Accessory use may be allowed in accordance with standards as promulgated by the Novato Fire Protection District and all other local, state and federal laws and regulations
- (17) This commercial cannabis activity is also allowed on any Planned District (PD) zoned property which carries a Novato General Plan land use designation of Commercial/Industrial (CI) or Light Industrial/Office (LIO).
- (18) Commercial cannabis activities must be issued a Commercial Cannabis Business Permit (CCBP) in addition to a Zoning Clearance prior to initiation of activities. See Novato Municipal Code Section 8-11 for licensing requirements and process information.

**AMEND Zoning Ordinance Section 19.14.030 – Special Purpose District Land Uses and Permit Requirements**

- B. *PD District Allowable Land Uses and Permit Requirements.* Allowable land uses, building intensity and/or residential densities, and permit requirements within a PD (Planned) zoning district shall be determined by the Council through the adoption of a Master Plan in accordance with [Section 19.42.060](#). Land uses established through the Master Plan shall be consistent with the General Plan. An approved Master Plan shall constitute a rezoning and zoning text amendment for a particular site. Where provisions of the Master Plan conflict with other provisions of this Zoning Ordinance, the Master Plan shall control pursuant to [Section 19.02](#). PD zoned property, which does not have an approved Master Plan and Precise Development Plan, may be used for agricultural activities as defined in [Article 2 Section 19.08](#), Agricultural and Resource Zoning Districts. Permissible types and numbers of commercial cannabis activities established in Section 8-11 of the Novato Municipal Code and further described in Section 19.34.066 of this chapter, are allowed on any Planned District (PD) zoned property which carries a Novato General Plan land use designation of Commercial/Industrial (CI) or Light Industrial/Office (LIO).

## **ADD Zoning Ordinance Section 19.34.066 – Cannabis – Commercial Activities**

- A. *Purpose and Intent.* This section is not intended to give any person or entity authority to operate a commercial cannabis business. That authorization is granted through a licensing process, established in Section 8-11 of the Novato Municipal Code. The purpose of this section, together with Table 2-7 of Section 19.12.030 and Section 19.14.030(B), is to establish the allowable locations and operational limitations of commercial cannabis activities.
- B. *Applicability.* Nothing in this section shall be construed to allow any conduct or activity relating to the cultivation, manufacture, distribution, dispensing, sale, or consumption of cannabis that is otherwise illegal under local or state law, nor shall it be construed, to exempt any cannabis activity from any applicable electrical, plumbing, or other building permit or any land use standard or permitting requirements. No provision of this section shall be deemed a defense or immunity to any action brought against any person by the Marin County District Attorney's office, the Attorney General of the State of California or the United States of America.
- C. *Limitations on Activities.* Table 2-7 of Section 19.12.030 establishes the specific types of commercial cannabis activities which can be permitted through the licensing process established in Novato Municipal Code Section 8-11. Section 8-11 also establishes the maximum allowable number of each activity or license type.
- D. *Approval Authorities.* All newly established commercial cannabis activities must be approved by the City Council. Subsequent renewals may be granted by the City Manager or designee. A Zoning Clearance, signed by the Community Development Director or designee is required prior to initiation of commercial cannabis activities. The City Council may adopt resolutions as well as administrative forms and procedures in order to establish operational requirements, standardize the approval process and for record keeping.
- E. *Prohibited Activities.* The following commercial cannabis activities are prohibited.
1. No outdoor or mixed light cultivation is allowed.
  2. No storefront retail sales are allowed.
  3. Microbusinesses shall not include storefront retail sales.
- F. *Location Standards.* No commercial cannabis premises shall be established within 600-feet of a school providing instruction in kindergarten, or any grades 1 through 12, daycare center or Youth Center that is in existence at the time the commercial cannabis license is issued.

## AMEND Zoning Ordinance Division 19.60 – Definitions/Glossary

All of the following definitions will be added except for those shown in strikeout which will be removed and repealed from Division 19.60.

<b>Division 19.60 - Definitions/Glossary</b> .....	6-3
19.60.010 - Purpose of Article .....	6-3
19.60.020 - Definitions of Specialized Terms and Phrases .....	6-3

### C. Definitions, “C.”

#### **Cannabis Related Definitions.**

~~*Cannabis.* 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" includes cannabis that is used for medicinal, 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.~~

- 1. Cannabis.** This term refers to all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to 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” also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26000(f), as both may be amended from time to time. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. 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.

2. **Cannabis accessories.** This term has the same meaning as in Section 11018.2 of the Health and Safety Code.
3. **Cannabis cultivation.** This term includes any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.
4. **Cannabis cultivation area (or canopy).** This term means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the drip-line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.
5. **Cannabis cultivation – indoor.** This term means the cultivation of cannabis within a permanent, lockable structure, using exclusively artificial lighting.
6. **Cannabis cultivation - mixed-light.** This term means the cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures, or light deprivation systems are included in this category.
7. **Cannabis cultivation – outdoor.** This term means the cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering.
8. **Cannabis cultivation site.** This term means the location, premises, leased area(s), property, location or facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where all or any combination of those activities.
9. **Cannabis license.** Cannabis license means a state license issued pursuant to MAUCRSA.
10. **Cannabis licensee.** This term refers to a person issued a state license pursuant to California Business and Professions Code section 26050 and/or other applicable state laws.
11. ~~**Cannabis product.** 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.~~

**Cannabis products.** This term means raw cannabis that has undergone a process whereby the raw agricultural product 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. “Cannabis product” also means marijuana products as defined by Section 11018.1 of the California Health & Safety Code and is not limited to medical cannabis products.

12. **Commercial Cannabis Permit, Cannabis Permit, or Permit.** When used in connection with an authorization granted under the Novato Municipal Code, these terms shall mean a permit issued by the City pursuant to Section 19.34.064 for the operation of a commercial cannabis business within the City.
13. **Commercial cannabis uses.** This term means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products. “Commercial cannabis uses” also means any cannabis activity licensed pursuant to additional state laws regulating such businesses. “Commercial cannabis uses” does not include legal medical cannabis or cannabis activities carried out exclusively for one’s personal use that does not involve commercial activity or sales.
14. **Cannabis Distribution facility.** This term means the location or a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed retail or delivery operations, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes, prior to transport to licensed retailers or delivery operations. This facility requires a Type 11 license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) or a state cannabis license type subsequently established.
15. **Cannabis Distributor.** This term means any commercial cannabis operation that distributes cannabis or cannabis products between licensees, under a valid state license Type 11, or a state cannabis license type subsequently established.
16. **Cannabis Manufacture.** When used in connection with the processing of commercial cannabis, this term means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
17. **Cannabis - Manufactured.** This term means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

18. **Cannabis Manufacturer.** When used in connection with the processing of commercial cannabis, this term means a person that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid state Type 6 or 7 license, or a state cannabis license type subsequently established, and that holds a valid local license or permit.
19. **Cannabis Manufacturing.** When used in connection with the processing of commercial cannabis, this term means a facility, that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is operated by a licensee for these activities.
20. **Cannabis - Medical or medicinal cannabis.** These terms are used interchangeably to mean cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (“CUA”, Health and Safety Code section 11362.7 *et seq.*), the Medical Marijuana Program Act (“MMPA,” Health and Safety Code section 11362.7 *et seq.*) and the Medical Cannabis Regulation and Safety Act (“MCRSA,” Business and Professions Code section 19300 *et seq.*) and the Medicinal and Adult- Use Cannabis Regulation and Safety Act (“MAUCRSA”).
21. **Cannabis Microbusiness.** This term means a commercial cannabis facility operating under a state Type 12 license, or a state cannabis license type subsequently established, and meeting the definition of microbusiness found in Business and Professions Code section 26070(a)(3)(A), as may be amended from time to time, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and retailer.
22. **Cannabis Non-Storefront Retailer.** This term means a commercial cannabis facility where cannabis and/or cannabis products are offered for retail sale exclusively by delivery; where there is no storefront open to the public, operating under a state license type 9 or a cannabis license type subsequently established. This definition does not include mobile retailers.
23. **Cannabis Nursery.** This term means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. A nursery does not include retail sales.
24. **Cannabis - Person.** When used in connection with commercial cannabis activity, this term means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver,

syndicate, tribe, or any other group or combination acting as a unit, whether organized as a non-profit or for profit entity, and includes the plural as well as the singular number.

25. **Cannabis Premises.** When used in connection with commercial cannabis activity, this term means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee. "Premises" does not include the leasehold spaces of other tenants on the same parcel or group of parcels joined by common facilities or shared amenities.
26. **Cannabis - Primary caregiver.** This term shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.
27. **Cannabis Processing.** This term means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and non-manufactured cannabis products.
28. **Cannabis - Public place.** When used in connection with commercial cannabis activity, this term means any publicly owned property or property on which a public entity has a right of way or easement. Public place also means any private property that is readily accessible to the public without a challenge or barrier, including but not limited to front yards, driveways, and private businesses.
29. **Cannabis - Qualifying patient or qualified patient.** These terms are used interchangeably and shall have the same meaning as set forth in Health and Safety Code section 11362.7, as may be amended from time to time.
30. **Cannabis - Operator.** When used in connection with commercial cannabis activities, this term means the natural person or designated officer responsible for the operation of any commercial cannabis use.
31. **Canabis Retailer, cannabis dispensary or dispensary.** These terms are used interchangeably and mean a facility operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including an establishment that delivers cannabis and/or cannabis products as part of a retail sale, under a state license type 10 or a cannabis license type subsequently established. This definition does not include mobile dispensaries.
32. **Cannabis Sale, sell, and to sell.** These terms are used as appropriate and when used in connection with commercial cannabis activity, shall have the same meaning as set forth in Business and Professions Code section 26001(aa), as the same may be amended from time to time: any transaction whereby, for any consideration, title to

cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.

