



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Economic Development

Prepared by: Danielle O’Leary,  
Economic Development Director

City Manager Approval: \_\_\_\_\_

**TOPIC: CANNABIS PROGRAM ADJUSTMENTS**

**SUBJECT: RESOLUTION AMENDING AND RENAMING THE “CANNABIS BUSINESS OPERATOR LICENSE PILOT PROGRAM” AS THE “CANNABIS BUSINESS OPERATOR LICENSE PROGRAM”, AND RESTATING IT IN ITS ENTIRETY**

**RECOMMENDATION:**

Adopt the resolution.

**BACKGROUND:**

In November 2018, the City of San Rafael began a pilot medical cannabis licensing program. In April 2019, the City expanded the program to also include adult-use cannabis licensure. Since the start of this pilot program, the City’s Economic Development Department has been responsible for licensing, revenue collection, and tracking of the State’s regulatory framework affecting our local businesses.

Periodically, the Cannabis Business Operator License resolution requires adjustments to improve program outcomes and sync-up local regulations with new or revised State regulations. The State’s cannabis regulatory framework continues to evolve thus requiring periodic updates at a local level.

For a quick review, San Rafael’s cannabis program permits four different license types for commercial cannabis activity within the City limits:

- Distribution-wholesale, state license Type 11
- Infusion manufacturing, state license Type N
- Delivery, non-storefront retail, state license Type 9
- Testing laboratories, state license Type 8

We have awarded a total of 15 licenses (23 allowable), and more than half are active. See below for a breakdown:

**FOR CITY CLERK ONLY**

Council Meeting: \_\_\_\_\_

Disposition: \_\_\_\_\_

Cannabis Licensing Breakdown				
Cannabis License Type	Allowed	Awarded	Remaining	Awarded Licensees That Are Active*
Distribution (State License Type 11) – 1% Tax	4	3	1	2
Infused Product Manufacturing (State License Type N) – 3% Tax	10	6	4	5
Delivery (State License Type 9) – 4% Tax	5	5	0	5
Testing Lab (State License Type 8) – 1% Tax	4	1	3	0
Total:	23	15	8	12

*\*Active indicates licensee is in commerce and has paid any amount of taxes*

**ANALYSIS:**

As the California cannabis market continues to evolve, there are many challenges our local businesses face. Cannabis businesses have significant capital requirements, without access to traditional lending and banking services; costly compliance measures; relatively low profit margins, and significant business taxation.

Staff is recommending program adjustments to help our local licensees in San Rafael. None of the proposed changes require ordinance changes. The **goals** of these changes are to:

- Provide flexibility for existing cannabis licensees
- Realign cannabis license matrix to reflect market conditions and new State license changes
- Increase available license allotment for delivery, non-storefront retail for another future license round.
- Convert the “**Pilot Cannabis Business Operator Licensing Program**” to “Cannabis Business Operator Licensing Program”

Recommended program changes to improve tax revenue collection include allowing San Rafael manufacturers and delivery companies the ability to obtain a subordinate distribution wholesale license in permitted zoning districts. The subordinate distribution wholesale license, gives businesses the ability to make, test and bring their product to market; better reflecting market realities:

- **Infusion Manufacturers:** rely on a distributor license to successfully execute their business and manage their product with more autonomy. The City of San Rafael does not have an active licensee who just holds a standalone distributor license; they are usually held in conjunction with another license type, which indicates it is a tough license to pursue individually. Minimal profit margins and costly transactional costs create fragile business viability. For our manufacturers, these hardships are compounded because of their small artisan size. Allowing manufactures to obtain a subordinate distribution license will allow our manufacturers to conduct these services in-house improving their profitability margins by 15%-25%.
- **Non-storefront, retail delivery:** rely on wholesale distribution to access legally produced and tested cannabis products for consumers. Allowing delivery companies to obtain a subordinate distributor license will improve their business viability by helping them save on inventory transaction costs and quality assurance testing.

Recommended program changes needed to sync-up with new State laws include allowing our local manufacturers the ability to register as a Type N and/or Type S manufacturing license:

- Manufactures now have the ability/option to register their facility as a shared use facility (S license). The S License works similar to a commercial kitchen and allows the manufacturer to rent out their facility to small artisan licensees. Our manufacturers would be required to provide oversight and management of (S) licenses to both the City and the State. The S license is a lower intensity license class with an annual revenue cap of \$1 Million in sales. We recommend allowing our local infusion manufacturers the ability to register as an N and/or an S, as is currently allowed under the State of California's cannabis regulatory framework.

