



TOWN OF FAIRFAX

STAFF REPORT

November 7, 2018

To: Mayor and Town Council

From: Garrett Toy, Town Manager *GT*
Amanda Charne, Assistant Town Attorney

Date: November 7, 2018

Subject: Introduce and read by title only an ordinance adding Chapter 5.56 entitled "Cannabis Businesses" to the Fairfax municipal code, Title 5 ("Business Taxes, Licenses and Regulations"), Division II ("Specific Business Regulations") to establish regulations for certain medical marijuana dispensaries to conduct adult-use cannabis deliveries, and consider/discuss proposed application process and permit regulations for adult-use cannabis deliveries; exempt from CEQA pursuant to CEQA guidelines sections 15061(b)(3), 15183 and 15301

RECOMMENDATION

- 1) Introduce, waive the first reading, and read by title only an ordinance of the of the Town Council of the Town of Fairfax adding Chapter 5.56 entitled "Cannabis Businesses" to the Fairfax municipal code, Title 5 ("Business Taxes, Licenses and Regulations"), Division II ("specific business regulations") to establish regulations for certain medical marijuana dispensaries to conduct adult-use cannabis deliveries, and
- 2) Discuss/consider proposed application process and permit regulations for adult-use cannabis deliveries by certain medical marijuana dispensaries.

BACKGROUND

On November 1, 2017, the Town Council adopted Urgency Ordinance No. 809 pursuant to Government Code Section 65858 establishing a forty-five (45) day moratorium on commercial cannabis uses. On December 6, 2017, the Town Council adopted Urgency Ordinance No. 812 extending the temporary moratorium for 10 months and 15 days until October 31, 2018.

On October 3, 2018, the Town Council adopted Urgency Ordinance No.820 to extend the temporary moratorium for one additional year to enable the Town Planning Commission to complete its study of commercial cannabis uses. Unless action is taken to repeal it earlier, the moratorium will expire on October 31, 2019. Government Code Section 65858 limits the duration of a temporary interim zoning ordinance to two years total, so there are no further extensions of the moratorium available.

During the Town Council's consideration of the moratorium extension on October 3, 2018, the Council also directed Town staff to prepare an ordinance to permit certain existing medical marijuana dispensaries to conduct adult-use cannabis deliveries during the moratorium period.

The Planning Commission (PC) considered such an ordinance at their October 25, 2018 meeting and recommended approval to the Town Council.

DISCUSSION

On the Council agenda this evening is the ordinance to permit certain existing medical marijuana dispensaries to conduct adult-use cannabis deliveries. Should the Council adopt this ordinance, the Town will be required to establish permit requirements for non-storefront retail cannabis deliveries. Staff is recommending the permit requirements be established by ordinance in Chapter 5 ("Business taxes, Licenses, and Regulations) of the Town's Municipal Code. This proposed ordinance is structured to allow the Town Council to establish the application requirements and terms of the permit by resolution. This approach will provide the Town Council greater flexibility to modify local regulations to address any conflicts with State regulations or unintended impacts on the operations of the existing dispensary.

Attached are the draft regulations for adult-use cannabis deliveries that would be adopted by resolution. Below are the key application requirements and permit terms. Based on Council comments/direction, we would return to the Council at its December meeting with the resolution adopting the revised permit requirements and terms. The resolution would be contingent on the effective date of the "cannabis business" ordinance which, optimally, would occur in early January 2019.

1. The dispensary must apply for a Town issued permit allowing adult-use cannabis delivery service.
2. The Town's permit, if approved, is contingent on the dispensary providing the Town a copy of the State issued license authorizing the adult-use cannabis deliveries.
3. No adult-use customers shall be permitted to access or remain in the premises of a medical marijuana dispensary.
4. No adult-use cannabis retail sales shall be permitted to occur at the premises of a medical marijuana dispensary.
5. The Town Manager would be authorized to approve the application and issue an adult use cannabis delivery-only permit.
6. Requires the adult-use cannabis delivery service to operate out of the same commercial space as the existing medical marijuana dispensary.
7. Establishes restrictions for on-premise signage similar to those in place for medical marijuana dispensaries.
8. Establishes a non-refundable application fee of \$500 and annual permit fee of \$500.
9. Requires drivers to check, confirm, and log ID's of customers to ensure deliveries are made to persons 21 or older.
10. No business identification signage allowed on vehicles.
11. Compliance with all State laws and regulations governing adult-use cannabis delivery.
12. Establishes application submittal requirements and review/approval process.
13. No transferability of the permit.
14. Establishes an annual permit renewal process.
15. Deliveries must be completed within the hours of operation.
16. The hours of operation are the same as medical marijuana dispensaries which is 9:00am to 9:00pm. (Note: The CUP for the existing dispensary limits deliveries to 9:00am to 5:00pm and allows hours of operation from 8:00am to 10:00pm, but only open to the public from 9:00am to 9:00pm.)

Please note these standards apply to the adult-use delivery-only operation of the dispensary. The delivery of medical marijuana by the dispensary is subject to the conditions of approval of its existing use permit.

Although not legally required, the Planning Commission (PC) was asked at their October 25th meeting for any general comments to staff in drafting the proposed cannabis delivery permit requirements. The PC's primary comment was that they would have liked to review the proposed business permit regulations prior to the Council's review.