33. **Cannabis Testing service or Testing laboratory.** When used in connection with commercial cannabis activity, these terms mean a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity, which is accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity and is licensed by the state. Businesses operating as a testing service or lab offer no services other than such tests and sell no products except testing supplies and materials.
34. **Cannabis - Volatile solvent.** This term means volatile organic compounds, including but not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O<sub>2</sub> or H<sub>2</sub>; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall.
35. **Cannabis - Youth center.** When used in connection with commercial cannabis activity, this term means any public or private facility that is used only to host recreation or social activities for minors.

**M. Definitions, "M."**

1. ~~**Marijuana Dispensary.** A facility, place, location, lot building, and/or storefront or mobile retail outlet (as "storefront" and mobile retail outlet" are used in California Health & Safety Code sec. 11362.768) where marijuana is provided or made available for medical purposes, whether or not in accordance with the Compassionate Use Act and/or the Medical Marijuana Program Act, including, but not limited to the cultivation, processing, dispensing, distribution, sharing, transportation, contribution, sale trade or gift of marijuana by any person, entity, operator, provider, business or establishment, for profit or otherwise, or by or through a club, membership, collective, cooperative, or other entity or organization. "Collective" and "cooperative" shall have the same meaning as set forth in the "State Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use," August 2008.~~

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING CHAPTER VIII TO ADD SECTION 8-11 TO THE NOVATO MUNICIPAL CODE AND FINDING THE AMENDMENTS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO GUIDELINES SECTION 15061(b)(3) AND CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 26055(H)

**Section 1. FINDINGS**

The City Council of the City of Novato hereby finds and declares as follows:

WHEREAS, pursuant to its police powers and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transportation and testing within its jurisdiction; and

WHEREAS, the City Council has previously adopted ordinances governing cultivation of cannabis for personal use, as well as urgency ordinances to ban commercial cannabis operations until such time as these permanent regulations were developed and adopted; and

WHEREAS, the City wishes to establish a uniform regulatory structure for commercial cannabis operations in the City in accordance with state law; and

WHEREAS, the City of Novato currently regulates only personal cannabis cultivation pursuant to Novato Municipal Code Section 19.34.065; and

WHEREAS, notice of the City Council's public hearing on the Amendments was published in a 1/8<sup>th</sup> page legal ad in the Marin Independent Journal, a newspaper of local circulation, on \_\_\_\_\_, 2019; and

WHEREAS, the City Council held a duly noticed public hearing on \_\_\_\_\_, 2019 to introduce and consider the proposed amendments and public comments thereon; and

NOW THEREFORE, it is the intent of the City Council of the City of Novato in enacting this ordinance, to provide for the public health, safety and welfare by enacting regulations which provide for the lawful establishment and operation of commercial cannabis manufacturing, sales, distribution, testing and cultivation activities and ensuring clear distinctions between the lawful and unlawful pursuit of commercial cannabis activities.

**SECTION II.** Section 8-11 of the Novato Municipal Code is hereby added as follows:

**Section 8-11.05 Title.** This section shall be known as the “Licensing of Commercial Cannabis Businesses” ordinance.

**Section 8-11.1 Purpose and Intent.** It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically ill persons in need of, and provide access to, cannabis for medicinal purposes as recommended by their health care provider(s), and to provide adult use (recreational) access to persons over the age of 21 as authorized by the Control, Tax & Regulate the Adult Use Cannabis Act (“AUMA” or “Proposition 64” passed by California voters in 2016), while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution and transportation of cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City of Novato and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Chapter to require all commercial cannabis operators to obtain and annually renew a permit to operate within the City of Novato. Nothing in this Chapter is intended to authorize the possession, use or provision of cannabis for purposes that violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval require under State, City or other law.

**Section 8-11.2 Legal Authority.** Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, any subsequent state legislation and/or regulations regarding same, the City of Novato is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections from time to time established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Novato to all commercial cannabis activity.

**Section 8-11.3 Cannabis Cultivation and Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.** Except as specifically authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Business & Professions Code Section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Novato. In addition to the requirements of this Section and Section 19.34.066, commercial cannabis uses shall comply with all other applicable provisions of the City of Novato’s General Plan and the Municipal Code. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to cultivate, distribute, manufacture, test or transport cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid license issued pursuant to the provisions of this Chapter and all requirements of Section 19.34.066. Possession of other types of State or City permits or licenses does not exempt an applicant from the requirement of obtaining a license under this Chapter.

Unless specific distinctions are made in subsequent sections, requirements shall apply equally to either adult use or medical cannabis activities.

This section provides the licensing and operating standards for all commercial cannabis activities, including both adult (recreational) and medical cannabis uses, to ensure neighborhood compatibility, minimize potential environmental impacts, mitigate potential nuisances, and provide safe, legal access to cannabis. Additional standards may apply to particular commercial cannabis uses, as established in other sections of this Code.

**Section 8-11.4 Compliance with State and Local Laws.** It is the responsibility of the owners and operators of the commercial cannabis business to ensure that the business is, always, operating in a manner compliant with all applicable state and local laws, including this Section, and any regulations promulgated thereunder, any subsequently enacted state or local law or regulatory, licensing, or certifications requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business permit. Nothing in this Section shall be construed as authorizing any activities that violate federal, state or local law with respect to the operation of a commercial cannabis business.

The operator shall comply with all permit, license, approval, inspection, reporting, and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. The operator shall provide copies of other agency and department permits, licenses, or certificates to the review authority to serve as verification of such compliance.

**Section 8-11.5 Definitions.** All definitions pertaining to cannabis regulation that appear in Business and Professions Code Section 26001 are hereby incorporated by reference. Definitions appearing in this Section and Chapter 19 are either those that are not covered by state law, pre-date Proposition 64 and the MAUCRSA, or are outside the scope of Section 26001.

a. “Cannabis Delivery Permit” means a permit issued by the Chief of Police to a business allowing that business to deliver cannabis and cannabis products within the city limits of the City of Novato.

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

c. “Commercial cannabis activity” includes the possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this chapter.

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

e. “Commercial cannabis business permit (“CCBP”)” means a regulatory permit issued by the City of Novato pursuant to this Chapter, to a commercial cannabis business and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the commercial cannabis activity at issue.



f. “Conditional Certificate” (sometimes referred to as “CC”) means a conditional privilege awarded by the City Council to a specific commercial cannabis business which grants that business the privilege of applying for a CCBP.

g. “Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.

h. “Dispensary” means a business that holds a valid state license and conducts the retail sale of cannabis or cannabis products. “Dispensary” means the same thing as “Retailer.”

i. “Distribution” means the distribution of cannabis and cannabis products between state licensees, including testing laboratories, requiring adherence to state mandated transportation security and cargo manifest requirements.

j. “Distributor” shall have the same meaning as that appearing in Section 26070 of the Business and Professions Code.

k. “Licensee” or “State licensee” means a person holding a state license.

l. “Limited-access area” means an area in which cannabis is stored or held and is only accessible to some licensee and authorized personnel.

m. “Manufactured cannabis” means (1) a cannabis product that has been (i) produced using infusion or other processes as permitted under a Type N State License or (ii) packaged or re-packaged as permitted under a Type P State License or (2) a cannabis product package that has been labeled or relabeled as permitted under a Type P State License.

n. “Manufacturing site” means a location that (1) produces cannabis products by methods permitted under a Type N State License, (2) packages and/or repackages cannabis products under a Type P State License, (3) labels and/or re-labels cannabis product packages under a Type P State License, and (4) is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Novato and a valid State License Type N or Type P, as the case may be.

o. “Non-Store Front Retail Business” means a non-storefront cannabis business that sells and delivers cannabis or cannabis products to customers from a premises that is not open to the public. While the business shall have a physical location within the City of Novato all sales are consummated exclusively by delivery.

p. “Non-volatile solvent” means any solvent used in the extraction process that is not a volatile solvent as defined by state law. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide (CO<sub>2</sub>) used for extraction and ethanol used for extraction or post-extraction processing.

q. “Owner” means any of the following:

(1) A person with an aggregate ownership interest of 5 percent or more in the business applying for or holding a CCBP.

(2) The manager of a nonprofit or other entity applying for or holding a CCBP.

(3) A member of the board of directors of a for-profit or nonprofit entity applying for or holding a CCBP.

(4) An individual who will be or is participating in the direction, control, or management of the business applying for and/or holding a CCBP.

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

s. “Patient” or “qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.22.

t. “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, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

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

v. “Proposal” means the materials and information submitted by the Proposer(s) for consideration by the Proposal Review Committee.

w. “Proposal Review Committee” (“PRC”) means staff members of the City of Novato as well as staff of other local permitting agencies, as well as any consultants retained by the City for the purpose of reviewing Conditional Certificate applications.

x. “Proposer” means a person or persons submitting a Conditional Certificate Proposal and a CCBP application to the City of Novato.

y. “Retailer” shall have the same meaning as the definition appearing in Section 26070(a)(1) of the Business and Professions Code.

z. “State license” means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity. A state license alone will not authorize the holder to operate a cannabis business in the City, as state law also requires a permit or other authorization issued by a local jurisdiction.

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

ab. “Youth center” means any public or private facility that is used only to host recreation or social activities for minors.

#### ***Section 8-11.6 Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business.***

a. No person may engage in any commercial cannabis business or in any commercial cannabis activity within the City of Novato, including manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of cannabis or a cannabis product unless the person (1) has a valid CCBP commercial cannabis business permit from the City of Novato; (2) has a valid state license; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activities in which the business is engaged.

b. No CCBP shall be issued pursuant to this Section for outdoor or mixed-light commercial cannabis cultivation or storefront retail sales, which are prohibited.