Finally, in the area of retail non-store front delivery, we are recommending increasing the allotment of available delivery licenses from **(5)** to **(8)** delivery companies. Delivery licenses provide the majority of the local Measure G cannabis tax revenues and our current license structure has some modest room for growth in this market category.

Our delivery companies are the strongest in terms of our Measure G cannabis tax revenue performance. From the start of the program the demand has been strong, and all our delivery licensees have been able to carve out a successful presence in San Rafael, Marin, and the larger Bay Area region. Delivery licenses make up more than 96% of all our cannabis business tax.

**COMMUNITY OUTREACH:**

Staff has conducted outreach to local cannabis licensees and Council's cannabis ad-hoc subcommittee to discuss proposed changes.

**FISCAL IMPACT:**

The staff time and costs associated with issuing licenses will be absorbed by existing staff. There is also improved revenue potential for our local licensees, that could increase our local Measure G tax collection revenues.

**OPTIONS:**

The City Council has the following options to consider on this matter:

1. Adopt the resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

**RECOMMENDED ACTION:**

Adopt the resolution.

**ATTACHMENTS:**

Draft Amended and Restated Cannabis Business Operator License Resolution

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AMENDING AND RENAMING THE “CANNABIS BUSINESS OPERATOR LICENSE PILOT PROGRAM” AS THE “CANNABIS BUSINESS OPERATOR LICENSE PROGRAM”, AND RESTATING IT IN ITS ENTIRETY**

**WHEREAS**, in 2015, the State Legislature adopted the “Medical Marijuana [now “Cannabis”] Regulation and Safety Act” (MCRSA) establishing a state licensing process for “commercial cannabis activity,” defined as including “cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as permitted for qualifying patients and primary caregivers;” and

**WHEREAS**, on November 8, 2016, the voters of the State of California enacted Proposition 64, the “Control, Regulate and Tax Adult Use of Marijuana Act” (AUMA), to allow for nonmedical adult use of cannabis, and implementing regulations were subsequently developed by the state agencies for this act as well; and

**WHEREAS**, in July 2017, the Governor signed Senate Bill 94, entitled the “Medical and Adult-Use Cannabis Regulation and Safety Act” (MAUCRSA), which took effect immediately. The MAUCRSA directed that the MCRSA’s medical cannabis regulations be coordinated with AUMA’s nonmedical cannabis regulations; and

**WHEREAS**, on December 4, 2017, the City Council enacted Ordinance No. 1949, an urgency ordinance adding new Chapter 10.96 to the San Rafael Municipal Code to limit the commercial cannabis activities that will be allowed in the City of San Rafael starting on January 1, 2018 to those determined by the City Council to be beneficial rather than detrimental to the residents, workers and visitors in the City; and

**WHEREAS**, San Rafael Municipal Code section 10.96.050 provides that the City Council shall, by resolution, adopt reasonable regulations for the license process for the commercial medical cannabis activities permitted within the City, and for the number of each license type to be issued; and

**WHEREAS**, on January 16, 2018, the City Council adopted Resolution No. 14455 approving a Medical Cannabis Business Operator License Pilot Program and policies, practices and procedures for administering and enforcing the program, including the number of each license type to be issued; and

**WHEREAS**, on May 21, 2018, the City Council adopted Resolution No. 14508 amending and restating the Medical Cannabis Business Operator License Pilot Program policies, practices, and procedures; and

**WHEREAS**, on March 18, 2019, the City Council adopted Ordinance No. 1968 to amend San Rafael Municipal Code Chapter 10.96 to expand its provisions to authorize, by license, both medical and adult-use commercial cannabis activities in San Rafael; and

**WHEREAS**, on March 4, 2019 the City Council expanded and amended the Medical Cannabis Business Operator License Pilot Program to also apply to the commercial adult-use licenses authorized by Ordinance No. 1968, and renaming it as the “Cannabis Business Operator License Pilot Program”; and

**WHEREAS**, based upon the report and recommendation of staff in support of this resolution, the City Council recognizes that as the State of California’s licensing system for cannabis businesses has evolved, it has become important for the City’s manufacturers and delivery cannabis licensees to be able to access a distributors license; to successfully execute their business and manage their product with more autonomy. The City Council recognizes that without adding to the overall number of cannabis businesses currently allowed in the City, the City license process can be amended and streamlined by allowing the City’s existing and future cannabis licensees to obtain a distributor license that is secondary to their primary license; and