CEQA

This Ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") (California Public Resources Code §21000 et seq.) pursuant to State CEQA Guidelines Sections 15061(b)(3), 15183 and 15301, each as separate and independent bases. This Ordinance qualifies for the Class 1 exemption because it would permit certain existing medical marijuana dispensaries that currently conduct medical cannabis delivery services to conduct adult-use cannabis delivery services, therefore this project involves negligible or no expansion of use (14 CCR §15301). Additionally, this Ordinance is categorically exempt from environmental review under State CEQA Guidelines, Section 15183 as a project consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, and under the general rule that the project will not result in any significant changes to the environment within the meaning of State CEQA Guidelines, Section 15061(b)(3).

FISCAL IMPACTS

None at this time.

ATTACHMENTS

- A. Ordinance
- B. Draft permit terms and requirements
- C. Proposed State delivery regulations

ORDINANCE NO. ____

**AN ORDINANCE OF THE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
ADDING CHAPTER 5.56 ENTITLED "CANNABIS BUSINESSES" TO THE FAIRFAX
MUNICIPAL CODE, TITLE 5 ("BUSINESS TAXES, LICENSES AND
REGULATIONS"), DIVISION II ("SPECIFIC BUSINESS REGULATIONS") TO
ESTABLISH REGULATIONS FOR CERTAIN MEDICAL MARIJUANA
DISPENSARIES TO CONDUCT ADULT-USE CANNABIS DELIVERIES**

WHEREAS, the Town of Fairfax, California (the "Town") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, in 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), which legalized the adult-use use of marijuana/cannabis by adults over 21 years of age, and provides for State licensing of the adult-use marijuana/cannabis industry; and

WHEREAS, Senate Bill 94 ("SB 94") amended AUMA to consolidate the State licensing laws applicable to both medical and adult-use commercial cannabis activity under a new law entitled the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA); and

WHEREAS, MAUCRSA recognizes, preserves and does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that regulate licensed cannabis businesses, including, but not limited to, local zoning and land use requirements, business license requirements, or to completely prohibit the establishment or operation of one or more types of businesses licensed under MAUCRSA within the local jurisdiction (Business and Professions Code, § 26200); and

WHEREAS, MAUCRSA prohibits the location of a commercial cannabis business premises 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 (Business and Professions Code, § 26054); and

WHEREAS, on November 1, 2017, the Town Council adopted, and later extended for one year, a temporary moratorium on commercial cannabis uses, as defined, pending the completion of studies and the preparation of a comprehensive update to the Town's municipal and zoning codes to regulate commercial cannabis activities; and

WHEREAS, during the period of December 2017 to September 2018, the Town has held numerous policy discussions and public study sessions pertaining to commercial cannabis uses within the Town of Fairfax and gained significant community input and factual information; and

45 **WHEREAS**, at a special meeting on August 15, 2018, the Town Council referred the
46 matter to the Town Planning Commission for additional input and policy consideration,
47 particularly on the issues relating to commercial medical and adult use retail uses; and
48

49 **WHEREAS**, on October 3, 2018, the Town Council adopted a final, one-year extension
50 of the moratorium on commercial cannabis uses to enable the Town Planning Commission to
51 complete its study of commercial cannabis uses and also directed Town Staff to prepare an
52 ordinance to permit certain existing medical marijuana dispensaries to conduct adult-use
53 cannabis deliveries; and
54

55 **WHEREAS**, on October 25, 2018, the Town Planning Commission considered
56 appropriate zoning text amendments to allow certain existing medical marijuana dispensaries to
57 conduct adult-use cannabis deliveries in a companion ordinance to this Ordinance; and
58

59 **WHEREAS**, this Ordinance would create a commercial cannabis business permit to
60 authorize certain existing medical marijuana dispensaries to conduct adult-use cannabis
61 deliveries; and
62

63 **WHEREAS**, the goals of this Ordinance are to promote the local economy for existing
64 business while comprehensive local commercial cannabis regulations are developed and adopted,
65 and to test the potential primary and secondary impacts of recreational cannabis deliveries within
66 the Town, if any; and

67 **NOW, THEREFORE**, the Town Council of the Town of Fairfax does ordain as follows:
68

69 **SECTION 1.** Chapter 5.56 entitled “Cannabis Businesses” is hereby added to Division
70 II (“Specific Business Regulations”) of Title 5 (“Business Taxes, Licenses and Regulations”) of
71 the Fairfax Municipal Code, which shall read as follows:
72

73 **“Chapter 5.56: CANNABIS BUSINESSES**

74
75 **Article I – Reserved.**
76

77 **Article II – Reserved.**
78

79 **Article III – Cannabis Deliveries.**
80

81 **§ 5.56.300 ADULT-USE CANNABIS DELIVERIES BY CERTAIN EXISTING**
82 **MEDICAL MARIJUANA DISPENSARIES.**

83 A medical marijuana dispensary that was legally operating as of April 3, 2018 and is
84 permitted to operate a medical marijuana delivery service, may operate an adult-use
85 cannabis delivery service from its existing premises upon obtaining a cannabis business

86 permit pursuant to this section and in conformance with the requirements of Section
87 17.10.230 of this Code. The Town Council shall adopt permit procedures and permit
88 regulations by resolution.”