#### ***Section 8-11.7 Evidence of Criminal Background Check Required.***

a. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), authorizing municipalities to access state and local summary criminal history information for

employment, licensing, or certification purposes and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, any person who is an, owner, manager, supervisor, employee, contract employee of a commercial cannabis business must submit fingerprints to the Chief of Police for a background check by the Novato Police Department.

b. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business is submitted or at any other time a background investigation is required under this chapter.

c. This provision applies to all employees of the commercial cannabis business, regardless of the date of hire.

d. The criminal background checks completed by the City will, at a minimum, identify the following:

(1) Whether the individual applying for employment has ever been convicted of a violent felony as defined by California Penal Code section 667.5, or equivalent offenses in other states;

(2) Whether the individual applying for employment has ever been convicted of a crime involving dishonesty, fraud, or deceit, including, but not limited to, fraud, forgery, theft, or embezzlement, as those offenses are defined in California Penal Code Sections 186.11, 470, 484 and 504a, respectively; or equivalent offenses in other states;

(3) Whether the individual applying for employment has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act. This will not include cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

e. Evidence of a conviction of any of the offenses enumerated in Section 8-11.7(d) shall be grounds for denial of employment or working with or for a commercial cannabis business. Employers who wish to hire or retain an individual notwithstanding this rule shall apply to the Chief of Police, who at his/her sole discretion may issue a written waiver allowing employment or retention of persons convicted of said offenses.

Evidence of a conviction of any of the offenses enumerated in Section 8-11.7(d) shall also disqualify any person from submitting a Proposal for a CC or applying for a CCBP.

f. The CCBPs of commercial cannabis businesses (i) which employ or retain the services of persons who have been convicted of the offenses enumerated in Section 8-11.7(d) without written waiver from the Chief of Police or (ii) the owners of which have been convicted of the offenses enumerated in Section 8-11.7(d) shall be subject to immediate suspension of the business' CCBP. Owner/operators who wish to contest a suspension of their CCBPs under this section may file an appeal with the City pursuant to Section 8-11.19.

**Section 8-11.8 Personnel Prohibited from Holding a License or from Employment with a Cannabis Business Permittee; Past Civil Violations.** In addition to the grounds for disqualification related to the results of the criminal background check described in Section 8-11.7, evidence of past civil violations shall be grounds for disqualification as follows:

a. Any applicant, including but not limited to, any 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 or any person owning, being a member or shareholder of, or any person having an interest in any of said entities or capacities shall be prohibited from holding a CCBP if any of the following is true:

(1) The applicant has had a commercial cannabis license or permit suspended or revoked by any city, county, city and county or any other state cannabis licensing authority;

(2) The applicant was notified that it/he/she was conducting commercial cannabis activity in violation of Chapters 8 and 19 and/or other City of Novato ordinances, codes or requirements, and failed to cure the violation in a timely manner;

(3) The applicant has entered into either a verbal or written agreement to lease, sublease, or any other agreement to use real property for commercial cannabis activity and engaged in that activity without having been issued a valid permit in a violation of this Code.

**Section 8-11.9 Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.**

a. Except as otherwise provided by ordinance, the following types and number of cannabis businesses are permitted in the City:

(1) Non-Store Front Retailer – maximum of one (1).

(2) Testing Laboratory – maximum of two (2).

(3) Manufacturing – maximum of two (2).

(4) Indoor Cultivation – maximum of two (2).

(5) Microbusiness – maximum of one (1)

(6) Distribution – maximum of one (1) if permitted as a standalone business operation holding a State license Type 11 only. No limit if permitted as an ancillary activity to one of the above listed businesses (1 through 5), where permitted by state law.

Section 19.34.066 contains additional limitations on permissible operations.

b. Section 8-11.9(a) is intended only to create a maximum number of commercial cannabis businesses that may be issued CCBPs to operate under each category. Nothing in this chapter creates a mandate that the City Council must issue any or all of the CCBPs identified above if (i) it is determined that the Proposers do not meet the standards which are established in the Proposal requirements or further amendments to the Proposal process, or, (ii) the City Council, upon further deliberation determines that the issuance of any or all CCBPs will adversely impact the public safety, health or welfare of the City and/or its residents.

c. Each year following the City Council's initial award of CCBPs, if any, or at any time in the City Council's discretion, the City Council may reassess the number and type of CCBPs which are authorized for issuance. The City Council, at its discretion, may determine that the (i) number of CCBPs should stay the same or be increased, and/or (ii) the category of permitted commercial cannabis businesses should be changed.

d. Any commercial cannabis business which is granted a CCBP hereunder shall also be permitted to engage in distribution transport activities, provided that it first obtains the State distribution license necessary to engage in such activities.

e. Any commercial cannabis business which is granted a retailer's CCBP here under shall also be permitted to engage in delivery services.

***Section 8-11.10 Consideration of Finalists for Award of Conditional Certificate.***

a. The City Council shall hold a duly noticed public hearing to consider the awarding of Conditional Certificates (CCs) to one or more Finalists. The award of CC's shall be left to the sole discretion of the City Council. The City Council's award of each CC shall be memorialized in written decisions supporting each award and identifying any additional conditions and/or agreements required by the City Council. The Council may award CCs for each category of commercial cannabis business identified in Section 8-11.9 in an amount no greater than the number assigned in said Section. The City Council reserves the right to reject any or all Proposals and reserves the right to request and obtain additional information any Proposer, should the City Council find such actions necessary in order for the Council to make an informed decision or otherwise act in the best interests of the health, safety and/or welfare of the City.

b. At any time prior to a CCBP being issued to any Proposer, the City Council may modify, postpone, or cancel; (i) any requirement applicable to any Proposal, or (ii) the entire program established under this chapter without any liability, obligation, or commitment to any Proposer, party, firm or organization. All Proposers assume the risk that all or any part of the program established under this chapter, or any particular category of permit potentially authorized under this chapter, may be cancelled or eliminated, as the case may be, at any time prior to the Proposer in question being issued a CCBP.

***Section 8-11.11 Commercial Cannabis Businesses Awarded Conditional Certificates May Apply for Land Use Permits and Building Permits.***

a. Upon being granted a Conditional Certificate, Proposer(s) (hereinafter sometimes referred to as "Applicants") shall be eligible to apply for and take the necessary steps to obtain all land use approvals and building permits necessary to construct, install and/or operate their specific commercial cannabis business at the location identified inn their Proposal. This includes any required environmental review pursuant to the California Environmental Quality Act (CEQA).

b. From the date the City Council awards a Conditional Certificate to an Applicant, the Applicant shall have up to one year to:

(1) Apply for and obtain the necessary land use permits. In this connection, at a minimum, the Applicant shall be required to apply for and obtain a Zoning Clearance or land use

entitlement as specified in Section 19.12.030 and 19.34.066 of this Code. The granting of any such Zoning Clearance or land use entitlement to the Applicant shall not confer any vested rights and shall not run with the land. The term of any such Zoning Clearance or other entitlement granted to the Applicant related to the Proposal shall be expressly limited to one year from the date of the Clearance or entitlement's final approval; and

(2) Apply for and receive building permit(s) and complete all necessary renovations and/or new construction and secure approval of a final inspection and/or certificate of occupancy; and

(3) Satisfy all of the conditions of approval required and/or included in the Conditional Certificate awarded to the Applicant and provide proof that all requirements of the CCBP have been met. This includes the Applicant's execution and/or performance of all required legal contracts necessary to secure the proposed public benefit included in the Proposal; and

(4) Apply for and be issued a CCBP; and

(5) Initiate activities authorized under the CCBP.

c. Extensions of this time period beyond one year shall be granted on a case-by-case basis by the City Manager. Under no circumstances may this time period be extended for more than 180 days.

#### ***Section 8-11.12 Commercial Cannabis Businesses Permit (CCBP) Required.***

a. Prior to commencing operations of a commercial cannabis business or conducting any commercial cannabis activity, the Applicant must obtain a Commercial Cannabis Business Permit (CCBP) from the City Manager.

b. To receive this ministerial permit, the Applicant must provide proof of all of the following:

(1) A valid Conditional Certificate awarded by the City Council and a State License for the type of commercial cannabis business(es) the Conditional Certificate stipulates.

(2) All necessary planning approvals, including but not limited to, a Zoning Clearance or land use entitlement(s).

(3) All necessary building permits and approvals by agencies with jurisdiction, including but not limited to Novato Fire District, Novato Sanitation District, North Marin Water District, and Marin County Health, and any other agency approvals that may be required.

(4) A City business license issued to the Applicant for the relevant commercial cannabis business.

(5) Satisfaction of any/or compliance with, all applicable provisions of this chapter, including, Sections 8-11.13 through 8-11.16 and 8-11.27.

c. Upon receipt of a complete application for a CCBP, the City Manager shall undertake an inspection and investigation to ascertain whether the Applicant has satisfied all of the conditions precedent to issuance of the CCBP specified in this chapter. Except in unusual circumstances, the City Manager shall complete the inspection and investigation within 60 days of receiving the Applicant's complete application.

d. The City Manager's inspection and investigation shall include a review of the relevant documents and the proposed business location to ensure that the commercial cannabis business and its Applicant have satisfied all of the applicable criteria set forth in this Section and this Code.

e. If the City Manager cannot approve the CCBP, the City Manager will provide written notice of the reasons therefor ("CM's Report") to the Applicant within 15 working days of the completion of the inspection and investigation. The City Manager's decision is appealable pursuant to sections 8-11.20 and 8-11.21.

f. Issuance of a CCBP does not create a land use entitlement. No property interest, vested right or entitlement to receive future permits to operate a commercial cannabis business shall ever inure to the benefit of the holder of a CCBP as such permits are limited in duration, revocable and upon renewal must comply with all applicable laws then in effect. The CCBP shall expire on the earlier of (1) the end of the term of the cognate Zoning Clearance or other land use entitlement, or (2) twelve (12) months from the date of the CCBP's issuance, unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a CCBP, (i) unless all of the state and local laws and regulations, including but not limited to the requirements of this chapter and of the CCBP, have been complied with, and (ii) until a state license is available and obtained by the permitted operator as set forth in Section 8-11.6.