**WHEREAS**, with the changing nature of the cannabis industry, the State has also made adjustments to its licensing structure to allow for a shared-use facility under the existing Type N manufacturing license, distinguished as a Type S license. The Type S license allows individual licensees to share a common manufacturing space; provided that only one licensee can utilize the space at a time. Based upon the report and recommendation of staff in support of this resolution, the City Council recognizes that making a corresponding change to the City’s Cannabis Business Operator License Pilot Program to authorize existing and future Type N licensees to register as a shared-use facility and/or register as a Type N or Type S would enable those licensees to increase revenues, while not substantially increasing the intensity or impact of their businesses in the City; and

**WHEREAS**, the City Council desires to amend the Cannabis Business Operator License Pilot Program to incorporate these recommended changes and convert it to a permanent program named the “Cannabis Business Operator License Program”; and

**WHEREAS**, for ease of reference the City Council wishes to restate herein the entirety of the program and its policies, practices and procedures as so amended;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council hereby amends and restates the renamed Cannabis Business Operator License Program in its entirety as follows:

## **SECTION 1. PURPOSE AND INTENT**

It is the purpose and intent of this resolution to regulate commercial cannabis activity within San Rafael city limits, to promote the health, safety, and general welfare of residents and businesses within the City. This resolution governs the establishment and operation of cannabis testing laboratories, cannabis infused product manufacturers, cannabis delivery, and cannabis distribution.

## **SECTION 2. DEFINITIONS**

For the purposes of this Program, the definitions below shall apply:

- (a) “Applicant” means an owner applying for a City Cannabis Business Operator License (CBOL).
- (b) “Bureau” means the Bureau of Cannabis Control within the California Department of Consumer Affairs.
- (c) “City” means City of San Rafael.
- (d) “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.
- (e) “Cannabis Testing Laboratory” means “testing laboratory” as defined by Business and Professions Code 26000, and as further defined in SRMC 10.96.040. This sort of use is regulated by the State of California as a Type 8 Cannabis license.
- (f) “Cannabis Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform. This sort of use is regulated by the State of California as a Type 9 Cannabis license. A non-storefront retailer licensee shall be authorized to conduct retail sales exclusively by delivery as defined by Business and Professions Code section 26001(p). The licensed premises of a non-storefront retailer licensee shall be closed to the public.
- (g) “Cannabis Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed pursuant to state regulations.
- (h) “Cannabis Infused Manufacturing” means producing edible or topical products that include pre-extracted cannabis oils, to create edibles, beverages, capsules, vape cartridges tinctures or topical. This sort of use is regulated by the State of California Department of Public Health Cannabis Manufacturing Division as a Class N (Infusions) Cannabis license. Cannabis manufacturing may also include shared use of a manufacturing facility by multiple businesses that perform manufacturing, (i.e. commercial kitchen). Shared manufacturing is regulated by the State of California as Type S Cannabis license.
- (i) “Infusion” means a process by which cannabis, cannabinoids, or cannabis concentrates are directly incorporated into a product formulation to produce a cannabis product.
- (j) “Medicinal Cannabis Patient” includes both a qualified patient as defined in the Health and Safety Code section 11362.7 and a person in possession of a valid identification card

issued under Health and Safety Code section 11362.71“Licensee” means any person holding a City Cannabis Business Operator License (CBOL).

- (k) “Operator License” means a City of San Rafael Cannabis Business Operator License.
- (l) “Owner” means any of the following, as defined in Section 26001 of the Business and Professions Code:
  - 1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
  - 2) The chief executive officer of a nonprofit or other entity
  - 3) A member of the board of directors of a nonprofit
  - 4) An individual who will be participating in the direction, control, or management of the person applying for a license.
- (m) “Person” includes any individual, firm, partnership, joint venture, association, corporation, Limited Liability Company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (n) “Purchaser” means the customer who is engaged in a transaction with a licensee for purposes of obtaining cannabis or cannabis products.
- (o) “Sell”, “sale,” and “to sell” include any transaction whereby, for any consideration, title to cannabis or cannabis products 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.
- (p) “S License” a Type S License allows for shared use of a manufacturing facility by multiple businesses that perform manufacturing, (i.e. commercial kitchen). A Type S license shall only be available to licensees with a gross annual revenue of less than \$1,000,000 as calculated pursuant to California Code of Regulations, Title 17 Division 1 Chapter 13. Manufactured Cannabis Safety Sections 40152 (c,1,2,3).
- (q) “Shared Use Infusion Manufacturing Facility” (a) A primary N licensee shall operate the shared-use infusion manufacturing facility (i.e. commercial kitchen) in accordance with the conditions specified in California Code of Regulations, Title 17 Division 1 Chapter 13. Manufactured Cannabis Safety Sections 40192, 40194, 40196.