89
90
91 **SECTION 2. Moratorium On Commercial Cannabis Uses.** Except as amended by
92 this Ordinance regarding adult-use cannabis deliveries by certain existing medical marijuana
93 dispensaries, all other provisions of Urgency Ordinance No. 809, as extended by Town Council
94 by Ordinance No. 812 and No. 820, remain in effect, and nothing contained herein shall be
95 construed to otherwise repeal the existing moratorium on the establishment, creation or
96 expansion of any and all commercial cannabis uses.

97
98 **SECTION 3.** If any section, subsection, sentence, clause, or phrase of this Ordinance is
99 for any reason held to be invalid or unconstitutional by a decision of any court of competent
100 jurisdiction, such decision shall not affect the validity of the remaining portions of this
101 Ordinance. The Town Council hereby declares that it would have passed this Ordinance and
102 each and every section, subsection, sentence, clause or phrase not declared invalid or
103 unconstitutional without regard to whether any portion of the Ordinance would be subsequently
104 declared invalid or unconstitutional.

105
106 **SECTION 4.** The Town Council hereby determines that this Ordinance is exempt from
107 environmental review under the California Environmental Quality Act (“CEQA”) (California
108 Public Resources Code §21000 et seq.) pursuant to State CEQA Guidelines Sections
109 15061(b)(3), 15183 and 15301, each as separate and independent bases. This Ordinance
110 qualifies for the Class 1 exemption because it would permit certain existing medical marijuana
111 dispensaries that currently conduct medical cannabis delivery services to conduct adult-use
112 cannabis delivery services, therefore this project involves negligible or no expansion of use (14
113 CCR §15301). Additionally, this Ordinance is categorically exempt from environmental review
114 under State CEQA Guidelines, Section 15183 as a project consistent with the development
115 density established by existing zoning, community plan or general plan policies for which an
116 EIR was certified, and under the general rule that the project will not result in any significant
117 changes to the environment within the meaning of State CEQA Guidelines, Section 15061(b)(3).
118 The Town Council hereby directs the Town Manager or his/her designee to prepare and file a
119 Notice of Exemption within five business days following adoption of this Ordinance.

120
121 **SECTION 5.** This Ordinance shall be effective 30 days following its adoption by the
122 Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption,
123 be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall
124 Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club
125 building.

126
127 **SECTION 6.** Filing. The City Clerk shall submit a copy of this ordinance to the Bureau
128 of Cannabis Control as provided by Business and Professions Code, Section 26055.
129

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the __th day of November 2018, and duly adopted at the next regular meeting of the Town Council on the __ day of December 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Peter Lacques, Mayor

Attest:

Michele Gardner, Town Clerk

Date _____

ADULT-USE CANNABIS DELIVERIES BY CERTAIN MEDICAL MARIJUANA DISPENSARIES APPLICATION PROCESS AND PERMIT REQUIREMENTS AND TERMS

I. Eligibility.

A medical marijuana dispensary that was legally operating as of April 3, 2018 and is permitted to operate a medical marijuana delivery service in the Town may conduct retail sales of adult-use cannabis and cannabis products exclusively by delivery from its existing premises subject to the requirements of this chapter.

II. Definitions.

The following words and phrases shall have the following meanings, unless otherwise specified:

- A. **Adult-Use** means cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a physician's recommendation.
- B. **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" shall not include industrial hemp.
- C. **Cannabis business permit** means any permit issued to a cannabis business pursuant to the provisions of this chapter.
- D. **Cannabis products** has the same meaning as in Section 26001 of California Business and Professions Code.
- E. **Town Manager** means the Town Manager and his/her designee.
- F. **Delivery** means the commercial transfer of cannabis or cannabis products to a retail customer. "Delivery" also includes the use by a medical marijuana dispensary of any technology platform that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.
- G. **Interested parties** means any of the following:
 - (1) Any individual that has an aggregate ownership interest, other than a security interest, lien, or encumbrance, of twenty percent or more in the commercial cannabis business;
 - (2) Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least twenty percent of the cannabis business or that is one of the partners in the cannabis business;
 - (3) The manager(s) of the cannabis business; and
 - (4) The staff of the cannabis business.
- H. **Manager** means a person with responsibility for the establishment, registration, supervision, or oversight of the operation of a cannabis business, including, but not limited to, a person who performs the functions of a board member, director, officer, owner, operating officer, or manager of the cannabis business.

- I. **Medical marijuana dispensary** means a facility or premises where medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale or other sales or transfer to qualified patients or primary caregivers. For purposes of this chapter, “medical marijuana dispensary” includes medical cannabis dispensaries, patient collectives and cooperatives operating pursuant to the Compassionate Use Act (Health and Safety Code, § 11362.5) and/or the Medical Marijuana Program Act (Health and Safety Code, § 11362.7 et seq.), as may be amended.
- J. **Police chief** shall mean the Town of Fairfax chief of police and designee.
- K. **Staff** means a person other than a manager who works or provides services on the site of a cannabis business, whether as an employee, contractor, or volunteer.

III. Cannabis delivery permit required.

No medical marijuana dispensary shall perform cannabis delivery services in the Town without first obtaining a valid business license and cannabis delivery permit issued by the Town.

IV. Cannabis delivery permit fee.

The Town Council shall establish by resolution the amount of the cannabis delivery permit fee.

