

**Elections Code Section 9212 Report
Regarding an Initiative Measure to
Permit Personal Cannabis Cultivation and
Commercial Cannabis Businesses
within the City of Sonoma**

Prepared for
the
City of Sonoma
August 21, 2018



**Delivering Revenue, Insight
and Efficiency to Local Government**

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Elections Code Section 9212 Report

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I. Introduction

On June 6th, 2018, the City of Sonoma received a petition from Mr. Jon Early entitled “*Initiative Measure Amending the Municipal Code to Permit Personal Cannabis Cultivation on All Residential Properties and Establishment and Operation of Cannabis Businesses Within the City, Including Commercial Cultivation, Manufacturing, Retail, Delivery, Distribution, Testing, and Special Events*” (the initiative). The initiative would allow indoor personal cannabis cultivation on all residential properties within the City and would permit commercial cannabis businesses on properties zoned C (Commercial), with certain limitations. Mr. Early also submitted a sufficient number of signatures to qualify the petition for the ballot, as certified by the City Clerk on July 18th.

The Sonoma City Council accepted the City Clerk’s certification at its meeting on July 23rd and considered three possible actions allowed under Elections Code Section 9212: (i) adopt the measure outright, (ii) submit the initiative to the voters, or (iii) order a report analyzing the measure’s potential impacts on the community, and then decide between options (i) and (ii) within 10 days of receiving the report. The Council chose to direct staff to prepare the report.

The City Council directed that this report consider and analyze potential impacts of the Initiative. Elections Code Section 9212 provides sample categories of impacts to be studied, and allows the City Council to add categories as well. The City Council directed staff to consider the impacts listed in section 9212 categories as well as several other categories (i.e. H-L below):

- A. Fiscal impact;
- B. General and specific plan consistency; planning and zoning consistency;
- C. Impact on the availability and location of housing, and the ability of the City to meet its regional housing needs;
- D. Impact on infrastructure such as transportation, schools, parks, and open space, including maintenance costs;
- E. Impact on the City’s ability to attract and retain businesses and employment;
- F. Impact on the uses of vacant parcels of land;
- G. Impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization;
- H. Impacts to city services, including code enforcement, law enforcement and potential additional costs for the City;
- I. Traffic impacts and parking issues;
- J. Identification of potential properties that could be impacted by location of a business on site, and the potential number of businesses that could be established;
- K. Potential impact on lease rates for properties that would allow cannabis businesses; and
- L. Any other impacts that may be determined during research regarding the measure.

The list of 12 types of impacts to be analyzed can generally be grouped into 4 categories: (A) land use impacts, (B) fiscal impacts, (C) impacts on City services and infrastructure, and (D) impacts on other businesses. The analysis will generally follow this grouping, and will also provide a general overview of the current cannabis business market, including analysis of the different types of cannabis businesses proposed to be allowed by the Initiative and potential revenue that could be achieved if the Initiative included a tax measure or if the City adopted such a measure in the future. Finally, the Appendix to this report contains legal, regulatory, and tax background information for cannabis regulation in the state, as well as land use maps prepared by City staff.

II. Brief Overview of Initiative

A copy of the Initiative is included in the Appendix of this report. A detailed summary of the Initiative may be found in the [April 20, 2018 ballot title and summary prepared](#) by the City Attorney. The below table contains a brief summary of (i) the City’s existing cannabis regulations, (ii) direction recently provided to City staff as part of the City’s continued development of cannabis regulations, and (iii) the proposed Initiative.

	Existing Regulations (City’s Urgency Ordinances)	Council Direction to Staff for potential new City regulations	Initiative¹
Personal cultivation	Indoor personal cultivation of up to 6 plants per residence is allowed for either medical or adult-use. Outdoor personal cultivation of any kind is prohibited. Allows outdoor cultivation in greenhouse.	Allow outdoor personal cultivation of 3 plants outside of greenhouse; additional 3 plants would need to be contained in a greenhouse or inside.	Allows indoor personal cultivation ² of up to 6 plants per adult, and appears to prohibit outdoor cultivation ³ . Allows primary caregiver cultivation of up to 6 plants per patient (limit 5 patients).
Commercial activities	All commercial cannabis activities are prohibited except for deliveries of medical cannabis from licensed dispensaries outside the City (which dispensaries must have a City business license and pay the requisite fee).	Allow medical cannabis deliveries from licensed dispensaries outside the City. Prohibit all other cannabis businesses.	Allows cannabis businesses to engage in the following uses: cultivation, non-volatile manufacturing, retail/delivery, distribution, testing. Cannabis business are to be permitted uses in all commercial zones, requiring only a “zoning clearance” from the City’s planning department (i.e. a determination that the

¹ The Initiative is internally inconsistent and contains some ambiguity. The descriptions in this table are therefore a general overview of the City’s current interpretation of Initiative provisions.

² The Initiative states that it allows personal cultivation for indoor “medical or adult use” in section 5.36.030, but only refers to medical cannabis cultivation in Table 2-1. Allowing only medical cannabis cultivation is inconsistent with Proposition 64, which allows personal indoor cultivation.

³ The Initiative does not expressly prohibit outdoor cultivation, but section 2(E) states that the scheme is “permissive” so if a use is not expressly permitted, it is banned. The proposed regulations also appear to be intended to regulate indoor cultivation (see, e.g., section 5.36.030(C)(2) (“Security”), which requires sufficient security measures to prevent unauthorized access to all “enclosures and structures” used for cultivation). However, there are certain regulations that suggest that outdoor cultivation may have been contemplated (see, e.g., 5.36.030(C)(6) and (C)(8) regulating “interior and exterior lighting” (emphasis added) and compliance with Best Management Practices for “waste, water, erosion control, and management of fertilizers and pesticides”).

			applicant has complied with all applicable development standards).
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III. Cannabis Industry/Local Market Analysis

The Initiative places no limits on the number of commercial cannabis businesses that may occur in Sonoma. The great majority of local governments in California, if allowing commercial cannabis businesses, are placing caps on the number of businesses. For example, Oakland allows eight cannabis dispensaries, Sebastopol allows seven total cannabis businesses (two medical retail, two adult retail, and two delivery retail), and Sonoma County allows nine dispensaries. As cannabis has entered communities, there has been speculation on real estate ventures and the number of businesses that open can vary.