### **SECTION 3. LICENSING PROCESS**

- (a) Any person seeking to sell and or distribute, deliver, manufacture, or provide laboratory testing services located in San Rafael city limits must first obtain a Cannabis Business Operator License (CBOL) prior to operating.
- (b) The CBOL Program will make the following limited licenses available:
  - Cannabis Testing Laboratories (State License Type 8): **4 licenses**
  - Cannabis Infused Manufacturing State License Type N and/or State License Type S: **10 licenses**
  - Cannabis Delivery (State License Type 9): **8 licenses**
  - Standalone Cannabis Distribution (State License Type 11): **4 licenses**

**SECTION 4. REVIEW AND ACTION ON APPLICATIONS; APPEAL**

- (a) The CBOL Application Review Committee includes the Police Chief, Fire Chief, Community Development Director and Economic Development Director, and/or their designees, to review and rank applications.
- (b) The CBOL application ranking process shall consist of the following areas of evaluation:
  - Business Plan (25 POINTS -MAXIMUM)
  - Safety & Security Plan (25 POINTS - MAXIMUM)
  - Gross Receipts Activity (25 POINTS - MAXIMUM)
  - Qualifications of Principals (25 POINTS - MAXIMUM)

An application is required to receive a total of 80 points to move forward. The Committee shall rank all the applications and shall issue a written decision setting forth the ranking for each application, the ranking of each application in each of the ranking categories, and an explanation of the facts and reasoning supporting the rankings. The Committee shall serve a copy of its written decision on each applicant by email.

- (c) **Appeal.** An applicant who has received a ranking of less than 80 points may appeal that decision to the City Manager or his or her designee, by filing a written appeal with the City Manager’s office within five (5) business days after the date of service of the written ranking decision on the applicant. The appeal shall not be accepted for filing unless accompanied by an appeal fee in an amount determined by resolution of the City Council. In determining the appeal, the City Manager/designee will review the Committee’s written decision on the appellant’s application and the application itself. In addition, within five (5) business days after the filing of the appeal, the City Manager/designee shall set a time for a hearing, not to exceed two hours in length, at which the appellant may appear to review the Committee’s decision and to present evidence or argument why the Committee’s ranking should be modified. The hearing shall occur no later than thirty (30) days following the filing of the appeal unless another time is agreed to by the appellant. The hearing may be recorded by audiotape or written minutes.

Within ten (10) business days after completion of the hearing on the appeal, the City Manager/designee shall issue a written decision on the appeal shall either confirming or modifying the ranking given by the Committee. The decision shall be in served upon the appellant by email, or regular mail through the United States Post Office. The City Manager’s decision will be final, with no appeal to the City Council, and shall be subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure Section 1094.6; however, the filing of any such action shall not stay any lottery or subsequent award of operator licenses as provided herein.

After the appeal period has run without the filing of any appeals, or after the final decision by the City Manager on any and all appeals, if the Committee determines that the number of pre-screened and ranked applicants exceeds 100% of the maximum number of licenses available, then a lottery will be conducted after the ranking round.

- (d) **Operator Selection.** Within 120 days of written and e-mail notification, operators will have the ability to look for sites within permitted zoning districts and return with an identified site to apply for zoning clearance, Cannabis Industry Tax registration, and operator license issuance. Failure to secure a San Rafael location within 120 days shall be grounds for the City to revoke the award of a San Rafael cannabis business operating license.
- (e) **Zoning Clearance, Background Check, Cannabis Industry Tax Registration, and Operator permit issued.** Once the operator has found a business location, and has an executed lease agreement, or signed application by the property owner, planning staff will confirm zoning clearance, and the City will conduct a background check for circumstances requiring disqualification under Business and Professions Code section 26057. Upon successful completion of those steps, the applicant can then proceed with registering for the Cannabis Industry Tax pursuant to San Rafael Municipal Code Chapter 3.40, and the operator license will be issued.