V. Applications for cannabis delivery permit.

- A. The manager of a medical marijuana dispensary may apply for a cannabis delivery permit, or a permit renewal, by filing an application with the Town Manager. The application shall be on a form approved by the Town Manager and may require any information or documentation as deemed necessary and appropriate by the Town Manager and consistent with state law, including the following:
 - 1. Applicant.
 - a. A description of the statutory entity or business form that serves as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.
 - b. The phone number and address to which notice of action on the application and correspondence is to be mailed.
 - 2. Interested Parties.
 - a. The name, address, telephone number, title, and function of each of the interested parties in the cannabis business.
 - b. The name, address, telephone number, and title of each of the employees that are authorized to perform deliveries from the cannabis business. For each employee authorized to perform deliveries, proof of valid driver’s license and current employment by the business.
 - 3. Eligibility Description. A description of the medical marijuana dispensary’s satisfaction of the criteria for eligibility.

4. Local Licenses. Copies of the applicant's local licenses or permits relating to cannabis, demonstrating legal authorization to conduct a medical marijuana dispensary, including as local land use or business permits, issued by the local jurisdiction in which the business is located.
 5. State Licenses. Copies of the applicant's state licenses relating to cannabis, as required by state law. If the applicant applies for a cannabis delivery permit prior to the state issuing the appropriate licenses, the applicant shall specify which state license(s) will be applied for.
 6. Tax Compliance. A current copy of the applicant's town business license tax certificate, state sales tax seller's permit, and the applicant's most recent year's financial statement and tax returns, as may be applicable.
 7. Insurance. The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis retail business and deliveries.
 8. Town Authorization. Authorization and consent for the Town Manager to seek verification of the information contained within the application.
 9. Applicant's Certification. A statement dated and signed by the applicant, under penalty of perjury, that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the applicant's supervision.
 10. Indemnification. An agreement, on a form approved by the Town Attorney, whereby the applicant:
 - a. Releases the town, and its agents, officers, elected officials, and employees from any and all claims, injuries, damages, or liabilities of any kind arising from: (i) any repeal or amendment of this chapter, and (ii) any arrest or prosecution of the applicant or its managers, employees, or members for violation of state or federal laws; and
 - b. Defends, indemnifies, and holds harmless the town and its agents, officers, elected officials, and employees from and against any and all claims or actions: (i) brought by town property owners or any other parties for any damages, injuries, or other liabilities of any kind arising from the business delivery operations or the granting of the permit, and (ii) brought by any party for any problems, injuries, damages, or other liabilities of any kind arising out of the distribution of cannabis or cannabis products from the business site in the town.
- B. Every application for a cannabis delivery permit shall be accompanied by a nonrefundable \$500 cannabis delivery permit processing fee and a \$500 cannabis delivery permit fee.
- C. No person shall knowingly make a false statement of fact or knowingly omit any information that is required in an application for a cannabis delivery permit.
- D. The Town Manager may determine that a copy of the applicant's application to the state for a retail delivery-only license may meet the requirements of this Section V.

VI. Application process.

The Town Manager, in consultation with the police chief and planning and building department director or his/her designee, is authorized to establish procedures and guidelines to process cannabis delivery permit applications and renewals.

VII. Denial of a cannabis delivery permit.

- A. The Town Manager may deny a cannabis delivery permit if the Town Manager determines that one or more of the following circumstances exist:
1. The application received is incomplete or not responsive to the requirements of this chapter;
 2. The application contains a false or misleading statement or omission of a material fact;
 3. The operation of the delivery business described in the application fails to comply with any of the requirements in this code, state law, or any other regulation;
 4. The applicant or any of its managers has any unpaid and overdue administrative penalties imposed for violations of this chapter; or
 5. Within twelve months of the date of application, either the applicant has had a state or local cannabis-related land use or business permit revoked; or any of its managers were associated with a cannabis business that had its cannabis-related permit(s) revoked.
- B. If a cannabis delivery permit is denied, the \$500 cannabis delivery permit fee shall be refunded to the applicant.

VIII. Terms of a cannabis delivery permit.

- A. A cannabis delivery permit issued is valid for one year from the date that the permit is issued, unless suspended or revoked sooner
- B. Each cannabis delivery permit is valid for only one medical marijuana dispensary location.
- C. The permittee shall notify the Town Manager of any change in the information provided on the application to obtain the cannabis delivery permit within thirty days of the change.
- D. The permittee shall submit to the Town Manager a copy of any and all of its state and local licenses and permits required for its operation before it can begin adult use deliveries. In addition, if the permittee applies for a cannabis delivery permit prior to the state issuing the appropriate licenses, the permittee shall provide copies of its state license application for the cannabis delivery service.
- E. If any other applicable state or local license or permit required for a cannabis business's operation is denied, suspended, modified, revoked, or expired, the cannabis business shall notify the Town Manager in writing within ten days.
- F. The permittee is required to pay all applicable taxes, including any future-adopted cannabis taxes, in addition to any fees established and imposed by the Town.
- G. A cannabis delivery permittee shall provide the Town Manager with the current name and primary and secondary telephone numbers of at least one twenty-four hour on-call manager

to address and resolve complaints and to respond to emergency operating problems or concerns associated with the cannabis delivery operations in the town.