In addition, the Initiative neither allows nor disallows the City to separately establish a cannabis business tax. Should the Initiative be placed on a future ballot, it is conceivable that the City may also wish to prepare a companion tax measure to be placed before the voters at the same time. As with other impacts, the amount of revenue that the City may be able to generate from a tax measure depends upon the type, number and size of cannabis businesses that may choose to locate within the City. For this reason, HdL has provided a detailed market analysis, which is included in the Appendix. The findings and revenue projections represent HdL’s best estimate for the market capacity based on common rates from 25 current cannabis tax measures.

Cannabis Retailers

HdL’s model for revenues from cannabis retailers is based on consumer demand. HdL’s analysis assumes a total population of 25,291 for the City of Sonoma and the surrounding area. Assuming that cannabis consumers make up 14% of the population would yield a total customer base of 3,541. This figure would likely support no more than 2 retailers, which may or may not be located within the City itself. Applying assumptions for average transaction size and purchase frequency gives us an estimate of \$6,203,376 in annual gross receipts. Applying a tax rate of 4% on cannabis retailers would generate \$248,135 in annual revenue to the City.

Cannabis Manufacturers

HdL has reviewed pro-formas for numerous cannabis manufacturers around California, which commonly average \$2 million to \$3 million in gross receipts. From HdL’s analysis, it believes that the City of Sonoma could likely support only 1 or 2 small “boutique” manufacturers, due to the limited availability of allowable and affordable light industrial spaces. Assuming \$2 million in gross receipts and a tax rate of 2%, these manufacturers would each generate around \$40,000 in revenue for the City.

Distributors and Testing Laboratories

Distributors tend to be located in cities that serve either a large, surrounding area of cultivation, or that serve a large surrounding customer base. On the North Coast, distributors tend to be located along the Highway 101 corridor. The City of Sonoma has very few commercial parcels available for either distributors or testing laboratories, and fewer still that have appropriate light-industrial type spaces. In addition, commercial space within the City appears to demand a premium compared with spaces in the surrounding unincorporated area. HdL does not see a strong argument for why either distributors or testing labs would choose to locate in the City, and so has not included either of these in its revenue estimates.

Cultivation

Given the very small number of allowable parcels, we believe the City would be unlikely to attract more than perhaps 2 indoor cultivation operations, averaging 10,000 square feet each. Applying a tax rate of \$7 per square foot would generate \$140,000 in revenue. However, we believe the most likely scenario is that the City will have no cannabis cultivators, as they will seek out less expensive parcels in the unincorporated area outside of the City.

HdL's most likely projection for revenues under the Initiative is that the City may be able to generate between \$164,000 and \$328,000 in annual revenue from some combination of 1 to 2 retailers and 1 to 2 small boutique manufacturers.

Please see the detailed analysis in the Appendix as well as the general discussion of fiscal impacts in section IV.B below for additional cannabis business market information.

IV. Impact Analysis

A. Land Use Impact Analysis

The Initiative proposes to amend Tables 2-1 and 2-2 ("Residential Uses and Permit Requirements" and "Commercial Uses and Permit Requirements," respectively), and proposes to add a new chapter 5.36 ("Cannabis") to the City's development (zoning) code. These amendments would allow cannabis businesses (consisting of cultivation, manufacturing, retail/delivery, and testing uses) in all commercial (C) zones. Below are the major land use issues that we have noted for the Council's consideration.

i. Setbacks to Sensitive Uses

The Initiative requires a 600-foot setback to "sensitive uses," including "schools." The Initiative's definition of "school" specifically excludes "daycare centers and youth facilities." Thus, the Initiative would permit a cannabis business to be located within 600 feet of a daycare center or youth facility. State law, however, prohibits licensed cannabis facilities from locating within 600 feet of a "school...*daycare center, or youth center.*"⁴ State law allows a local jurisdiction, like the City, to specify a different setback radius (either greater or less), but it does not appear to allow the City to remove daycares and youth centers as sensitive uses, which is what the Initiative proposes. Arguably, a local jurisdiction could simply reduce the setback radius to zero and allow businesses next to a daycare center or youth center, effectively eliminating the sensitive use. The Initiative removes the "daycare centers and youth facilities" from the buffer language with the goal of having no buffer. Again, it is unclear whether that practice complies with current law. Please view the maps provided in the Appendix for the effect of both the Initiative buffer zones as well as buffer zones that would be consistent with state law.

Also, the Initiative states that measurement of the distance between a "Cannabis Retail" and the sensitive use shall be made in a straight line from the boundary line of the property of the Cannabis Retail to the closest boundary line of the sensitive use property. While the measurement language arguably tracks state law requirements, the Initiative only refers to "Cannabis Retail" businesses in the measurement section instead of all "Cannabis Businesses" like the previous section defining the sensitive

⁴ Bus. & Prof. Code §26054(b). Emphasis added. See also sections 5026(a) and (b) of the Bureau of Cannabis Control's draft regulations.

uses.⁵ In this way, the Initiative is internally inconsistent. As indicated above, state law prohibits any licensed cannabis facility from locating within the sensitive use setback area, including cultivation, manufacturing, retail, distribution, and other cannabis businesses. While this may be an oversight on the part of the Initiative drafters, if the Initiative is interpreted to only require a setback for “Cannabis Retail” businesses, then this provision of the Initiative would likely be inconsistent with state law.

It is also important to note that the list of “sensitive uses” does not include *other cannabis businesses* – that is, cannabis businesses are allowed to locate within close proximity to one another. Some cities require or encourage cannabis businesses to cluster into certain locations in order to minimize citywide impacts. Other cities expressly prohibit cannabis businesses from locating within a certain distance of another business. The Initiative takes this policy decision away from the City and allows cannabis businesses to locate anywhere in the commercial district, as further described below. This loss of local control is a significant impact unto itself, as it denies the City the ability to determine where businesses may best be located, in what number, under what conditions, and with what mitigations. In doing so, the Initiative takes away the City’s ability to appropriately assign the costs of regulation to the entity being regulated. Without the ability to avoid, reduce, or mitigate impacts, the impacts and their associated costs will be externalized onto the City and, ultimately, the City’s taxpayers.