**SECTION 5. FEES**

The Cannabis Business Operator License application and renewal fees are based on a cost-recovery model for application intake, processing, and compliance monitoring. All fees are non-refundable. Cannabis Operator License Application Fee shall be as follows, or as modified from time to time by resolution of the City Council:

Process Steps	Staff Coordination	Per Applicant	Cost
Application Intake	Econ. Dev Coordinator	Review Time: 1-2 hours	\$200

Criminal Background Check	Police	Review Time: 1 hour	\$100
Application Review and Ranking	Econ. Development Director, Police Chief, Fire Chief, Community Development Director	Review Time: 3-4 hours	\$2000
Operator Notification	Econ. Development Coordinator/Director	Review Time: 1 hour	\$100
Zoning Clearance, Business Tax Certificate, Operator License Issuance	Senior Planner, Economic Development Coordinator, Economic Development Director	Review Time: 2-3 hours	\$300
Compliance Inspections	Senior Code Enforcement Officer	Review Time: 3-4 hours	\$500
Annual Gross Receipts Audits	Contract with Outside Agency	Review Time 3-4 hours	\$900
Total License Fee			\$4100

**Cannabis Business Operator License Renewal Fee:**

Process Steps	Staff Coordination	Per Applicant	Cost
Application Intake & Review	Econ. Dev Coordinator, Economic Development Director	Review Time: 1-2 hours	\$500

**Cannabis Business Operator License Appeal Fee:**

Process Steps	Staff Coordination	Per Applicant	Cost
Appeal Intake & Review, Staff Preparation	Review City Manager	Review Time: 4 hours	\$836
Appeal Hearing & Written Decision	Review City Manager	Review Time: 4 hours	\$836
Total Appeal Fee			\$1,672

**SECTION 6. OPERATING REQUIREMENTS**

All cannabis business operator licensees shall comply with all the following operating requirements:

- (a) The licensee shall meet all operating requirements of the Medicinal and Adult-use Cannabis Regulation and Safety Act (MAUCRSA), and requirements set forth by the Bureau and the California Department of Public Health’s Manufactured Cannabis Safety Branch.
- (b) The licensee shall obtain and maintain the State of California license for the equivalent State cannabis license type and maintain all other required State and local licenses, permits, or approvals.
- (c) Odor Control. No cannabis odors shall be detectable outside the commercial facility.
- (d) Advertising and Marketing Restrictions. All signage shall meet the sign requirements of Title 14 of the San Rafael Municipal Code and shall not advertise any activity related to cannabis.
- (e) Operating Hours. A licensee may operate between the hours of:
  - 1) **Cannabis Delivery:** 9AM to 9PM up to seven days a week, unless modified as condition of license to address site specific conditions.
  - 2) **Cannabis Testing Labs:** 7AM – 7PM up to seven days a week, unless modified as condition of license to address site specific conditions.
  - 3) **Cannabis Infused Product Manufacturing:** 7 AM – 7PM, evenings available as a condition of the license; up to seven days a week, unless modified as condition of license to address site specific conditions.
  - 4) **Cannabis Distribution:** 7AM – 7PM, up to seven days a week, unless modified as condition of license to address site specific conditions.
- (f) Contact Person. A licensee shall provide the City with the name and phone number of an on-site community relations staff person or designee to whom one can provide notice if there are operating concerns. The licensee shall make a good faith effort to encourage residents to call this person to try to solve operating concerns before any calls or complaints are made to the City.

## SECTION 7. TERMS OF LICENSE

- (a) Licenses issued under this resolution shall be valid for 12 months from the date of issuance.
- (b) Licensees may submit a license renewal form no sooner than 60 and no later than 30 calendar days before the license expires.

## **SECTION 8. WITHDRAWAL OF APPLICATION**

- (a) An applicant may withdraw an application at any time prior to the City's issuance of a license or denial of a license.
- (b) Requests to withdraw an application must be submitted to the City in writing, dated and signed by the applicant.
- (c) The City will not refund application fees for a withdrawn application after application intake window closes.