- H. A cannabis delivery permittee shall comply with the following requirements when conducting cannabis delivery services in the town:
1. All cannabis deliveries must conform to State laws and regulations adopted pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (California Business and Professions Code, Division 10, Section 26000 et seq.).
 2. No adult-use customers shall be permitted to access or remain in the premises of a medical marijuana dispensary.
 3. No adult-use cannabis retail sales shall be permitted to occur at the premises of a medical marijuana dispensary.
 4. The dispensary shall have signage on the premises that clearly states no adult-use cannabis retail sales are allowed on site.
 5. The adult-use cannabis delivery service shall operate out of the same commercial space of the existing medical marijuana dispensary.
 6. No signage is allowed other than a business identification sign on the door, window, and/or wall, not to exceed 6 square feet.
 7. No signage/business identification allowed on delivery vehicles.
 8. Deliveries can only be made to and received by customers 21 or older. The dispensary must check, confirm, and log the identification of the customer to document their age and maintain/retain records pursuant to State laws and regulations. These records, the driver delivery ledgers/logs, and delivery receipts are subject to inspection by the Town of Fairfax.
 9. Deliveries must be completed within the hours of operations.
 10. Hours of operation would be the same as for medical marijuana dispensaries (i.e., 9:00am to 9:00pm and closed some holidays)
- I. The Town Manager may impose additional conditions on the cannabis delivery permit in the interest of public health and safety.

IX. Permits not transferable.

Cannabis business permits issued by the Town are not property and have no value. Cannabis business permits may not be transferred, sold, assigned or bequeathed expressly or by operation by law. Any attempt to directly or indirectly transfer a cannabis business permit shall be unlawful and void, and shall automatically revoke the permit.

X. Renewal.

- A. A permittee may apply for a cannabis delivery permit renewal by submitting to the Town Manager at least thirty calendar days before the expiration of the permit, a renewal application and a nonrefundable renewal fee in an amount of \$500. Failure to timely submit a renewal application prior to expiration of the permit shall result in permit expiration, and an application for a new permit shall be required pursuant to Section V.
- B. If a timely and complete application for renewal is filed, the permit's expiration shall be stayed until a decision on the renewal application is issued.
- C. The Town Manager shall either approve or deny the renewal of a permit within thirty calendar days of receipt of the complete application. The Town Manager may extend the

time for consideration of the application for up to an additional twenty-one calendar days upon written notice to the applicant. The failure of the Town Manager to timely act shall constitute approval of the renewal of the permit.

- D. The Town Manager shall approve the renewal of a permit if he or she finds that the circumstances existing during the term of the permit and during the review period of the application for renewal are consistent with all of the findings required for approval of a new permit and that no permittee or interested party of the cannabis business has committed, permitted, or failed to prevent violations of the municipal code, or any license or permit condition, during the preceding permit term.

XI. Suspending, modifying, or revoking a permit.

- A. The Town Manager may suspend, modify, or revoke a cannabis delivery permit issued for any of the following reasons:
 - (1) One or more of the circumstances upon which a retail cannabis business permit could be denied exists or has occurred;
 - (2) One or more conditions of the cannabis delivery permit has been violated; or
 - (3) The permittee, its managers or interested parties have violated any provision of this chapter.
- B. Any applicant or permittee aggrieved by a decision of the Town Manager in denying, suspending, modifying or revoking a permit, or imposing conditions on the issuance of a permit or permit renewal, may appeal the decision to the Town Council in accordance with the procedures set forth in Chapter 2.44 of the Town Municipal Code.

XII. Violations.

- A. Any person who violates the provisions of this chapter shall be subject to a fine of up to one thousand dollars for each day the violation continues.
- B. In addition to any other remedy allowed by law, any person who violates the terms and requirements of the permit is subject to criminal sanctions, civil actions, and/or administrative penalties pursuant to Chapter 1.10 of the Town's Municipal Code.
- C. Violations of the permit terms and requirements are hereby declared to be public nuisances.
- D. All remedies prescribed under this Section XII shall be cumulative and the election of one or more remedies shall not bar the Town from the pursuit of any other available remedy for the purpose of enforcing the provisions hereof.

PROPOSED STATE DELIVERY REGULATIONS
BUREAU OF CANNABIS CONTROL
OCTOBER 2018

(1) Prior to January 1, 2020, a package containing cannabis goods shall be tamper-evident but is not required to be resealable or child resistant.

(2) Beginning January 1, 2020, a package containing cannabis goods shall be resealable, tamper-evident, and child resistant.

(b) All Cannabis goods purchased by a customer shall not leave the licensed retailer's premises unless the goods are placed in an ~~resealable child-resistant~~ opaque exit package.

(1) Prior to January 1, 2020, all exit packaging shall be resealable, child resistant, and opaque.

(2) Beginning January 1, 2020, all exit packaging shall be opaque but is not required to be resealable or child resistant.

(c) Notwithstanding subsections (a) and (b) of this section, immature plants and seeds sold by a licensed retailer are not required to be placed in resealable, tamper-evident, child resistant packaging.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070.1 and 26120, Business and Professions Code.

§ 5414. Non-Storefront Retailer

(a) A non-storefront retailer licensee shall be authorized to conduct retail ~~cannabis~~ sales exclusively by delivery as defined in Business and Professions Code section 26001(p).

(b) A complete application for a non-storefront retailer license shall include all the information required in an application for a retailer license.