Finally, the Initiative allows *all types* of cannabis businesses at one location. That is, cannabis business owners may co-locate multiple license types on the same premises, allowing a cultivator to process, manufacture or distribute their own product from a single business location. This includes the allowance to cultivate, manufacture, distribute or sell cannabis for both medical and adult use from a single location, regardless of whether those two uses are compatible (e.g. manufacturing and retail). State law allows local jurisdictions to regulate parcels to a single type of use, but again, the Initiative allows co-location of all types of businesses as well as location of those businesses in close proximity to each other.

ii. Number of Cannabis Businesses; Leasing; Locations

The Initiative limits cannabis businesses to only parcels zoned C (Commercial). As explained above, the Initiative also prohibits cannabis businesses within 1,000 feet of the Plaza, within 600 feet of any school or City park, or within 250 feet of the library. This results in just 33 parcels available for establishment of commercial cannabis businesses. Maps illustrating potential cannabis business sites pursuant to these buffers have been included in the Appendix to this report.

Applying only the buffers as defined by state law would exclude a number of parcels along Sonoma Highway that are otherwise allowed by the Initiative, but would allow cannabis businesses on many more parcels around the Plaza and library which are excluded by the Initiative. In terms of the total number of parcels on which cannabis businesses would be allowed, the buffers in the Initiative appear to be more restrictive than the buffers defined in state law due to the Plaza buffer.

The limited number of candidate parcels for any and all commercial cannabis activities poses a concern that property owners may demand a premium for leasing or renting these commercial spaces, making them less affordable for other businesses or even pushing out existing tenants. From HdL’s analysis, it does not believe that there is enough demand for commercial cannabis space within the City to reward such speculation in the long term.

⁵ See Initiative, section 5.36.050(D). Similarly, only “Cannabis Retail” businesses are mentioned in section 5.36.050(E) which governs location of new sensitive uses.

As a part of its analysis, HdL examined lease rates for those commercial properties that are currently available. HdL found 21 Commercial-zoned properties or spaces that are currently advertised by commercial realtors. The vast majority of these spaces fall within the buffer zones defined in the Initiative, making them unavailable. Most of these are excluded due to their proximity to the Plaza. HdL found 5 currently available spaces that would be allowed by the Initiative.

An examination of annual rent or lease rates per square foot showed that spaces around the Plaza already demand a significant premium over similar spaces located along the Sonoma Highway. Rents around the Plaza ranged from \$54 up to \$71 per square foot. Along West Napa Street and Sonoma Highway, rents fell to a range of \$27 to \$36 per square foot. Following Sonoma Highway outside of the City limits the rents fell even further, down to \$15 to \$19 per square foot.

Further, the majority of available spaces were professional offices, rather than retail spaces. While office spaces could potentially be converted for retail use, they are unlikely to be appropriate for any other commercial cannabis uses such as manufacturing, testing or distribution. HdL found only one currently available Commercial-zoned property that was appropriate for light industrial uses. This space was offered at \$10.20 per square foot.

HdL believes that mostly cannabis retailers (as opposed to manufacturers or cultivators) would be willing to pay a premium for being located within the City limits, but it is important to note that the Initiative allows all types of cannabis businesses to locate throughout the commercial zone. Commercial properties located along the Sonoma Highway immediately north of the City are already mapped by the County as allowing for cannabis businesses. HdL also noted a number of light industrial spaces within 2 miles of the City in the vicinity of Vineburg, Schellville and the Sonoma Sky Park. These spaces all appear to be both more appropriate and more affordable for any kind of cannabis manufacturing, distribution, testing or indoor cultivation.

And, while a location on or near the Sonoma Plaza would likely be attractive for cannabis retailers because it would capture considerable visitor traffic, these spaces are not available due to the 1,000 foot buffer prescribed by the Initiative. Studies have shown that consumers are rarely willing to drive more than 15 minutes to make routine purchases, and will drive 20 minutes or more only for specialty items or “big-ticket” purchases. Thus a cannabis retailer in the City of Sonoma would likely serve an area extending from Schellville to Glen Ellen. HdL believes that the population within this distance could likely support two cannabis retailers.

However, the extremely limited number of candidate parcels for any and all commercial cannabis activities poses a concern that property owners may demand a premium for leasing or renting these commercial spaces, making them less affordable for other businesses or even pushing out existing tenants. Anecdotal reports from Humboldt and Sonoma counties suggest that some property owners have attempted to demand prices that are up to 4 times higher, due to their potential for commercial cannabis uses. While some real estate speculation may be inevitable in the near term, HdL does not believe that there is enough demand for commercial cannabis space within the City to reward such speculation.

That said, this is the current market. There are no guarantees as to whether the current market will hold, and whether cannabis businesses, including manufacturing or other industrial-like uses, would desire to locate in more traditional office spaces, particularly given ever-changing growing and manufacturing techniques. The Initiative allows *all* cannabis businesses to locate throughout the

Commercial zone, so it is important to keep in mind that these businesses could potentially convert space traditionally used for other purposes in the Commercial zone for cannabis uses.

iii. On-Site Consumption

The Initiative contemplates on-site consumption at cannabis businesses⁶ and at special events,⁷ for which a conditional use permit must be obtained. As indicated above, the Initiative would allow cannabis businesses to locate 600 feet away from a school.⁸ However, state law prohibits use (i.e. consumption) of cannabis within 1,000 feet of a “school, daycare center, or youth center,”⁹ so the Initiative may conflict with state law to the extent that it does not recognize that consumption cannot occur within 1,000 feet of a school, daycare, or youth center.¹⁰

