

CITY COUNCIL OF THE CITY OF NOVATO

RESOLUTION NO. 2019-069

**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 to consider and receive public testimony on the proposed amendments to

Chapter 19. At this hearing, the Planning Commission adopted Resolution No. 2019-013 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 1/8th page legal ad in the Marin Independent Journal, a newspaper of local circulation, on October 11, 2019; and

WHEREAS, the City Council held a duly noticed public hearing on October 22, 2019 to introduce and consider the proposed amendments and the recommendation of the Planning Commission and public comments thereon; and

WHEREAS, this resolution shall become effective only if the above referenced Municipal Code amendments are adopted in either permanent or urgency form by the City Council and upon the effective date of those amendments; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Novato hereby:

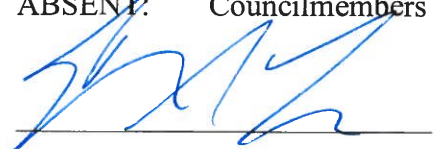
Approves the proposed Commercial Cannabis Business Permittee Selection Process and Operational Standards attached hereto as Exhibit A; and

Authorizes the City Manager to take any and all such actions, including the development of various forms and administrative processes to accomplish the purpose of this resolution and the requirements of Commercial Cannabis Business licensing as established in the City's Municipal Code.


* * * * *

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 22nd day of October, 2019 by the following vote, to wit:


AYES: Councilmembers Eklund, Drew, Athas, Lucan
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

Exhibit A – Commercial Cannabis Business Permittee Selection Process & Operation Standards

EXHIBIT A

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

Please see Novato Municipal Code sections 8-11 and 19.60 for the definition of cannabis-related terms 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 is efficient and will not exceed that of the building's historical entitlement and existing utility infrastructure without additional review and prior approval by the City and North Marin Water District. 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 is efficient and adequate supply is available for 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 ranted 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. Within seven (7) days of the Owner receiving a license renewal from the State or its divisions, Owner shall deliver evidence of said renewal to the City.
 - (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 all other). 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) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
- (11) Any 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.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) 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.
- (16) 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.
- (17) Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- (18) 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/liaison 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/liaison 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 all other 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 10:00 p.m., seven days a week.

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.

e. 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.

f. 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.

g. Cultivation uses that provide access to the public, including but not limited to employees, vendors, contractors, or business partners, shall meet Novato 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.