(c) A Non-Storefront Retailer licensee shall comply with all the requirements applicable to retailer licensees, except for those provisions related to public access to the licensed premises and the retail area.

(d) The licensed premises of a non-storefront retailer licensee shall be closed to the public.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§ 5415. Delivery Employees

(a) All deliveries of cannabis goods shall be performed by a delivery employee that is directly employed by a licensed retailer.

(b) Each delivery employee of a licensed retailer shall be at least 21 years of age.

(c) All deliveries of cannabis goods shall be made in person. A delivery of cannabis goods shall not be made through the use of an unmanned vehicle.

(d) The process of delivery begins when the delivery employee leaves the retailer's licensed premises with the cannabis goods for delivery. The process of delivering ends when the delivery employee returns to the retailer's licensed premises after delivering the cannabis goods, or attempting to deliver cannabis goods to the customer(s). During the process of delivery, the

licensed retailer's delivery employee may not engage in any activities except for cannabis goods delivery and necessary rest, fuel, or vehicle repair stops.

(e) A delivery employee of a licensed retailer shall, during deliveries, carry a copy of the retailer's current license, the employee's government-issued identification, and an identification badge provided by the employer pursuant to section 5043 of this division.

(f) Prior to providing cannabis goods to a delivery customer, a delivery employee shall confirm the identity and age of the delivery customer as required by section 5404 of this division and ~~place the cannabis goods in an resealable child-resistant opaque exit package~~ ensure that all cannabis goods sold comply with requirements of section 5413 of this division.

(g) A licensed retailer shall maintain an accurate list of the retailer's delivery employees and shall provide the list to the Bureau upon request.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§ 5415.1. Deliveries Facilitated by Technology Platforms

(a) A licensed retailer or licensed microbusiness shall not sell or otherwise transfer any cannabis goods to a customer through the use of an unlicensed third party, intermediary business, broker, or any other business or entity.

(b) Notwithstanding subsection (a) of this section, a licensed retailer or licensed microbusiness may contract with a service that provides a technology platform to facilitate the sale and delivery of cannabis goods, in accordance with all of the following:

(1) The licensed retailer or licensed microbusiness does not allow for delivery of cannabis goods by the technology platform service provider.

(2) The licensed retailer or licensed microbusiness does not share in the profits of the sale of cannabis goods with the technology platform service provider, or otherwise provide for a percentage or portion of the cannabis goods sales to the technology platform service provider.

(3) The licensed retailer or licensed microbusiness shall not advertise or market cannabis goods in conjunction with the technology platform service provider, outside of the technology platform, and shall ensure that the technology platform service provider does not use the licensed retailer's or licensed microbusiness's license number or legal business name on any advertisement or marketing that primarily promotes the services of the technology platform

(4) The licensed retailer or licensed microbusiness shall ensure the following information is provided to customers:

(A) Any cannabis goods advertised or offered for sale on or through the technology platform shall disclose, at a minimum, the licensed retailer's or licensed microbusiness's legal business name, and license number.

(B) Customers placing an order for cannabis goods through the technology platform shall be able to easily identify the licensed retailer or licensed microbusiness that each cannabis good is being ordered or purchased from. This information shall be available to the customer prior to the customer placing an order or purchasing the cannabis goods.

(5) All required sales invoices and receipts, including any receipts provided to the customer, shall disclose, at a minimum, the licensed retailer's or licensed microbusiness's legal business name and license number.

(6) All other delivery, marketing, and advertising requirements under this division are complied with.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26001, 26070, 26090, 26151, and 26152, Business and Professions Code.

§ 5416. Delivery to a Physical Address

(a) A delivery employee may only deliver cannabis goods to a physical address in California.

(b) A delivery employee shall not leave the State of California while possessing cannabis goods.

(c) A delivery employee shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency. This prohibition applies to land held in trust by the United States for a tribe or an individual tribal member unless the delivery is authorized by and consistent with applicable tribal law.

(d) A delivery employee may deliver to any jurisdiction within the State of California provided that such delivery is conducted in compliance with all delivery provisions of this division.

(e) A delivery employee shall not deliver cannabis goods to a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§ 5417. Delivery Vehicle Requirements

(a) A licensed retailer's delivery employee, carrying cannabis goods for delivery, shall only travel in an enclosed motor vehicle. Any vehicle used in the delivery of cannabis goods shall be operated by a delivery employee of the licensee. A vehicle used in the delivery of cannabis goods shall not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery employee is carrying cannabis goods for delivery. Only the licensee or an employee of the retailer licensee for whom delivery is being performed shall be in the delivery vehicle.

(b) While carrying cannabis goods for delivery, a licensed retailer's delivery employee shall ensure the cannabis goods are not visible to the public. Cannabis goods shall be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle. No portion of the enclosed box, container, or cage shall be comprised of any part of the body of the vehicle or trailer. For purposes of this section, the inside of the vehicle includes the trunk.

(c) A licensed retailer's delivery employee shall not leave cannabis goods in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active vehicle alarm system. Any cannabis goods left in an unattended vehicle must be stored in a container as required in subsection (b) of this section.