Moreover, on-site consumption may have nuisance-like impacts to neighboring properties, including odors and noise from ventilation systems and on-site patrons. The Initiative makes a passing reference to an “application” for “Cannabis Retail” businesses that includes an “operational plan” for any proposed on-site consumption.¹¹ However, as described in more detail below, the Initiative does not appear to require more than just a zoning clearance in order to operate (i.e. no formal application and review process). Even if the Initiative is interpreted to require some kind of application that includes an on-site consumption operational plan, it does not require that any such plan actually be approved by the City.¹² However, smoking cannabis would still be regulated by Chapter 7-24 of the City’s zoning ordinance, which would likely prohibit smoking outside a private commercial property. In this regard, the Initiative again conflicts with the City’s zoning ordinance. That said, there are other forms of “consumption” that may be allowed under the Initiative, and the City does not appear to have the opportunity to review and approve any business plan associated therewith.

iv. General Plan Consistency

The General Plan describes the C District as follows:

This designation is intended to provide areas for retail, hotel, service, medical, and office development, in association with apartments and mixed-use developments and necessary public improvements. Schools, day care facilities, fire stations, post offices, emergency shelters, and similar activities may be allowed subject to use permit review. Heavy manufacturing and industrial uses are not allowed.

⁶ See Initiative, section 5.36.080(F).

⁷ See section 5.36.110(A).

⁸ As also explained above, use of the term “school” only in this buffer zone – without “daycare and youth center” – may be contrary to state law.

⁹ Health & Safety Code 11362.3. Emphasis added.

¹⁰ Note that state law would allow the City to reduce or extend sensitive use buffers, as the Initiative proposes, but there is no state law provision that clearly allows reduction or extension of buffers for *use or consumption*. That is, it appears that state law’s prohibition on use of cannabis within 1,000 feet of those sensitive uses cannot be amended by local jurisdiction.

¹¹ See Initiative, section 5.26.080(F)(1)(i) and (ii).

¹² See Initiative, section 5.26.080(F)(1)(ii).

The Initiative allows all types of commercial cannabis businesses, including manufacturing, distribution, cultivation, transportation, testing, retail sales, and delivery of cannabis, in the C District. The General Plan states that “heavy manufacturing” is not allowed in the C District. It is unclear whether cannabis manufacturing or manufacturing with a testing component would be considered “heavy manufacturing” such that it conflicts with the General Plan requirements for the C District. The Initiative purports to only allow only “solvent-free” extraction processes for manufacturers, but specifically refers to both volatile and non-volatile manufacturing licenses allowed by the state.¹³ So it is unclear whether either or both of these types of uses would be consistent with what is allowed in the General Plan (i.e. if one or both types of cannabis manufacturing was considered “heavy”).

It is also worth noting that *all* manufacturing uses currently allowed in the C District¹⁴ require a use permit – none are permitted by right. The Initiative proposes to include cannabis manufacturing as a by-right use in the C-1 District.

v. Zoning Inconsistency

The Initiative states that it allows personal cultivation for “medical or adult use” in section 5.36.030, but only refers to medical cannabis cultivation in Table 2-1. Therefore, the Initiative creates an inconsistency between the amended zoning regulations (i.e. Table 2-1 in section 19.10.050) and other text of the Initiative purporting to allow “adult use” of cannabis in residential zones.

Also, as described above, the Initiative proposes to allow all types of cannabis businesses as “by right” uses in the commercial zoning districts. A majority of uses in the commercial zoning district require a use permit. In fact, all but one manufacturing use require a use permit. The Initiative would allow all cannabis businesses (whether retail, manufacturing, cultivation, testing, or retail/delivery) by right – that is, without a use permit which means no review or oversight by the Planning Commission. While the lack of use permit requirement does not, per se, create an inconsistency in the Zoning Ordinance, listing cannabis businesses as “by right” uses would place them in the minority of uses that enjoy that status.

Finally, there is a minor inconsistency with the Zoning Ordinance in terms of the parking requirements. The Initiative requires one parking space for every 300 square feet of retail space, which is consistent with Sonoma Municipal Code Section (SMC) 19.48.040. Delivery services for testing laboratories are required to provide one parking space for every 400 square feet of floor area, and manufacturers or distributors are required to provide one space for every 1,000 square feet. These requirements are generally consistent with the SMC standards, and therefore should be sufficient to combat any parking impacts. However, the SMC (at section 19.48.040) requires manufacturing uses to have one space for every 500 square feet of floor area; a minor deviation from the one spot per 400 square feet required by the Initiative. But this provision does create a minor inconsistency with the Zoning Ordinance.

vi. Zoning Clearance/By Right Use

In the Initiative, all types of cannabis businesses are permitted by right in all commercial districts. The Initiative does not appear to require more than a “zoning clearance” from the Planning

¹³ See Initiative, section 5.36.070 and section 5.

¹⁴ Artisan/Craft Manufacturing, Food/Beverage Manufacturing, Furniture Fixtures/Furniture Manufacturing, Recycling Facilities (reverse vending and small collection), Research & Development, Warehousing/Wholesaling/Distribution.

Department to establish a cannabis business – that is, it does not require any other discretionary permit or approval from Planning Department staff, Planning Commission, or City Council. Proposed section 5.36.100 sets forth grounds for cannabis business “Permit Revocation or Modification,” and references “revocation of a local permit” in 5.36.050, but there is no other indication in the Initiative that any such permit is required. It is possible that proposed section 5.36.100 refers to a use permit issued for a special event pursuant to proposed section 5.336.110, and that the “local permit” is simply the City’s zoning clearance sign-off. Thus, under the Initiative, a commercial cannabis business owner could receive the local approval required to pursue a state license from the Planning Department simply by proposing the use at the counter without a public hearing, input from neighboring businesses/uses, etc.

Many counties and cities across the State have implemented competitive application processes for permitting cannabis businesses, which allows those cities to select the best businesses that are most likely to succeed for their community. These competitive processes also allow the city to negotiate voluntary agreements with potential businesses to help address needed community services. Development agreements, operational agreements, neighborhood impact fees and community benefit fees are all tools that have been used to generate revenue or to require businesses to give back to the community through service or charitable contributions. However, all of these creative tools depend upon having a discretionary review process in place for cannabis businesses. The Initiative deprives the City of the opportunity to enter into such agreements with prospective cannabis businesses. Moreover, the Initiative’s lack of a required permit or public hearing process may allow impacts to occur that would normally be mitigated during and as a result of this type of review. For example, there would be no public input or input from neighboring property owners that might identify potential odor, noise, traffic, parking, or other impacts prior to establishment of any cannabis business – the business would simply be allowed to locate in the commercial district.