**Section 8-11.13 City Business License.** Prior to commencing operations and prior to issuance of a CCBP, a commercial cannabis business shall obtain a City business license.

**Section 8-11.14 Building Permits and Inspections.** Prior to commencing operations and prior to issuance of a CCBP, a commercial cannabis business shall be subject to a mandatory building and fire inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes building permits, county health permits and other zoning or land use or utility permits or approvals.

**Section 8-11.15 Certification from the Community Development Director.** Prior to commencing operations and prior to issuance of a CCBP, a commercial cannabis business must obtain a certification from the Community Development Director or designee, certifying that the business has secured all necessary land use permits and is located on a site that meets the requirements of Sections 19.12.030 and 19.34.066.

**Section 8-11.16 Right to Occupy and to Use Property.** As a condition precedent to the City's issuance of a CCBP pursuant to this chapter, any person intending to open and operate a commercial cannabis business shall provide sufficient evidence of its/his/her legal right to occupy and to use the proposed location. In the event the proposed location will be leased from a property owner, the Proposer shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this chapter and consent to the operation of the commercial cannabis business on the owner's property. The property shall be identified sufficiently to verify the premises is consistent with the premises identified in the Proposal and with state license applications.

**Section 8-11.17 Revocation of Permits.** CCBPs may be revoked for violation of any (i) law and/or rule, regulation and/or standard adopted pursuant to state law and/or local law, including, but not limited to, this chapter, (ii) condition or term made part of the awarding of the CC or the issuance of the CCBP, (iii) condition or term made part of the Zoning Clearance or other permit or entitlement granted to the Proposer, and/or (iv) term or condition of any agreement entered into between the Proposer and the City.

**Section 8-11.18 Effect of State License Suspension, Revocation or Termination.**

a. Suspension of a license issued to a commercial cannabis business by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of that commercial cannabis business to operate with the City, until the State, or its respective department or division, reinstates or reissues the State license. Should the State, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also immediately revoke or terminate that business' CCBP and CC and the ability of that commercial cannabis business to operate within the City. At the City Manager's discretion, the cannabis business owner may re-apply for a CC and later a CCBP at such time as it can demonstrate that the grounds for revocation by the State no longer exist, or that the underlying deficiency has otherwise been cured. Any such re-application will be subject to all the provisions and payment of fees applicable to Proposals for CCs and CCBPs.

b. Suspension of a CCBP issued to a commercial cannabis business by the City of Novato shall immediately suspend the ability of that commercial cannabis business to operate within the City, until such time as the City reinstates or reissues the license. Should the City, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business for violations of this ordinance or any related regulations established by resolution, such revocation or termination shall immediately revoke or terminate business' ability to operate within the City of Novato. At the City Manager's discretion, the cannabis business Owner may re-apply for a CC and later a CCBP at such time as it can demonstrate that the grounds for revocation of the license by the state no longer exist, or that the underlying deficiency has otherwise been cured. Any such re- application will be subject to all the provisions and payment of fees applicable to Proposals for CC's and CCBP's. The City Manager's decision regarding whether the Owner may re-apply is appealable to the City Council.

**Section 8-11.19 Appeals.** Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this chapter from a decision of the City Manager or designee(s), the appeal shall be conducted as prescribed in this chapter, specifically, pursuant to sections 8-11.20 and 8-11.21.

**Section 8-11.20 Written Request for Appeal.**

a. Within ten (10) calendar days after the date of a decision of the City Manager or designee to revoke, suspend or deny a permit, or to add conditions to a permit, the aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.



b. At the time of filing the appeal, the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

***Section 8-11.21 Appeal Hearing Process.***

a. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set by the City.

b. The appeal shall be held within a reasonable time after date of filing, but in no event later than forty-five (45) working days from the date of filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.

c. At the hearing, the appellant may present any information s/he/it deems relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.

d. The decision of the Council shall be final and shall be memorialized in a written decision.

***Section 8-11.22 Change in location; updated registration form.***

a. Any time an owner wishes to change the location of any cannabis activities specified in the CCBP, the owner must apply for and obtain a CC, and thereafter, a CCBP pertinent to the new location. The process and the fees applicable to this procedure shall be the same as the process and fees set forth in Sections 8-11.10 and 8-11.16.

b. Within fifteen (15) calendar days of any other change in the information provided in the Proposal or any change in status of compliance with the provisions of this chapter, including any change in the commercial cannabis business ownership or management members, the Owner shall file an updated information form with the City Manager or designee(s) for review along with a registration amendment fee. In addition, to the extent any other provisions of this chapter pertain to such changes, the Owner shall be required to comply with those provisions.

***Section 8-11.23 Transfer of Commercial Cannabis Business Permit.***

a. The Owner of a CCBP shall not transfer ownership or control of the CCBP to another person or entity unless and until the transferee obtains an amendment to the CCBP from the City Manager or his/her designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager or his/her designee in accordance with all provisions of this chapter (as though the transferee were applying for an original CC and CCBP). The proposed transferee's application shall be accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the Proposal fee).

b. The City Manager or his/her designee shall conduct a hearing to determine whether the transferee passed the background check required for permittees and meets all other requirements of this chapter.

c. The CCBP issued through the grant of a transfer by the City Manager or his/her designee shall be valid for a period of one year beginning on the day the City Manager or his/her designee approves the transfer of the permit. Before the transferee's permit expires, the transferee

shall apply for a renewal permit in the manner required by this chapter in the event the transferee desires to have its CCBP renewed.

d. Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the City Manager or his/her designee through the transfer process set forth in this section. Failure to comply with this provision is grounds for permit revocation.

e. A permittee may change the form of business entity without applying to the City Manager or his/her designee for a transfer of permit, provided that either:

(1) The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or

(2) The original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and in compliance with Section 8-11.12, the individual(s) listed on the City Proposal application of the original permittee entity is the same as Board of Directors of the new business entity.

Although obtaining permission to transfer is not required in these two circumstances, the permit holder is required to notify the City Manager in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

f. No CCBP may be transferred when the City Manager or his/her designee has notified the permittee that the permit has been or may be suspended or revoked.

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

h. Decisions of the City Manager pertaining to proposed transfers of the CCBP shall be appealable to the City Council as provided for in Sections 8-11.19 through 8-11.21.

#### ***Section 8-11.24 Location and Design of Commercial Cannabis Businesses.***

a. The commercial cannabis businesses permitted to operate in the City as set forth in Section 8-11.9(a) must be located in appropriately designated zoning as shown in the Use Tables of Chapter 19; provided, however, they shall not be permitted in the "buffer" areas detailed in Section 19.34.066 of this code.

b. Each proposed commercial cannabis business project shall:

(1) Conform with the City's general plan, any applicable specific plans, master plans, and design requirements.

(2) Comply with all applicable zoning and related development standards.

(3) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.

(4) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the operation or development.

(5) Be served by highways or streets adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purposes.

**Section 8-11.25 Limitations on City's Liability.** To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to having issued a CCBP pursuant to this chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any CCBP, the Proposer/Applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

a. Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at Applicant's sole cost and expense), and hold the City and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the CCBP, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, the operation of the commercial cannabis business or activity, or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents. The indemnity obligation arising under this paragraph does not include any claims arising out of gross negligence or willful misconduct by the City, its officers, officials, employees, representatives or agents.

b. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Manager.

c. Reimburse the City for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the Applicant's CCBP, or related to the City's approval of a commercial cannabis activity. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the Applicant of any of the obligations imposed hereunder.

**Section 8-11.26 Records and Recordkeeping.**

a. Each Owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this chapter), or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each Owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent

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

b. Each Owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon reasonable request.

c. All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA.

d. Each commercial cannabis business shall allow City officials access to the business's books, records and accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination for purposes of determining compliance with this chapter, applicable law and the CCBP. Books, records, accounts, and any and all relevant data or documents will be produced or made available at a location specified by the City no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

***Section 8-11.27 Security Measures.*** A permitted commercial cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. All commercial cannabis businesses shall comply with additional requirements detailed in the regulations.

***Section 8-11.28 Restriction on Alcohol & Tobacco Sales.***

a. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.

b. No person shall cause or permit the sale of tobacco products on or about the premises of the commercial cannabis business.

c. No person shall consume cannabis, cannabis products, tobacco or alcohol on the premises of any commercial cannabis business. For purposes of this section, "premises" means the designated structure or structures and land specified in the Proposal or application that is owned, leased, or otherwise held under the control of the Proposer, applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

***Section 8-11.29 Fees and Charges.***

a. No person may commence or continue any commercial cannabis activity in the City without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis

activity shall be established by resolution of the City Council which may be amended from time to time.

b. All commercial cannabis businesses authorized to operate under this chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with the City with respect to any reasonable request to audit the commercial cannabis business' books and records pursuant to section 8-11.26 for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

c. Prior to operating in the City and as a condition of issuance of a CC or CCBP, the Owner or operator of each cannabis facility shall enter into an operational or community benefit agreement with the City setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety and welfare.

