

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1674

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING NOVATO MUNICIPAL CODE SECTION 19.34.066 (F) LOCATION STANDARDS, CANNABIS – COMMERCIAL ACTIVITIES AND FINDING THE AMENDMENTS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(b)(3)

**Section I. 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 the licensing of commercial cannabis activities; and

WHEREAS, the City Council on November 12, 2019 adopted ordinances governing the licensing of commercial cannabis operations and a resolution setting forth the process to be followed for license approval; and

WHEREAS, the City Council on August 24, 2021 directed staff to prepare proposed amendments to the adopted commercial cannabis regulations to create additional distancing criteria from potentially sensitive uses; 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 October 22, 2021; and

WHEREAS, the Planning Commission held a duly noticed public hearing on November 1, 2021 to consider to consider and receive public testimony on the proposed amendments to Chapter 19, and

WHEREAS, following public testimony and deliberation, the Planning Commission voted to recommend the City Council amend the locational criteria for non-storefront retail and testing laboratory uses in Business and Professional Office zones; 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 November 5, 2021; and

WHEREAS, the City Council held a duly noticed public hearing on November 16, 2021 to consider to consider and receive public testimony on the proposed amendments; and

WHEREAS, this ordinance shall become effective only upon adoption of amendments to Municipal Code Chapter 19, Zoning, and upon the effective date of those amendments.

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 distancing of commercial cannabis sales and testing from potentially sensitive residential properties and youth oriented facilities.

## **Section II. RECITALS**

The foregoing recitals are true and correct and are incorporated into the findings herein.

## **Section III. RECORD**

The Record of Proceedings (“Record”) upon which the City Council 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 meetings and hearings or submitted to the City during the comment period relating to the amendments; (3) the City of Novato General Plan 2035 and its EIR; and (4) all other matters of common knowledge to the City Council 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.

## **Section IV. FINDINGS**

Pursuant to Novato Municipal Code Section 19.56.070(C), the City Council hereby makes the following findings:

- a. The proposed amendments are consistent with the General Plan.

**Facts in Support.** The proposed amendments are intended to create spacing or distancing criteria applicable to commercial cannabis non-storefront retail and testing 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 City adopted comprehensive licensing and zoning regulations in 2019, including designation of the zoning districts where a range of commercial cannabis activities may occur. These amendments make only minor modifications to those standards by adding distancing criteria from certain potentially sensitive uses. These amendments do not change existing land use designations or locations where those

designations exist. With no changes proposed to land use categories, the amendments will not create any inconsistency with the City's General Plan.

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

**Facts in Support.** The proposed amendments are intended to ensure that sufficient separation is created between the existing potentially sensitive uses of youth oriented facilities and residential neighborhoods, and new commercial cannabis activities. All future commercial cannabis operations will be subject to the distancing criteria before being licensed or permitted. Thus, the amendments will not result in conditions detrimental to the public interest, health, safety, convenience or welfare of the City.

c. The proposed project has 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 State CEQA Guidelines, as well as the City's Environmental Review 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.

d. The proposed amendment is internally consistent with other applicable provisions of the Zoning Ordinance.

**Facts in Support.** The proposed amendments establish distancing criteria for proposed new commercial cannabis operations from potentially sensitive existing uses. With adoption of amendments to Section 19.34.066, Cannabis – Commercial Activities, the amendments create criteria for proposed uses to be evaluated against prior to being approved for licensing and do not modify the intensity of future uses or the districts in which these cannabis uses can be located. Thus, the amendments are internally consistent with other applicable provisions of Chapter 19 of the Code.

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 distancing of certain commercial cannabis uses from potentially sensitive surrounding uses.

## Section V. Amendments

### The City Council of the City of Novato does ordain as follows:

The existing text of NMC Sections 19.34.066 Cannabis – Commercial Activities is hereby amended as follows. Amendments are shown in underline/strikeout format where text proposed for deletion is shown as ~~strikeout~~ and added text is shown as underline.

### Section 19.34.066 – Cannabis – Commercial Activities

~~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.~~

F. *Location Standards.* Commercial cannabis operations require distance separation from the potentially sensitive uses listed below. Distances are measured in a straight line from the nearest boundary of the commercial cannabis premises to the nearest boundary of the premises of the sensitive use. Separation requirements will be determined at the time the Conditional Certificate is issued and do not apply to sensitive uses established after a Conditional Certificate has been awarded by the licensing authority.


1. Youth facilities including schools providing instruction in kindergarten or any grades 1 through 12, daycare centers or Youth Centers.

- a. Testing laboratories locating on a property carrying a Business & Professional Office zoning or general plan land use may be required to maintain a separation of 0-feet to 300-feet, depending upon specific location and as determined appropriate by the licensing authority.
- b. All other commercial cannabis uses in all other zone districts or land use categories where the use is allowed shall maintain a minimum separation of 600-feet.

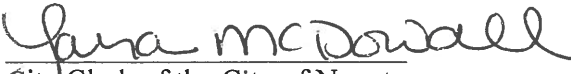
2. Residential. Non-storefront retailers locating on a property carrying a Business & Professional Office zoning or general plan land use designation shall maintain a minimum separation of 600-feet from any residentially zoned property.

## Section VI. 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.

  
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Mayor of the City of Novato

Attest:

  
\_\_\_\_\_  
City Clerk of the City of Novato

Approved as to form:

  
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City Attorney of the City of Novato