Finally, the Initiative allows a “self-certification procedure” for medical cannabis businesses engaged in commercial cannabis activity within the City prior to September 1, 2016. Those businesses can submit a “self-certification application” to the City, along with an unspecified fee for the application and for annual “compliance monitoring,” during which time the City can determine if the business is in compliance with the Compassionate Use Act of 1996¹⁵ and, if so, issue a certificate recognizing that the business has received the necessary local approval to seek a state license. It may have been the intent of the Initiative to reward those businesses with the “self-certification” process, but the text appears to require fees and annual monitoring for those businesses while it does not so require for new cannabis businesses, whether medical or other types.

vii. Outdoor Cultivation

The Initiative does not expressly prohibit outdoor cultivation. Section 2(E) of the Initiative states that the scheme is “permissive” so if a use is not expressly permitted, it is banned. Since outdoor cultivation is not expressly permitted, it would therefore appear to be banned. Also, all proposed regulations appear to pertain to indoor cultivation and section 5.36.030(C)(2) (“Security”) requires sufficient security measures to prevent unauthorized access to all “enclosures and structures” used for cultivation. Again, while the Initiative appears to prohibit outdoor cultivation, this ambiguity could lead

¹⁵ The Initiative is unclear about whether a medical cannabis applicant operating prior to enactment of the Initiative would be required to demonstrate that it had been complying *solely* with the Compassionate Use Act of 1996 or whether it would be required to demonstrate that it had complied with all applicable cannabis laws as they have been adopted and amended since September 1, 2016.

to potential lawsuits from outdoor cultivators who believe the Initiative language allows outdoor cultivation.

viii. Housing; Agricultural and Vacant Land

The Initiative allows adult-use consumption and indoor cultivation of up to 6 plants in residences.¹⁶ As described herein, however, the Initiative is ambiguous as to whether *outdoor* cultivation is allowed. Nuisance-like outdoor cultivation impacts could in turn impact sales of surrounding homes. Also, commercial cannabis businesses near residential zones could impact sales of nearby homes; cause more traffic, parking, and criminal issues in nearby residential areas.

The proposed Initiative limits commercial cannabis businesses to only properties zoned Commercial, so there does not appear to be any foreseeable mechanism whereby housing would be displaced by cannabis businesses. It does not appear that there would be any measurable impact on housing availability, or upon the ability of the City to meet its Regional Housing Needs Allocation.

All of the parcels allowed by the Initiative appear to be developed, so it does not appear that the Initiative would have any impact on vacant parcels of land. Under the proposed Initiative, all commercial cannabis businesses would be located in Commercial zones. No commercial cannabis uses would be allowed on agricultural lands or open space.

B. Fiscal Impact Analysis

i. Code Enforcement; Law enforcement; Legal analysis

With regard to commercial cannabis activities, there may be impacts to City services from the Initiative's cannabis businesses. The frequency, nature, and types of impacts associated with the Initiative's cannabis businesses could vary greatly depending on the number and location of those businesses, as well as the willingness of the owners/operators of those businesses to work with the City in case problems or conflicts arise. Given that the Initiative simply allows cannabis businesses to locate throughout the Commercial zone and without any discretionary City review or permit, the City's enforcement (whether code enforcement, law enforcement, or potential legal analysis and any proposed Initiative amendments) will be strictly reactionary. That is, the City will have to issue zoning clearances to qualified parcels/businesses first, and then employ any required enforcement actions after the fact.

The City has not seen a drastic increase in reports to code enforcement or calls to law enforcement associated with the currently-allowed personal indoor cultivation, which is also allowed by the Initiative. If the Initiative is interpreted to allow outdoor cultivation¹⁷, there could be an uptick in code enforcement reporting from neighbors of outdoor residential cultivators.

Further, State law requires, and the Initiative recognizes, that owners of commercial cannabis businesses obtain the required state license for the type of use proposed. Cities that enacted cannabis regulations prior to adoption of the state licensing scheme often provided for extensive background checks, etc. as part of the permitting process. However, the state licensing requirements now prohibit

¹⁶ Proposition 64 actually allows personal indoor cultivation of up to 6 plants *per residence*, not per adult. So the Initiative is arguably inconsistent with state law in this respect.

¹⁷ See section A.vii above.

anyone with certain criminal history (e.g. felonies) from entering the commercial cannabis industry, so presumably that cost is borne by the applicant as part of a state license approval.

Moreover, the City Attorney's ballot title and summary and this report note a variety of provisions in the Initiative that are (i) ambiguous, (ii) may not be enforceable due to conflicts with state law and/or preemption, and (iii) are internally inconsistent. If adopted, staff and/or the City Attorney may recommend potential amendments¹⁸ in order to clarify certain provisions and/or minimize the City's liability. Full legal examination and analysis of the Initiative and suggestion of amendments, potentially with the assistance of outside counsel and/or consultants, would result in additional costs.

ii. Regulatory/Discretionary Permit Fees; Revenue/Tax¹⁹

State law allows the City to recover the direct costs associated with processing a permit or entitlement; performing investigations, inspections, and audits; and administrative enforcement of the permit or entitlement.²⁰ Cities that regulate cannabis businesses generally require some kind of discretionary permit (e.g. a use permit), and some cities require cannabis businesses to pay annual permit renewal fees.

The absence of these regulatory fees in the Initiative is notable. As explained above, the Initiative's proposed cannabis businesses are only required to obtain a zoning clearance – that is, they would only have to demonstrate to the Planning Department that their proposed uses are consistent with the regulations contained in the Initiative, applicable development standards, and required building and fire code standards. They would not be required to obtain any kind of discretionary permit from the City, and therefore the City will not acquire any fees from cannabis business owners relating to establishment of a cannabis business or continued operation of that business.