**Section 8-11.30 Operating Requirements for Out of City Delivery Services.** Prior to commencing operations, a cannabis out-of-city delivery service shall comply with the following requirements:

a. Obtain a permit from the City acknowledging/authorizing the delivery of cannabis and cannabis products within the city limits. A copy of this permit shall be retained by all drivers.

b. The retail business operating the delivery service shall provide the City Manager with evidence of a valid state license for a commercial cannabis business on whose authorization the delivery service is performing the delivery function.

c. The retail business operating the delivery service shall furnish to the City Manager the year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis and cannabis products.

d. The retail business operating the delivery service shall apply for and obtain a city business license, and in that connection, shall pay all applicable sales and license taxes unless otherwise exempt from doing so.

**Section 8-11.31 Cannabis Deliveries.** Deliveries within the City limits shall only be permitted by persons that have a Cannabis Delivery Permit issued by the Chief of Police, in consultation with the City Manager or his/her designee. Any other cannabis delivery is prohibited. This Permit can be issued either to a business located outside the City or can be included as part a CCBP issued to a cannabis retail or dispensary operation (collectively, these businesses shall be sometimes referred to herein as "Cannabis Delivery Businesses").

a. Application. All of the information and stipulations listed below shall be supplied by the operator of a cannabis business providing delivery services to the Chief of Police. No commercial cannabis business may deliver cannabis or cannabis products to any person situated within the City's limits until and unless the Chief of Police, in consultation with the City Manager or his/her designee, issues a Cannabis Delivery Permit to that business. If the Permit is denied, the

Applicant may appeal the decision of the Chief of Police to the City Council, pursuant to Section 8-11.19 Appeals.

b. Fees. An Administrative Review Fee Deposit as adopted in the City's fee schedule shall be submitted to the City along with the Cannabis Delivery Permit to be used to cover the cost of all needed staff time, consultant costs and other resources utilized in vetting the Cannabis Delivery Permit.

c. Cannabis Delivery Permits shall be subject to the following standards:

(1) Each Cannabis Delivery business owner, as well as each employee shall submit specific personal information including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and electronic fingerprint images and related information as required by the Chief of Police, in consultation with the City Manager and his/her designee for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests. A mandatory criminal background check will be conducted. All confidential information shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

(2) Cannabis Delivery Businesses shall provide to the Chief of Police a list of all vehicles to be used for delivery of cannabis and cannabis products, including each vehicle's make, model, year, license plate number and vehicle identification number. The cannabis delivery business shall update the list prior to any vehicle being added to or removed from service and provide that updated list to the Chief of Police on the same day the vehicle change is made.

(3) Cannabis Delivery Businesses shall adhere to best practices in terms of handling currency as established by the Chief of Police, in consultation with the City Manager or his/her designee.

(4) Cannabis Delivery Businesses shall ensure that all delivery vehicles shall be in possession of a copy of all licenses and permits required by the State of California and the City.

(5) All vehicles used by Cannabis Delivery Businesses to deliver cannabis and/or cannabis products shall not be marked or otherwise identified with advertisements, the name of the cannabis delivery business, or any other distinctive markings associated with cannabis.

(6) Cannabis Delivery Businesses shall only deliver cannabis directly to the residence or business address of the designated recipient; deliveries to any other location are prohibited.

(7) Cannabis Delivery Businesses shall deliver cannabis or cannabis products only between the hours of 8:00 a.m. and 8:00 p.m.

(8) Cannabis Delivery Businesses shall only deliver cannabis or cannabis products to persons 21 years of age or older, or a person 18 years of age or older who possesses a physician's recommendation for medical use only.

**Section 8-11.32 Permissible Delivery Locations and Customers.** Cannabis delivery businesses located inside or outside of the City which are permitted to engage in delivery of cannabis and cannabis products inside the City of Novato are subject to the following, additional requirements:

a. A licensed cannabis delivery business shall not deliver cannabis or cannabis products to an address located on publicly owned land or any address on land or in a building leased by a public agency.

b. A licensed cannabis delivery business shall comply with all requirements of state and local law pertaining to the business' operations and all subsequent policies, procedures and regulations which may be promulgated by the City Manager from time to time.

**Section 8-11.33 Fees Deemed Debt to the City of Novato.** The amount of any fee, cost or charge imposed pursuant to this chapter shall be deemed a debt to the City of Novato that is recoverable via an authorized administrative process as set forth in this code, or in any court of competent jurisdiction.

**Section 8-11.34 Permit Holder Responsible for Violations.** The person to whom a CCBP is issued pursuant to this chapter shall be responsible for all violations of the laws and regulations of the State of California or of the regulations and/or the ordinances of the City of Novato, whether committed by the Owner, permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business and whether or not said violations occur within the permit holder's presence.

**Section 8-11.35 Inspection and Enforcement.**

a. The City Manager, or his/her designee(s) charged with enforcing the provisions of the City's Municipal Code, or any provision thereof, may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this chapter or under applicable provisions of State law.

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

c. The City Manager, or his/her designee(s) charged with enforcing the provisions of this chapter may enter the commercial cannabis business at any time during the hours of operation, with or without notice for purposes of inspection of the premises and business records.

**Section 8-11.36 Promulgation of Regulations, Standards and Other Legal Duties.**

a. In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish and develop any additional rules, regulations, forms and standards governing the issuance, denial or renewal of CCBP, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this chapter.

b. Regulations will be published on the City's website.

c. Regulations promulgated by the City Manager shall become effective upon date of publication after first being approved by the City Council. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his/her designee.

**Section 8-11.37 Compliance with State Regulations.** It is the stated intent of this chapter to regulate commercial cannabis activity in the City in compliance with all provisions of MAUCRSA and any subsequent state legislation.

**Section 8-11.38 Violations declared a public nuisance.** Each and every violation of the provisions of this chapter, and of any regulations established by resolution and promulgated pursuant to this chapter, is hereby deemed unlawful and a public nuisance.

**Section 8-11.39 Each violation a separate offense.** Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures available to and authorized by the City of Novato. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, and any permit issued in violation of this chapter shall be deemed null and void. The City of Novato may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a CCBP issued by the City, pending a hearing before the City Manager, or his/her designee(s).

**Section 8-11.40 Criminal penalties.** Each and every violation of the provisions of this chapter may in the discretion of the District Attorney or City Attorney be prosecuted as an infraction or a misdemeanor and, in the case of an infraction, upon conviction be subject to a fine not to exceed the amounts specified in California Government Code Section 36900(b) and, in the case of a misdemeanor, upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

**Section 8-11.41 Remedies cumulative and not exclusive.** The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

### **SECTION III. Severability**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.



**SECTION IV. CEQA**

This Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and it has been determined that approval of the ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions without any physical project being approved, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment. Specifically and additionally, as part of the review of any Proposal to establish and operate a cannabis business in the City, the City has the authority to determine the appropriate level of environmental review and should same be necessary, require the Proposer to conduct that review as a condition to the awarding of any entitlement or permit under this Ordinance. This ordinance is also exempt under Business and Professions Code Section 26055 (H) which, until July 1, 2021, exempts the adoption of ordinances, rules or regulations on commercial cannabis which require subsequent discretionary review. The City Council concurs in these findings and adopts them as its own. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Marin in accordance with CEQA Guidelines.

**Section V: Publication and Effective Date**

This ordinance shall be published in accordance with applicable provisions of law, by either:  
publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption,  
or  
publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

This ordinance shall become effective 30 days after the date of its passage and adoption.

\* \* \* \* \*

I HEREBY CERTIFY that the foregoing ordinance was duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting thereof, held on the \_\_\_\_ day of \_\_\_\_\_, 2019 by the following vote, to wit:

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

---

Mayor of the City of Novato

Attest:

---

City Clerk of the City of Novato

Approved as to form:

---

City Attorney of the City of Novato

DRAFT

RESOLUTION OF THE NOVATO CITY COUNCIL ESTABLISHING THE  
PROCESS FOR EVALUATING APPLICATIONS AND ISSUING  
COMMERCIAL CANNABIS LICENSES AND ESTABLISHING CERTAIN  
OPERATIONAL PARAMETERS FOR COMMERCIAL CANNABIS  
BUSINESS ACTIVITIES AND FINDING THE ACTIONS EXEMPT FROM  
THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL  
QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION  
15061(b)(3)

WHEREAS, pursuant to its police powers and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transportation and testing within its jurisdiction; and

WHEREAS, the City Council has previously adopted ordinances governing cultivation of cannabis for personal use, as well as urgency ordinances to ban commercial cannabis operations until such time as these permanent regulations were developed and adopted; and

WHEREAS, the City wishes to establish a uniform regulatory structure for commercial cannabis operations in the City in accordance with state law; and

WHEREAS, the City of Novato currently regulates only personal cannabis cultivation pursuant to Novato Municipal Code Section 19.34.065; and

WHEREAS, Chapter 19 of the Municipal Code is a permissive ordinance and, except as otherwise expressly provided, the amendments adopted herein do not confer any additional rights or permits related to medical or adult use cannabis activities; and

WHEREAS, the Novato Community Development Department prepared draft amendments to Chapter 8 (Licenses) and Chapter 19 (Section 19.12.030 Allowable Commercial/Industrial District Land Use and Permit Requirements, Section 19.14.030 special Purpose District Land Uses and Permit Requirements, Section 19.34.066 Cannabis – Commercial Activities, and Division 19.60 Definitions) of the Novato Municipal Code (hereafter “Amendments” collectively); and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 23, 2019 to consider and receive public testimony on the proposed amendments to Chapter 19. At this hearing, the Planning Commission adopted Resolution No. \_\_\_\_ recommending the City Council approve the proposed Amendments to Chapter 19; and

WHEREAS, notice of the City Council's public hearing on the Amendments was published in a 1/8<sup>th</sup> page legal ad in the Marin Independent Journal, a newspaper of local circulation, on \_\_\_\_\_; and

WHEREAS, the City Council held a duly noticed public hearing on \_\_\_\_\_, 2019 to introduce and consider the proposed amendments and the recommendation of the Planning Commission and public comments thereon; and

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby recommend that the City Council approve the proposed Municipal Code revisions, as described in Exhibit A incorporated herein and attached hereto with suggested modifications, and based on the following findings of Novato Municipal Code Section 19.56.070.c.1. and 3.:

\* \* \* \* \*

I HEREBY CERTIFY that the foregoing resolution was duly and regularly adopted by the City Council of the City of Novato, Marin County, California, at a meeting thereof, held on the \_\_\_\_ day of \_\_\_\_\_, 2019 by the following vote, to wit:

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

\_\_\_\_\_  
Mayor of the City of Novato

Attest:  
\_\_\_\_\_  
City Clerk of the City of Novato

Approved as to form:  
  
\_\_\_\_\_  
City Attorney of the City of Novato

Attachment: Exhibit A – Commercial Cannabis Business Permittee Selection Process and Operational Standards

EXHIBIT A

**Commercial Cannabis Business Permittee Selection Process  
and Operational Standards**

**September 23, 2019**

Please see Novato Municipal Code sections 8-11 and 19.60 for cannabis-related definitions found herein.