(d) A vehicle used for the delivery of cannabis goods shall be outfitted with a dedicated Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle

and recording a history of all locations traveled to by the delivery employee while engaged in delivery. A dedicated GPS device must be owned by the licensee and used for delivery only. The device shall be either permanently or temporarily affixed to the delivery vehicle and shall remain active and inside of the delivery vehicle at all times during delivery. At all times, the licensed retailer shall be able to identify the geographic location of all delivery vehicles that are making deliveries for the licensed retailer and document the history of all locations traveled to by a delivery employee while engaged in delivery. A licensed retailer shall provide ~~that~~ this information to the Bureau upon request. The history of all locations traveled to by a delivery employee while engaging in delivery shall be maintained by the licensee for a minimum of 90 days.

(e) Upon request, a licensed retailer shall provide the Bureau with information regarding any motor vehicle used for the delivery of cannabis goods, including the vehicle's make, model, color, Vehicle Identification Number, license plate number and Department of Motor Vehicles registration information.

(f) Any motor vehicle used by a licensed retailer to deliver cannabis goods is subject to inspection by the Bureau. Vehicles used to deliver cannabis goods may be stopped and inspected by the Bureau at any licensed premises or during delivery.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§ 5418. Cannabis Goods Carried During Delivery

(a) A licensed retailer's delivery employee shall not carry cannabis goods in the delivery vehicle with a value in excess of \$10,000 \$5,000 at any time. The value of cannabis goods carried in the delivery vehicle for which a delivery order was not received and processed by the licensed retailer prior to the delivery employee departing from the licensed premises may not exceed \$3,000. ~~shall be determined using the current retail price of all cannabis goods carried by, or within the delivery vehicle of, the retailer's delivery employee.~~

(b) For the purposes of this section, the value of cannabis goods shall be determined using the current retail price of all cannabis goods carried by, or within the delivery vehicle, of the licensed retailer's delivery employee.

~~(c)(b)~~ A delivery employee may only carry cannabis goods in the delivery vehicle and may only perform deliveries for one licensed retailer at a time. A delivery employee must depart and return to the same licensed premises before taking possession of any cannabis goods from another licensee to perform deliveries.

~~(d)(e)~~ A licensed retailer's delivery employee shall not leave the licensed premises with cannabis goods without at least one delivery order that has already been received and processed by the licensed retailer.

~~(e)(d)~~ Before leaving the licensed premises, the licensed retailer's delivery driver must have a delivery inventory ledger of all cannabis goods provided to the licensed retailer's delivery driver. For each cannabis good, the delivery inventory ledger shall include the type of good, the brand, the retail value, the track and trace identifier, and the weight, volume or other accurate measure of the cannabis good. All cannabis goods prepared for an order that was received and processed

by the licensed retailer prior to the delivery driver's departure from the licensed premises must be clearly identified on the inventory ledger. After each customer delivery, the delivery inventory ledger must be updated to reflect the current inventory in possession of the licensed retailer's delivery driver. Delivery inventory ledgers may be maintained electronically.

~~(f)(e)~~ The licensed retailer's delivery driver shall maintain a log that includes all stops from the time the licensed retailer's delivery driver leaves the licensed premises to the time that the licensed retailer's delivery driver returns to the licensed premises, and the reason for each stop. The log shall be turned in to the licensed retailer when the licensed retailer's delivery driver returns to the licensed premises. The licensed retailer must maintain the log as a commercial cannabis activity record as required by this division. The log may be maintained electronically.

~~(g)(f)~~ Prior to arrival at any delivery location, the licensed retailer must have received a delivery request from the customer and provided the delivery request receipt to the licensed retailer's delivery driver electronically or in hard copy. The delivery request receipt provided to the licensed retailer's delivery driver shall contain all of the information required in section 5420 of this division, except for the date and time the delivery was made, and the signature of the customer.

~~(h)(g)~~ Immediately upon request by the Bureau or any law enforcement officer, the licensed retailer's delivery driver shall provide:

- (1) All delivery inventory ledgers from the time the licensed retailer's delivery driver left the licensed premises up to the time of the request;
- (2) All delivery request receipts for cannabis goods carried by the driver, in the delivery vehicle, or any deliveries that have already been made to customers; and
- (3) The log of all stops from the time the licensed retailer's delivery driver left the licensed premises up to the time of the request.

~~(i)(h)~~ If a licensed retailer's delivery driver does not have any delivery requests to be performed for a 30-minute period, the licensed retailer's delivery driver shall not make any additional deliveries and shall return to the licensed premises. Required meal breaks shall not count toward the 30-minute period.

~~(j)(i)~~ Upon returning to the licensed premises, all undelivered cannabis goods shall be returned to inventory and all necessary inventory and track-and-trace records shall be updated as appropriate that same day.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, ~~and~~ 26090, and 26160, Business and Professions Code.

§ 5419. Cannabis Consumption During Delivery

A licensed retailer's delivery employees shall not consume cannabis goods while delivering cannabis goods to customers.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§ 5420. Delivery Request Receipt

A licensed retailer shall prepare a hard copy or electronic delivery request receipt for each delivery of cannabis goods.