Some cities require large regulatory permit fees up front (averaging approximately \$22,000) as part of the application for and approval of a discretionary permit (e.g. for yearly inspections or audits,

¹⁸ See Initiative, Section 7 ("Amendment").

¹⁹ A more comprehensive analysis of the potential tax implications of the Initiative can be found in the City of Sonoma Cannabis Business Market Analysis in the Appendix to this report.

²⁰ See Mitigation Fee Act, Gov. Code §§66000 *et seq.*

permit/license renewal fees, etc.).²¹ The City of Modesto, for example, requires a permit fee of \$23,340 to cover all the cost associated with the management and oversight of their cannabis program. The Initiative does not require such a discretionary permit. The Initiative does not provide a mechanism to defray costs associated with inspections made prior to or after issuance of a zoning clearance allowing the cannabis business. The Initiative allows only for a ministerial zoning clearance, rather than a discretionary permit. This ministerial permit requires far less staff time, but in doing so it denies the City the ability to perform a better analysis and review of the potential impacts of each proposed business, and prevents the City from being able to require any conditions or mitigations to reduce those impacts. The inability to provide this sort of up front regulatory oversight may be considered an externalized cost of this Initiative.

In addition to such up front application review costs, HdL has worked with many jurisdictions to develop an annual fee for ongoing oversight of cannabis businesses. This fee covers a cannabis management program that includes risk-based inspections, response to complaints, background checks, permit renewals, administrative actions and ongoing training for staff. As with the application review process, the cost of this ongoing compliance and enforcement program can vary, depending upon the desired level of oversight. Most commonly, such an application and review program involves 60-75 hours of staff time for a variety of departments, generally including planning, law enforcement and the City Attorney.

In HdL’s experience, a reasonably comparable program for the City of Sonoma may involve 75 hours of combined staff time for each of 2 cannabis businesses, with a total annual cost of \$31,068, or \$15,534 for each business. Because the Initiative only allows for a ministerial zoning clearance, the City would likely not have the ability to require these kinds of fees for ongoing compliance and enforcement. These types of costs, which are commonly employed by other Bay Area cities, are shown in the table below as an illustration. (These are not hourly rates for the City of Sonoma.)

Sample Annual Regulatory and Enforcement Costs for Two Cannabis Businesses Based on Average Rates for Other Bay Area Cities				
Department	Avg. Hourly Rate	Hours Required	Program Cost	
Law Enforcement	217.33	103.5	21,636.00	
City Attorney	337.50	15.00	4,950.00	
Other City staff	158.25	31.50	4,482.00	
Total	713.08	150.00	31,068.00	

²¹ HdL has evaluated and conducted application reviews for over 1,400 cannabis businesses in the past three years. In addition, HdL staff have conducted compliance and financial reviews for over 11,000 cannabis businesses while working as regulators in California, Colorado, and Nevada. This experience has provided HdL with significant data that informs the “fit gap” analysis for the application review process for prospective cannabis businesses. This analysis considers the multiple steps of the review process, the staff that will be participating in each step, and number of hours for each. The complexity of the process varies for each county or city, depending on their desired level of review, but a recent process for the City of Walnut Creek, which HdL believes may be comparable, concluded that each application would take 19.75 hours to review at a cost of \$4,628 for each applicant.

However, because the initiative only allows for a ministerial zoning clearance, the City would not be reviewing any permit applications or requiring fees for that review. And other cities also require annual permit fees or the like for ongoing compliance and enforcement costs. When these ongoing compliance and enforcement costs are added to the up front permit review costs, the total first-year cost to permit and monitor each cannabis business would be around \$20,162. Under the Initiative, the only cost associated with establishing a cannabis businesses would be the cost of a ministerial zoning clearance. City staff currently charges \$110/hour for zoning clearance review, with a quarter hour minimum.

Finally, the Initiative does not propose any tax or taxing scheme for cannabis businesses. Other cities regulating cannabis businesses have instituted tax requirements based on gross receipts, business and/or cultivation square footage, and plant quantity.²² Other cities have required and negotiated development agreements to guarantee certain payments to the City. Again, the Initiative does not propose any tax that would provide general revenue for the City. However, cannabis businesses under the Initiative would still be subject to the City's local sales tax requirements,²³ and would be required to obtain a City business license.

C. City Services, Infrastructure, and Traffic Impact Analysis

It is possible that some commercial cannabis activities could have a direct impact on public infrastructure, including increased electrical load or water use from indoor cultivation facilities. HdL's analysis suggests that commercial cultivation would be unlikely under the proposed ordinance, due to the lack of appropriate candidate parcels. Other commercial cannabis activities such as retail, manufacturing or distribution should generally carry no more impact on infrastructure than other, similar non-cannabis businesses.

The Initiative also does not allow the City to analyze environmental impacts, including traffic-related impacts that are associated with road infrastructure impacts. Because the Initiative allows commercial cannabis uses by right (with a zoning clearance), there is no discretionary action that would necessitate environmental review. And because the Initiative does not limit the number of commercial cannabis businesses that could be located within the City, it is difficult to ascertain whether there will be a quantifiable impact on infrastructure maintenance costs.

Also, the City receives certain infrastructure funding from the federal government. To staff's knowledge, the federal government has not withheld infrastructure funding from California cities that allow cannabis activities prohibited by federal law. However, this is still new and uncharted territory.

An analysis of the current uses of the allowable parcels shows that there are a variety of retail and office uses within the zone. Retail spaces are usually well situated to accommodate a steady flow of customer traffic. It is possible that some cannabis businesses may create impacts on traffic. The Initiative limits cannabis retailers to hours of operation from 9 a.m. to 9 p.m. Data shows that cannabis retailers

²² Sonoma County passed a general tax on the privilege of cultivating/dispensing/manufacturing cannabis by state license type (e.g. a range of \$1.00 to \$11.25 per square foot of cultivation space depending on type of license; 0% to 3% of gross receipts depending on type of operating license [manufacturer, distributor, etc.]).