**Section 100 Process for Submission and Review of Commercial Cannabis Business Proposals**

***A. Commercial Cannabis Business Selection Process***

a. In order to operate a commercial cannabis business, Proposer(s) shall successfully complete a rigorous review process. The steps of the process are generally described as follows:

- (1) City issues a Request for Proposals to operate a Commercial Cannabis Business.
- (2) Submission of a complete Proposal for consideration by the City.
- (3) Successfully complete an interview, background investigation and vetting process.
- (4) Achieve a score of 80% or greater from the Proposal Review Committee and be forwarded to the City Council as a finalist.
- (5) Be awarded a Conditional Certificate by the City Council which grants the Proposer the privilege of applying for a CCBP.
- (6) Apply for and secure all required land use permits, other agency licenses or authorizations and building permits and complete any required environmental review pursuant to the California Environmental Quality Act.
- (7) Complete the improvements permitted under the CC and land use permits necessary to apply for and secure the CCBP.
- (8) Complete all other requirements precedent to the issuance of a CCBP set forth in Novato Municipal Code Section 8-11.
- (9) Apply for and secure the ministerial CCBP.

***B. Required Proposal Content***

The content of each Proposal shall include the following minimum information and documents.

a. Identifying information for ownership and management, including the respective percentages of ownership.

b. Name and address of each commercial cannabis business owner and an explanation of the legal form of business ownership.

c. Description of proposed operations. A description of the nature of the proposed commercial cannabis activity and its day-to-day operations, including product types, average or expected sales amounts by product type, and average or expected amount of cannabis storage and average or expected amounts of all anticipated hazardous materials. Description should also include details as to how the overall business plan will comply with the local regulatory ordinance and how the Proposer(s) intends to facilitate communications with the City.

d. A description of the specific State license(s) or permits that the Proposer(s) plans to obtain. The Proposer(s) shall describe how the business will meet the State licensing requirements.

e. Additional identifying information for proposed Owners and all employees. The Proposer(s) shall submit for each commercial cannabis business Owner, as well as for each employee, specific personal information including names, birth dates, addresses, social security numbers, complete criminal history, relevant work history and the names, addresses, telephone numbers and email addresses of businesses owned or operated within the last ten (10) years, investor or partner information of those businesses, and electronic fingerprint images and related information as required by the Chief of Police for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests. Mandatory criminal background checks will be conducted using this information. All confidential information shall be held in a confidential file and except as may be otherwise ordered by a court of competent jurisdiction, shall be treated as exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

f. Disclosure of litigation and legal proceedings. A description of any litigation in which the Proposer(s) and/or its principals have been involved within the ten (10) years immediately preceding the date of the Proposal and a statement of whether any authorization allowing the business currently operated by the Proposer(s) or the State license authorizing the operation of such business has been revoked or suspended within the ten (10) years immediately preceding the date of the Proposal.

g. Security Plan. A description and documentation of how the Proposer(s) will secure the business and premises at all times as is required under Section 8-11.27. All security plans shall be held in a confidential file, and except as may be otherwise ordered by a court of competent jurisdiction, shall be treated as exempt from disclosure as a public record pursuant to Government Code Section 6255(a).

h. Emissions, Odor Control and Ventilation. A description (with plans if available) of how the facility will provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility is not detected outside the facility, anywhere on adjacent property or in public rights-of-way, or within any other unit located within the

same building as the cannabis facility is located. All commercial cannabis businesses must install a ventilation system that adequately controls for odor, humidity, and mold.

i. **Water Supply.** If proposed use will occupy an existing building, applicant shall demonstrate to the satisfaction of the North Marin Water District and Novato Building Official that water usage will not exceed that of the building's existing utility infrastructure without additional review and prior approval by the City. If proposed use will occupy a newly constructed building, the proposed use and construction design shall include all necessary devices and processes to ensure water usage will not exceed that of an operation typical for the building's occupancy type and the zone in which it is proposed.

j. **Wastewater.** The applicant shall demonstrate to the satisfaction of the Novato Sanitary District that sufficient wastewater capacity exists for the proposed use. To the extent the proposed use will result in agricultural or industrial discharges to the District's wastewater system, the applicant shall provide a plan for meeting all federal, state, and local requirements for such discharges.

k. **Compliance with County Health Officials.** Cannabis manufacturers, dispensaries, and delivery operations shall be subject to permit requirements and regulations, including inspections, established by the Marin County Departments of Environmental Health and Health & Human Services. All such permit requirements and regulations shall be interpreted to implement the purpose and intent of Novato Municipal Code Chapter 19, and shall not prohibit or unreasonably restrict any commercial cannabis use allowed under that Chapter. The City Manager may eliminate this requirement after the California Department of Public Health, or other applicable state agency establishes regulations related to cannabis product safety.

l. **Pro Forma.** Three years of pro forma estimates for operations, including a discussion of the business assumptions used to develop the estimates. Example assumptions include revenue, customer volume, visits and product costs, debt service, reserves, compensation of employees, net income and profit, equipment costs, utility costs, and other operation and maintenance costs.

m. **Startup Cost and Evidence of Sufficient Capitalization.** An estimate of startup cost sufficient to, at a minimum, fund the business through the first three months of its operation. Startup cost shall include rents; insurance, fees, escrow costs if acquiring property; construction, tenant improvements, equipment and software purchases. Evidence of sufficient capital may be provided in the form of bank statements, letters of credit, and proof of loan agreements.

n. **Community Benefits.** A description of the benefits that the commercial cannabis business will provide to the local community, such as employment for residents of the City, community contributions, and/or economic incentives to the City. Any community benefits that a commercial cannabis business agrees to provide shall be incorporated into the terms and conditions under which the commercial cannabis business will operate with the City's approval, if and when the Conditional Certificate is awarded. Said agreement may take

the form of a written agreement and/or conditions of approval. Such terms and conditions shall be in addition to the requirements of this resolution and Novato Municipal Code Chapter 8-11 and will ultimately be made a condition of any land use entitlements obtained by the Proposer and of the CCBP.

o. Fees.

- (1) An Administrative Review Fee Deposit as adopted by Council resolution shall be submitted to the City along with the Proposal to be used to cover the cost of all needed staff time, consultant and legal costs and other resources utilized in vetting the Proposal.
- (2) The Proposer(s) shall also be responsible for reimbursing the City for the cost of any staff time and City resources, in excess of the deposit, if needed. If any monies are not expended, they shall be refunded. Proposer(s) shall be required to execute a cost recovery agreement with the City as a condition to submitting a Proposal.

p. Additional Information. The Proposal may also be required to include additional information and/or documents pursuant to regulations promulgated to implement and enforce the provisions of this resolution.

q. Description of the Proposed Site. The site address, description of the premises, name and address of the property owner(s) where the commercial cannabis business is proposed to be located, as well as a site plan and floor plan(s) of the proposed commercial cannabis business and evidence that the Proposer has the right to use the premises for the purpose of the applied-for cannabis business.

***C. Commercial Cannabis Proposal Review Process.***

a. The Proposal Review Committee (“PRC”) shall consider each Proposal and shall give particular consideration to the capacity, capitalization, and history of the Proposer, the community benefits proposed to be provided by the proposed commercial cannabis business and any other factors that the City, in its discretion, deems necessary to maintain and/or promote the health, safety, and general welfare of the public. An administrative rating system shall be created by the City Manager that reflects these priorities. The City reserves the right to reject any or all Proposals if it is determined to be in the best interest of the City, taking into account any aspect of the health, safety and/or welfare of the community.

b. The purpose of the PRC is to develop a list of qualified finalists (“Finalists”) for the various types of cannabis businesses this chapter allows.

c. The PRC reserves the right to:

- (1) Contact any Proposer if the PRC has additional questions after reviewing the Proposals.



- (2) Interview any or all Proposers as the PRC finds necessary in order to provide each Proposal an overall score.

d. All Proposals receiving a score of 80% or higher by the PRC will be referred to the City Council as Finalists.

e. City will mail notices to all properties and property owners within 600-feet of the boundaries of the property upon which the commercial cannabis business is proposed, at least ten (10) days prior to consideration of the Finalists by the City Council.

e. Any decision by the PRC to reject a Proposal or to award the Proposal a score of less than 80% may be appealed to the City Council, pursuant to Section 8-11.19. If possible, any such appeal shall be heard at the same City Council meeting as the Finalists for the Conditional Certificates are considered.