## **SECTION 9. GROUNDS FOR LICENSE DENIAL OR RENEWAL**

- (a) The City may deny an application for license or for renewal of a license for any reason specified in Business and Professions Code section 26057, as amended from time to time.
- (b) Written Notice Required. Upon denial of a license or denial of renewal of a license pursuant to subsection (a) of this section, the Economic Development Director, or designee, shall notify the applicant of the reasons for denial in the manner provided Section 10(b) of this Resolution.
- (c) Appeal. Upon denial of a license or denial of renewal of a license, the applicant may file a written appeal of that decision with the Economic Development Director within ten (10) business days after the date of service of the written decision. The appeal shall not be accepted for filing unless accompanied by an appeal fee in an amount determined by resolution of the City Council.
- (d) Hearing. The Economic Development Director, or designee, shall appoint a hearing officer and set an appeal hearing, to be held no less than ten (10) days and no more than sixty (60) days after the service of the written notice required in subsection (b). The hearing and notice of decision shall be as provided in Sections 10(c) and (d) of this Resolution.

## **SECTION 10. LICENSE SUSPENSION, MODIFICATION AND REVOCATION**

- (a) Any license issued under the terms of this resolution may be suspended, modified, or revoked by the Economic Development Director, or his or her designee, for cause including but not limited to violation of any the requirements or provisions of this resolution, or conflicts with State law.
- (b) Written Notice Required. The Economic Development Director, or designee, before revoking or suspending any Cannabis Business operator license shall serve the licensee with written notice of revocation or suspension, provided in the manner set forth in Section 1.08.060 of the San Rafael Municipal Code, of the alleged grounds for revocation or suspension and the date for a hearing, to be held no less than ten (10)

days and no more than sixty (60) days after the service of the written notice, to consider whether the Cannabis Business operator license shall be revoked or suspended.

- (c) Hearing. The Economic Development Director, or designee, shall appoint a hearing officer to hear and consider all evidence at the hearing. The hearing may, after being commenced within the time specified pursuant to subsection (b) of this section, be continued for good cause by the hearing officer from time-to-time. The hearing officer may require such legal briefing as may be required to address any issues raised at the hearing.
- (d) Notice of Decision; Judicial Review. Within a reasonable time, but not more than thirty (30) days following the conclusion of the hearing, the hearing officer shall issue a written decision as to whether the Cannabis Business operator license shall be revoked or suspended, supported by factual findings and determinations referenced by supporting evidence. The written decision shall be served on the operator licensee as provided in Code of Civil Procedure Section 1094.6, with a copy submitted to the city clerk and the city attorney. The written decision of the hearing officer shall be final and shall be subject to judicial review according to the provisions and time limits set forth in Code of Civil Procedure Section 1094.6.

## **SECTION 11. TRANSFER OF LICENSE**

- (a) A licensee shall not operate under the authority of a Cannabis Business Operator License at any location other than the address stated in the application for the license.
- (b) The Cannabis Business Operator Licenses are not transferrable or assignable to another person or owner. In the event of the sale or transfer of the business or operations covered by the licensee, changes in ownership shall be made in accordance with the following:
  - 1) If one or more of the owners of a license change, but at least one existing owner is not transferring their ownership interest, and will remain as an owner under the new ownership structure, then the new owners shall submit a new application to the City for review of qualifications, background checks and to determine whether the change would constitute grounds for denial of the license.

If all owners will be transferring ownership interest, the business shall not operate under the new ownership structure until a new license application has been submitted and approved by the City, and all application and licensing fees have been paid.

## **SECTION 12. ENFORCEMENT**

- (a) It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this resolution, and any such violation shall be enforceable in accordance with the provisions of Chapters 1.40, 1.42, 1.44, and 1.46 of the San Rafael Municipal

Code.

(b) In accordance with Section 26013, Business and Professions Code. The City, and its authorized representative, shall have full and immediate access to inspect and:

- 1) Enter onto any premises license by the City.
- 2) Any inspection, investigation or review, or audit of a licensed premises shall be conducted anytime the licensee is exercising privileges under the license, or as otherwise agreed to by the City and licensee or its agents, employees, or representatives.
- 3) Prior notice of an inspection, investigation, review or audit is not required.

**BE IT FURTHER RESOLVED** that any amendments to the Cannabis Operator Licensing Program Policies, Practices and Procedures as deemed necessary from time-to-time shall require an amendment to this resolution by City Council action.

**BE IT FURTHER RESOLVED** that the amendments made in this Resolution shall take effect immediately upon its adoption.

I, **LINDSAY LARA**, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was adopted at a regular meeting of the City Council on the 16<sup>th</sup> day of November 2020, by the following vote to wit:

**AYES:**           **Councilmembers:**

**NOES:**           **Councilmembers:**

**ABSENT:**       **Councilmembers:**

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Lindsay Lara, City Clerk