²³ Retail sales of *medical* cannabis to patients with identification cards are currently exempt from local sales tax. The City's current sales tax and use rate is .0975.

typically need a flow of around 120 customers per day. Cannabis retailers may be seen as personal service-style businesses with in-and-out customers, and it is possible that these customers could cluster arrival at peak times, which may impact traffic and parking in and around the business. And, were a cannabis retailer to locate in a building designed for professional offices, it is possible that that such a use may present a considerable increase in traffic compared to the current use.

As discussed in the Land Use Impact Analysis above, the Initiative requires one parking space for every 300 square feet of retail space, which is consistent with Sonoma Municipal Code Section (SMC) 19.48.040. Delivery services for testing laboratories are required to provide one parking space for every 400 square feet of floor area, and manufacturers or distributors are required to provide one space for every 1,000 square feet. These requirements are generally comparable or favorable to the SMC standards, other than for manufacturers which require one space for every 500 square feet of floor area. This could be a potential concern, as the Initiative does not allow for a discretionary review or any conditions of approval, which is how the City generally addresses traffic and parking concerns.

D. Non-Cannabis Businesses Impact Analysis

The Initiative would limit the City and community's abilities to identify appropriate locations and zoning districts for commercial cannabis activity, and to conduct environmental review and impose mitigation. As explained in section C above, there is no mechanism available in the Initiative for the City to enforce any kind of traffic or parking plans, study pedestrian or vehicular circulation, etc. As such, commercial cannabis businesses could locate in undesirable locations, detract from future "best and highest use" of surrounding parcels, and result in the loss of existing nearby businesses.

Also, it is difficult to project or analyze the impact that legal cannabis businesses may have on the City's ability to attract or retain other businesses. This is because the impact would likely be driven more by the subjective values of individual business owners towards cannabis, rather than any objective, market-based forces. While we may assume that there are business owners who may not wish to locate, or stay located, near a high-profile cannabis business, there are presumably many more for whom this would simply not be an issue and/or would welcome this new neighbor.

As with any other industry, the cannabis industry does not exist in a vacuum. Those businesses that actually grow, process, manufacture, distribute and sell cannabis products support a wide variety of other businesses that may never touch the actual product itself. These include a wide variety of contractors including building and construction, lighting and electrical, HVAC, permitting, and engineering, as well as a host of ancillary businesses such as bookkeepers, accountants, tax preparers, parcel services, marketing and advertising agencies, personnel services, facilities maintenance, security services, and others.

The economic benefits are not limited to those in the cannabis industry, itself. Cultivators and manufacturers bring new money into the community by selling their products into a statewide market. Their profits and the salaries they pay move into the general local economy, supporting stores, restaurants, services, and other businesses.

In sum, location of cannabis businesses in the Commercial zone may have impacts to existing, non-cannabis businesses. While many such impacts are speculative, particularly economic impacts, the most foreseeable impacts would likely be traffic and parking concerns.

APPENDIX

Detailed Cannabis Industry/Local Market Analysis

The Initiative neither allows nor disallows the City to separately establish a cannabis business tax. Should the Initiative be placed on the November 2020 ballot, it is conceivable that the City may also wish to prepare a companion tax measure to be placed before the voters at the same time. As with other impacts, the amount of revenue that the City may be able to generate from a tax measure depends upon the type, number and size of cannabis businesses that may choose to locate within the City.

HdL has been working with 25 local governments around California on tax measures for the November 2018 ballots. HdL has therefore used common rates from these measures (shown in the table below) for purposes of revenue projections and has divided its analysis into categories based on the different types of uses allowed by the Initiative.

Common Local Tax Rates Among 2018 Ballot Measures		
Cannabis Business Type	Initial Rate	Maximum Rate
Cultivation (indoor)	\$7 per square foot	\$10 per square foot
Manufacturing	2.5% of gross receipts	4% of gross receipts
Distribution	2% of gross receipts	3% of gross receipts
Retail	4% of gross receipts	6% of gross receipts
Testing	1% of gross receipts	2.5% of gross receipts

Cannabis Retailers

The Adult Use of Marijuana Act created a single license type for cannabis retailers (Type 10), though it is available in both M (Medical) or A (Adult Use) versions. The Bureau of Cannabis Control created an additional Type 9 license for non-storefront retailers which conduct retail cannabis sales exclusively by delivery. Local jurisdictions have the authority to allow either or both types of retailers, under either or both M and A designations.

In May, California's three cannabis licensing agencies readopted their emergency regulations for another 180-day period, with a number of minor changes. Among these changes was a provision that applicants may now obtain a single license to conduct both medicinal and adult-use cannabis activity. Additionally, licensees may continue to engage in commercial cannabis activities with other licensees regardless of their A or M designation.

On July 13th, these agencies released their draft non-emergency regulations for a 45-day comment period. Included within these most recent revisions is a change to California Code of Regulations Section 5416(d) which now states that deliveries can occur in "*any jurisdiction within the State of California.*" This regulation took effect on June 6, 2018 and will remain in force at least until December 6, 2018. If left unchallenged, it will invalidate any local ban on deliveries currently in force and pre-empts any such future bans.

This may be a significant issue for the City of Sonoma, as Section 5.36.080(B)(5) of the proposed Initiative effectively bans cannabis deliveries into the City unless the delivery service either has a valid business permit issued by the City, or pays an annual fee. The initiative seems to have a goal to restrict delivery services to just those operators within the City as noted below.

Notwithstanding section 5.36.080(B)(1), delivery from dispensaries not located within the City of Sonoma shall be permitted, subject to payment of an annual fee equal to twice that of a Major Conditional Use Permit, as such fee is established annually.²⁴

The change in the recently-issued draft regulations would effectively invalidate this requirement of the Initiative, allowing any licensed cannabis retailer to deliver cannabis to addresses within the city limits, without having to get a permit from the City²⁵.

Data collected for a Standardized Regulatory Impact Assessment conducted for the Bureau of Medical Cannabis Regulation (now Bureau of Cannabis Control)ⁱ found that 57% of cannabis retailers statewide use a storefront location, while 47% conduct business using a delivery service. The 4% overlap in the results represents retailers that sell through both a storefront and a delivery service. This 4% figure is believed to be an underestimate due to certain reporting requirements. The Weedmaps website (weedmaps.com) shows three cannabis delivery businesses within 5 miles of the Sonoma Plaza, none of which appear to be licensed by the Bureau of Cannabis Control.