#### ***D. Renewal of Commercial Cannabis Business Permits***

a. An application for renewal of a CCBP shall be filed at least sixty (60) calendar days prior to its expiration date.

b. The renewal application shall contain all of the information required for new applications for a CCBP.

c. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this chapter.

d. An application for renewal of a CCBP shall be denied if any of the following exists:

- (1) The application is filed less than sixty (60) days before the CCBP's expiration.
- (2) The CCBP is suspended or revoked at any time between the date of the submittal for renewal and the date of the decision to grant or deny the application.
- (3) The commercial cannabis business has not been in regular and continuous operation during the four (4) months prior to the date the renewal application is submitted.
- (4) The commercial cannabis business has failed to conform to the requirements of the Novato Municipal Code or any regulations adopted pursuant to the Novato Municipal Code, this resolution, or any conditions of approval of any of the permits granted to the business by the City, or any terms and/or conditions of any agreement entered into by and between the City and the owner of the business.

- (5) The permittee's State license has been revoked or suspended or the permittee fails or is unable to renew its State license.
- (6) If the City or state determines or has determined, based on substantial evidence, that the permittee or applicant is in violation of City requirements, state laws or the state rules and regulations, and the City or State has determined that the violation is grounds for termination or revocation of the CCBP.

e. The City Manager or designee(s) is authorized to make and shall make all decisions concerning the renewal of a CCBP. In making the decision, the City Manager or designee is authorized to impose additional conditions on the CCBP or to modify the CCBP's existing conditions, if it is determined to be necessary to ensure compliance with state or local laws and regulations in effect at the time of the City Manager's decision or to preserve the public health, safety or welfare. The City Manager's decision shall be in writing and is subject to appeal to the City Council pursuant to sections 8-11.19 through 8-11.21.

f. If a renewal application is denied, the person whose renewal application was denied may file a new application pursuant to this chapter no sooner than one (1) year from the date of the final decision denying the renewal.

## **Section 200 Security Measures**

a. Except as may otherwise be determined by the City Manager or his/her designee(s), minimum security measures to be included in the Security Plan include all of the following:

- (1) Alarm system (perimeter, fire, and panic buttons). System shall be professionally installed, maintained, and monitored by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (2) Remote monitoring of alarm systems by licensed security professionals.
- (3) Perimeter lighting systems (including motion sensors) for after-hours security.
- (4) Perimeter security and lighting as approved by the Police Chief and Community Development Director or designee.
- (5) Prevention of individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.
- (6) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- (7) Except for live growing plants which are being cultivated at a cultivation operation, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

- (8) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and that it is compatible with the City's software and hardware. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the City Manager or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Novato Police Department by the commercial cannabis business, to facilitate remote monitoring of security cameras by the Department or its designee.
- (9) Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- (10) Panic buttons shall be installed in all commercial cannabis businesses with direct notification to the Novato Police Department dispatch and shall be configured to immediately alert dispatch for the Novato Police Department.
- (11) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
- (12) Security personnel shall be on-site 24 hours a day or alternative security as authorized by the City Manager or his/her designee(s), and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld. Firearms may be carried by security personnel while they are on duty if authorized by the Chief of Police.
- (13) Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- (14) Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the commercial cannabis business; or (b) a licensed security professional.

- (15) Each commercial cannabis business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.
- (16) Each commercial cannabis business shall demonstrate to the Chief of Police, City Manager or their designees, compliance with the State's track and trace system for cannabis and cannabis products, as soon as it is operational.
- (17) Each commercial cannabis business shall have a professionally installed video surveillance system, access control and intrusion alarm systems designed to protect the inventory, facility, and employees. Each business shall have network security protocols that are certified by Underwriters Laboratories.
- (18) Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (19) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.

b. Each commercial cannabis business shall identify a designated security representative/liasion to the City, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liasion shall, on behalf of the commercial cannabis business, annually maintain a copy of the current security plan on the premises of the business, to present to the City Manager or his/her designee upon request that meets the following requirements:

- (1) Confirms that a designated manager will be on duty during business hours and will be responsible for monitoring the behavior of employees;
- (2) Identifies all managers of the commercial cannabis business and their contact phone numbers;
- (3) Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the manager's office;
- (4) Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company;
- (5) Identifies a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the commercial cannabis business, the parking lot, and any adjacent property under the business' control;
- (6) Confirms that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (i) free of individuals loitering or causing a disturbance; (ii) are cleared of employees and their vehicles one-half hour after closing.

c. As part of the application and permitting process each commercial cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, any hazardous materials that may be used by the business, and any currency.

d. The commercial cannabis business shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this chapter.

e. A commercial cannabis business shall notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:

- (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
- (2) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
- (3) The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial cannabis business.
- (4) Any other breach of security.

f. Compliance with the foregoing requirements shall be verified by the City Manager or his/her designee prior to commencing business operations. The City Manager or his/her designee may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business Owner.

### **Section 300 Commercial Cannabis Business General Operational Requirements**

a. Commercial cannabis businesses may operate only during the hours specified in the CCBP issued by the City. No person under the age of 21 shall operate, or be issued a permit for, a commercial cannabis business of any kind.

b. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a CCBP, or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.

c. Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.

d. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.

e. Emergency Contact. Each commercial cannabis business shall provide the City Manager or his/her designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.

f. Signage and Notices.

- (1) In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the City of Novato ordinance, including, but not limited to, seeking the issuance of a City sign permit.
- (2) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
- (3) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
- (4) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
- (5) Signage shall not depict any image of cannabis or cannabis products. No banners, flags, billboards or other prohibited signs may be used at any time.
- (6) In accordance with state law and regulations or as stipulated in the City of Novato regulatory permit, holders of a commercial cannabis business permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any commercial cannabis business located in the City of Novato utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising. This paragraph is not intended to place limitations on the ability of a commercial cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.

g. Minors.

- (1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this City regulations for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age.
- (2) The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.

h. Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the City Manager or his/her designee(s) determine is a more effective method or technology:

- (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
- (2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

i. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide evidence of approval from Novato Fire District and Marin County CUPA as required identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others, and confirming a plan for safe, secure storage. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

j. Display of Permit and City Business License. The original copy of the commercial cannabis business permit issued by the City pursuant to this Chapter and the City

issued business license shall be posted inside the commercial cannabis business in a location readily-visible to the public.

k. Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises. The cannabis business shall notify the Novato Police Department if anyone continues to loiter around the building or premises after all reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.

l. Permits and other Approvals. Prior to the establishment of any commercial cannabis business or the operation of any such business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

m. Each commercial cannabis operator shall establish minimum training standards for all employees. The City Manager shall have the discretion to require other training for the business operations should the City identify deficiencies or non-compliance issues with City or state requirements.

#### **Section 400 Operating Requirements for Non-Store Front Retailer of Commercial Cannabis**

a. A Non-Store Front Retailer License Owner and/Operator shall only sell cannabis or cannabis products to a natural person 21 years of age or older, or a natural person 18 years of age or older who possesses a physician's recommendation or cannabis card issued pursuant to Health and Safety Code Section 11362.71 for cannabis medical use only.

b. Non-Store Front Retailer (Delivery) License Owners and Operators are required to verify the age and documentation, if necessary, of each customer. If customer is under the age of twenty-one (21) years, Owner/Operator shall verify that the potential customer has a valid doctor's recommendation or cannabis card issued pursuant to Health and Safety Code Section 11362.71. Doctor recommendations are not to be obtained or provided at the retail location.

c. All Retailers which conduct deliveries into or within the City of Novato shall be required to obtain a permit from the City of Novato in order to conduct retail sales regardless if they are located in the City or another jurisdiction. Out of City retailers shall obtain permits in accordance with Novato Municipal Code sections 8-11.30 through 8-11.32 and operate in accordance with Section 8-11.32 and all other applicable sections of chapter 8-11.

d. Operating hours of the Non-Store Front Retailer shall be limited to the hours of 8:00 a.m. through 8:00 p.m., seven days a week.

e. Non-Store Front Retailer may only have that quantity of cannabis and cannabis products on-site that are reasonably anticipated to meet the weekly demand for which it may need to be readily available for sale.

#### **Section 500 Non-Store Front Retailer Vehicle Requirements**



Prior to commencing operations, a Non-Store Front Retailer shall provide the following information to the City.

- a. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
- b. The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
- c. Proof of insurance as required in Section 8-11.25 for any and all vehicles being used to deliver cannabis goods.
- d. The licensee shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
- e. The licensee shall provide the city with any changes to the information required by this section in writing within thirty (30) calendar days.

### **Section 600 Operating Requirements for Testing Labs**

- a. Testing Labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to state and local law. Each Testing Lab shall be subject to additional regulations as determined from time to time as City regulations and State laws and regulations develop and change.
- b. Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- c. All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
- d. Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the bureau.
- e. Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.
- f. Except as provided by state law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- g. A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary

caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing lab shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.

#### **Section 700 Operating Requirements for Cannabis Manufacturing: Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products**

- a. Only manufacturers possessing a State License Type 6, 7, N or P are permitted to establish and operate a manufacturing site in the City.
- b. Facilities may use non-volatile processes such as heat, screens, presses, steam distillation, ice water, ethanol and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources.
- c. Facilities may use volatile solvents allowed under State licensing requirements only after demonstrating compliance or the ability to comply with all Federal, State and local requirements for hazardous materials, use, storage and handling.