(a) The delivery request receipt shall contain the following:

(1) The name and address of the licensed retailer;

(2) The first name and employee number of the licensed retailer's delivery employee who delivered the order;

(3) The first name and employee number of the licensed retailer's employee who prepared the order for delivery;

(4) The first name of the customer and a licensed retailer-assigned customer number for the person who requested the delivery;

(5) The date and time the delivery request was made;

(6) The delivery address;

(7) A detailed description of all cannabis goods requested for delivery. The description shall include the weight, volume, or any other accurate measure of the amount of all cannabis goods requested;

(8) The total amount paid for the delivery, including any taxes or fees, the cost of the cannabis goods, and any other charges related to the delivery; and

(9) Upon delivery, the date and time the delivery was made, and the handwritten or electronic signature of the customer who received the delivery.

(b) At the time of the delivery, the delivery employee of the retailer shall provide the customer who placed the order with a hard or electronic copy of the delivery request receipt. The delivery employee shall retain a hard or electronic copy of the signed delivery request receipt for the licensed retailer's records.

(c) For the purposes of this section, an employee number is a distinct number assigned by a licensed retailer to their employees that would allow the licensed retailer to identify the employee on documents or records using the employee number rather than the employee's full name. A licensed retailer shall be able to identify the employee associated with each employee number upon request from the Bureau.

(d) For the purposes of this section, a customer number is a distinct number assigned by a licensed retailer to a customer that would allow the licensed retailer to identify the customer in documents or records using the customer number rather than the customer's full name. A licensed retailer shall be able to identify the customer associated with each customer number upon request from the Bureau.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070, 26090, and 26160, Business and Professions Code.

§ 5421. Delivery Route

While making deliveries of cannabis goods, a licensed retailer's delivery employee shall only travel from the retailer's licensed premises to the delivery address; from one delivery address to another delivery address; or from a delivery address back to the retailer's licensed premises. A delivery employee of a licensed retailer shall not deviate from the delivery path described in this section, except for necessary rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route unsafe, impossible, or impracticable.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26070 and 26090, Business and Professions Code.

§ 5422. Receiving Shipments of Inventory

(a) A licensed retailer shall receive a shipment of cannabis goods only from a licensed distributor or licensed microbusiness authorized to engage in distribution.

(b) A licensed retailer shall accept shipments of cannabis goods only between the hours of 6:00 a.m. Pacific Time and 10:00 p.m. Pacific Time.

(c) During business hours, shipments of cannabis goods shall not enter the licensed premises through an entrance or exit that is available for use by the public.

(d) A licensed retailer whose licensed premises only has one entryway may be exempt from the requirements of subsection (c) of this section if the licensed retailer obtains authorization from the local jurisdiction explicitly authorizing this activity. The licensed retailer shall be required to provide this authorization to the Bureau upon request. For this section to apply, the licensed premises must physically have only one entryway and cannot have any other entryways.

Authority: Section 26013, Business and Professions Code. Reference: Sections 26012 and 26070, Business and Professions Code.

§ 5423. Inventory Documentation

A licensed retailer shall maintain an accurate record of its inventory. A licensed retailer shall provide the Bureau with the record of inventory immediately upon request. A licensed retailer shall keep a record of the following information for all cannabis goods the licensed retailer has in its inventory:

(a) A description of each item such that the cannabis goods can easily be identified;

(b) An accurate measurement of the quantity of the item;

(c) The date and time the cannabis goods were received by the licensed retailer;

(d) The sell-by or expiration date provided on the package of cannabis goods, if any;

(e) The name and license number of the licensed distributor or licensed microbusiness that transported the cannabis goods to the licensed retailer; and

(f) The price the licensed retailer paid for the cannabis goods, including taxes, delivery costs, and any other costs.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code.

§ 5424. Inventory Reconciliation

(a) A licensed retailer shall be able to account for all ~~perform a reconciliation~~ of its inventory, ~~at least once every 14 calendar days.~~

(b) In conducting an inventory reconciliation, a licensed retailer shall verify that the licensed retailer's physical inventory is consistent with the licensed retailer's records pertaining to inventory.

(c) The result of inventory reconciliation shall be retained in the licensed retailer's records and shall be made available to the Bureau upon request.

(d) If a licensed retailer identifies any evidence of theft, diversion, or loss, the licensed retailer shall notify the Bureau and law enforcement pursuant to section 5036 of this division.

(e) If a significant discrepancy as defined in section 5034 of this division is discovered between a licensed retailer's physical inventory and the licensed retailer's inventory records, the licensed retailer shall notify the Bureau and law enforcement pursuant to section 5036 of this division.

Authority: Section 26013, Business and Professions Code. Reference: Section 26160, Business and Professions Code.

§ 5425. ~~Record of Sales~~ [reserved]

~~(a) A licensed retailer shall maintain an accurate record of sale for every sale made to a customer.~~

~~(b) A record of cannabis goods sold to a customer shall contain the following information:~~

~~(1) The first name and employee number of the licensed retailer employee who processed the sale;~~

~~(2) The first name and the retailer-assigned customer number for the customer who made the purchase;~~

~~(3) The date and time of the transaction;~~

~~(4) A list of all the cannabis goods purchased, including the quantity purchased; and~~

~~(5) The total amount paid for the sale including the individual prices paid for each cannabis good purchased and any amounts paid for taxes.~~

~~(c) For the purposes of this section, an employee number is a distinct number assigned by a licensed retailer to their employees that would allow the licensed retailer to identify the employee on documents or records using the employee number rather than the employee's full name. A licensed retailer shall be able to identify the employee associated with each employee number upon request from the Bureau.~~