#### **Section 800 Operating Requirements for Distributors**

- a. Distribution activities are allowed as both a stand-alone and as an ancillary activity to another locally permitted commercial cannabis activity such as manufacturing or cultivation. All Distribution activities require a license from the State which allows a licensee to transport cannabis goods between licensees, to arrange for testing of cannabis goods, and to conduct the quality assurance review of cannabis goods to ensure compliance with all packaging and labeling requirements. A licensed distributor may only distribute cannabis goods, cannabis accessories, and licensees' branded merchandise or promotional materials.
- b. A distributor shall not distribute non-cannabis goods or non-cannabis accessories at a licensed premise. For the purposes of this section, non-cannabis goods are any goods that do not meet the definition of cannabis goods as defined in Section 5000(c) of the California Code of Regulations.
- c. After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's licensed premises to select a representative sample for laboratory testing.
- d. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- e. The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provisions within the California Code of Regulations.

f. A distributor or an employee of the distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept available to state and local authorities for a minimum of 180 days, pursuant to Section 5305 of the California Code of Regulations.

g. A distributor shall not transport cannabis or cannabis products to a licensed retail facility until and unless it has verified that the cannabis or cannabis products have been tested and certified by a testing lab as being in compliance with state health and safety requirements pursuant to Sections 5705, 5710 and 5714 of the California Code of Regulations.

### **Section 900 Operating Requirements for Commercial Cultivation**

a. This subsection shall apply to all commercial cannabis cultivation uses and activities, including but not limited to indoor cultivation environments and associated drying, curing, grading, and trimming facilities. Cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles, which are classified separately.

b. Outdoor or mixed light cultivation is prohibited. The cultivation of cannabis for commercial use may only occur within a fully enclosed structure which can be secured against entry.

c. All cultivation activities shall at all times comply with the maximum canopy sizes of their State and local licenses and permits.

d. Structures and areas where cannabis is processed, dried, aged, stored, trimmed, packaged or weighed, and areas where equipment is stored and washed, shall be limited to the on-site cultivation use only.

c. Cultivation activities shall utilize measures to reduce water use to the maximum extent practical. Operators shall ensure practices are followed which eliminate overwatering or runoff, or other water waste.

d. The best lighting technology resulting in lowered energy use which is readily available to this industry shall be used for artificial lighting of the canopy.

e. Cultivation uses that provide access to the public, including but not limited to employees, vendors, contractors, or business partners, shall meet Cotati Municipal Code requirements for accessibility, including accessible parking, accessible path of travel, restrooms, and washing facilities.

### **Section 1000 Operating Requirements for Microbusinesses**

a. Storefront retail activities as a component of a microbusiness is prohibited.

b. All activities of a microbusiness shall comply with the requirements of the individual constituent activities as required in Sections 300 through 900 above.

DRAFT

# Commercial Cannabis License Types

License types that may be issued by various agencies of the State of California, including the Bureau of Cannabis Control (a division of the Department of Consumer Affairs), Department of Food & Agriculture and the Department of Public Health, beginning January 2018:

License	Allowable Activities/Limits
Type 1	Cultivation; Specialty Outdoor; Small: up to 5,000 square feet of canopy, no artificial lighting, or up to 50 mature plants on noncontiguous plots
Type 1A	Cultivation; Specialty Indoor; Small: between 501 and 5,000 square feet of canopy on one premises, using exclusively artificial lighting
Type 1B	Cultivation; Specialty Mixed-light; Small: between 2,501 and 5,000 square feet of canopy on one premises, using a combination of natural and supplemental artificial lighting
Type 1C	Cultivation; Specialty Cottage, using a combination of natural and artificial lighting of 2,500 square feet or less of total canopy size for mixed light, up to 25 mature plants for outdoor cultivation or 500 square feet or less of total canopy for indoor cultivation, on one premises
Type 2	Cultivation; Outdoor; Small: between 5,001 and 10,000 square feet of total canopy size on one premises, using no artificial lighting
Type 2A	Cultivation; Indoor; Small: between 5,001 and 10,000 square feet of total canopy size on one premises, using exclusively artificial lighting
Type 2B	Cultivation; Mixed-light; Small: between 5,001 and 10,000 square feet of total canopy size on one premises, using a combination of natural and supplemental artificial lighting
Type 3	Cultivation; Outdoor; Medium: between 10,001 square feet and 1 acre of total canopy size on one premises using no artificial lighting. DFA will limit the number of these licenses issued.
Type 3A	Cultivation; Indoor; Medium: between 10,001 and 22,000 square feet of total canopy size on one premises using exclusively artificial lighting. DFA will limit the number of these licenses issued.
Type 3B	Cultivation; Mixed-light; Medium: between 10,001 and 22,000 square feet of total canopy size on one premises using a combination of natural and artificial lighting. DFA will limit the number of these licenses issued.
Type 4	Cultivation; Nursery: cultivation solely as a plant nursery producing only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.
Type 5 *	Cultivation; Outdoor; Large: greater than 1 acre of total canopy size on one premises, using exclusively natural lighting
Type 5A *	Cultivation; Indoor; Large: greater than 22,000 square feet of canopy on one premises, using exclusively artificial lighting
Type 5B *	Cultivation; Mixed-Light; Large: greater than 22,000 square feet of canopy on one premises, using a combination of natural and supplemental artificial lighting

License	Allowable Activities/Limits
Type 6	Manufacturer 1: manufacture of products using non-volatile or no solvents
Type 7	Manufacturer 2: manufacture of products using volatile solvents
Type 8	Testing: facility for testing of marijuana and marijuana products
Type 9	Non-Storefront Retailer: licensee authorized to conduct retail cannabis sales exclusively by delivery; licensed premises are closed to the public
Type 10	Retailer: for the retail sale and delivery of products to customers. A retailer shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. A retailer's premises may be closed to the public. A retailer may conduct sales exclusively by delivery.
Type 11	Distributor: for the distribution of products
Type 12	Microbusiness: a business including at least three of the following four activities: cultivation on an area less than 10,000 square feet, licensed distribution, Level 1 manufacturing, and retailing
Type 13	Distributor – Transport Only. Transports goods between licensees but may not transport any cannabis goods, except for immature plants and seeds, to a licensed retailer or to the retailer portion of a microbusiness.
Type N	For manufacturers performing infusion; these licensees may also conduct Type P activities.
Type P	For manufacturers only packaging or labeling cannabis products; these licensees may only conduct Type P activities.
Type S	For manufacturers operating on a registered shared-use facility; these facilities must be approved before Type S licensees may submit license applications.

\* These license types will not be issued before January 1, 2023.

**HOLDING MULTIPLE LICENSE TYPES** Beginning January 1, 2023, a holder of license Types 5, 5A or 5B may also hold a Type 6, 7 or 10; they shall not be eligible to hold Types 8, 11, or 12. (BPC 26061(d).

**LOCAL PERMITS REQUIRED** No person shall engage in commercial activity without BOTH a state and local license, permit or other authorization. (AB 266, 19320(a); AB 243, 11362.777 (b)).

**DELIVERY AND TRANSPORT** Local jurisdictions may not prevent the transport or delivery of marijuana or marijuana products on public roads by a licensee in compliance with State law.

**VOLATILE SOLVENTS** Means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Isopropyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Trichloro-ethylene.

**ENVIRONMENTAL** Indoor and outdoor cultivation must be conducted in accordance with all state and local laws related to land conversion, grading, electricity and water usage, water quality, woodland and riparian habitat protection, as well as agricultural discharges.

**LABELING AND MARKETING** The Department of Food & Agriculture will establish a certified organic designation and an organic certification program for cannabis and cannabis products. The Bureau of Cannabis Control will establish standards for recognizing particular appellations of origin and cannabis shall not be marketed, labeled or sold as grown in a California county when it was not. The name of a California county can only be used in labeling, marketing or packaging when it was grown in that county.

**REGULATIONS FOR CANNABIS USES  
MARIN COUNTY AND CITIES  
September, 2019**

Jurisdiction	Commercial Permitted & Regulated	Commercial Banned by Ordinance	Commercial Banned by Moratorium	Deliveries Into Jurisdiction	Personal Cultivation*	Notes
	Med / Adult	Med / Adult	Med / Adult	Med / Adult	Indoor/Outdoor	
County of Marin	X /	/ X	/	X / X	X / X*	Delivery business for medicinal only – No storefront dispensaries or other commercial activities. Limited to 4 businesses. *Outdoor grow limited to medicinal cannabis.
Sausalito	/	/	X / X	X / X	X /	
Mill Valley	/	X /	/ X	X / *	X /	*Awaiting court ruling re: banning commercial deliveries into town. Need to address new CBD products.
Larkspur	/	X /	X / X	X / X	X /	Medical Dispensaries prohibited by ordinance; all other medical and commercial activities banned under Moratorium
Tiburon	/	X / X	/	X /	X /	
Belvedere	/	X / X	/	X / X	X /	
Corte Madera	/	X / X	/	X / X	X / X	
Ross	/	X / X	/	X / X	X /	
San Anselmo	/	X / X	/	X / X	X / X	
Fairfax	X / X	/	X / X*	X / X	X / X**	Medicinal dispensaries and delivery permitted but limited. *Moratorium on commercial businesses in Fairfax expires 10/31; Delivery for adult use and other commercial activities under new Code. **up to 10 plants for medicinal purposes
San Rafael	X / X	/	/	X / X	X / X	Medical and adult dispensaries prohibited by ordinance. Delivery, laboratory, manufacturing and distribution businesses for medical/adult permitted with license
Novato	/	/	X / X*	X / X	X /	*Interim Ordinance set to expire November 2019; Draft regulations to allow indoor cultivation, manufacturing, testing and non-storefront retail to be heard this fall.

\*Cultivation for personal use is permitted under Proposition 64, but local agencies are allowed to establish standards for personal grow and may prohibit outdoor cultivation. However, agencies may also simply defer to State Law which permits both indoor and outdoor grow.