Estimates of the percentage of the population that uses cannabis on a regular basis vary from around 10% to 13%ⁱⁱ, up to as high as 22%ⁱⁱⁱ. For the City of Sonoma, with a population of 11,054, this would mean somewhere between 1,105 and 2,432 potential cannabis consumers. Storefront recreational and adult-use cannabis retailers typically average around 120 customers per day^{iv}, with a total customer base of around 2,500 customers. From this, we can assume that overall cannabis consumers in the City of Sonoma, itself could likely only support 1 retailer.

If we include the population from the surrounding unincorporated area between Temelec, Vineburg, and North to Glen Ellen, this adds an additional 14,237 people, for a total customer base of 25,291. Applying the same assumptions gives a potential customer base between 2,529 and 5,564 cannabis consumers, which would likely be able to support two retailers.

The gross receipts for retailers is variable depending upon the number of retailers serving a given population, so it's reasonable to expect that more retailers will mean fewer customers for each and, thus, lower gross receipts. Retailers are the only cannabis business that specifically serves the local community, rather than feeding into the statewide market, and so the number of dispensaries can be assumed to be somewhat proportional to the local population. Consumer demand for cannabis is assumed to generally be a constant, regardless of its legal status or the availability of dispensaries, and so it's reasonable to expect that more dispensaries will mean fewer customers for each and, thus, lower gross receipts.

However, there will always be an upper limit. We anticipate that providing greater access to dispensaries or retailers would initially facilitate a shift in cannabis purchases happening through legal, regulated means rather than through the black market, especially for non-medical cannabis. Eventually, though, the local cannabis market will reach saturation, at which point new cannabis retailers will simply cannibalize sales from existing retailers. The taxable amount of gross sales will likely plateau at some point, regardless of the number of retailers.

Under California's regulatory program, it is anticipated that consumers will have little reason to purchase cannabis in the medical segment rather than buying in the adult use segment. Both medical and adult use cannabis will pay the State cultivation tax and excise tax, with the only advantage being an exemption from regular sales tax for qualifying patients with a state-issued identification card. Currently

²⁴ Note that the City may move away from requiring base fees for use permits to a cost-recovery/deposit system, which could impact this provision.

²⁵ HdL published an issue update on this subject in July, including guidance for cities and counties that may wish to express their opposition to this change.

there are only 6,172 such cardholders in California, and just 167 in Sonoma County^v. Eligibility for this limited sales tax exemption will cost consumers approximately \$100 per year, plus time and inconvenience, for a savings of 8.625% in the City of Sonoma. It's anticipated that this will provide no price advantage for the vast majority of cannabis consumers^{vi}.

The Bureau of Cannabis Control projects that more than half of the adult use purchases currently in the black market will transition to the legal market to avoid the inconvenience, stigma and risks of buying unknown product through an unlicensed seller^{vii}. Essentially, the easier, cheaper and more reliable it is for consumers to access quality cannabis legally, the less reason they will have to purchase it through the black market. That same study projects that 60% of those currently in the legal, medical cannabis market will shift to the adult use market, for the reasons noted above. The availability of legal adult use cannabis is also anticipated to produce a small 9.4% increase in consumer demand.

The shift from medical to adult use sales is not expected to change the overall volume of sales, only the category into which they fall. Once the legal, adult use market is properly functioning, it is anticipated to capture about 61.5% of the overall cannabis market in California. The legal medical cannabis market is projected to decline to just 9% of the overall market. The other 29.5% is expected to remain in the black market^{viii}. The vast majority of retail licenses issued by the Bureau of Cannabis Control are for retailers who will operate both medical and adult use from the same premises.

For purposes of revenue projections, we have provided a model based on consumer demand. For each assumption, we have provided a range of three estimates: low, medium and high. We estimate that cannabis consumers make up anywhere from 10% to 22% of the City's population, with a "best estimate" of 14%. For HdL's model we assume that any retailers in the City of Sonoma would draw customers from the surrounding area, serving a total population base of 25,291, as described above. This yields an estimate of cannabis consumers from a low of 2,529 to a high of 5,564, with a best estimate of 3,541.

The average cannabis transaction is \$73, and average frequency of purchases is twice a month^{ix}. Applying these figures to the customer base, above, we develop a range of annual gross receipts generated by Sonoma residents of between \$4,430,983 and \$9,748,163, with a best estimate of \$6,203,376.

Revenue Projections for Cannabis Retailers in the City of Sonoma			
	Low Estimate	"Best" Estimate	High Estimate
City population	11,054	11,054	11,054
Surrounding communities	14,237	14,237	14,237
Total customer base	25,291	25,291	25,291
Percentage of population that uses cannabis	10.0%	14.0%	22.0%
Number of cannabis users	2,529	3,541	5,564
Average transaction amount	\$73	\$73	\$73
Transaction frequency (per month)	2	2	2
Monthly gross receipts	\$369,249	\$516,948	\$812,347
Annual gross receipts	\$4,430,983	\$6,203,376	\$9,748,163
Annual revenue by tax rate (below)			
2.5%	\$110,775	\$155,084	\$243,704
3.5%	\$155,084	\$217,118	\$341,186
5.0%	\$221,549	\$310,169	\$487,408

Cannabis Manufacturers

The manufacturing sector is still evolving and expanding, which presents significant opportunities for innovation, business development and job growth. The range of products being produced includes an ever-increasing variety of edibles such as candies, cookies, dressings, and infused (non-alcoholic) drinks. Manufacturers may produce their own extract on site, or they may buy extract from other Type 6 or Type 7 licensees. Much like any other industry, cannabis manufacturers often depend upon other businesses to supply them with the various materials or components that go into their final product. These suppliers do not have to be located in or even near the same jurisdiction as the final manufacturer and may be located anywhere throughout the state.

Some manufacturers may handle all steps from extraction to packaging the end product in the form of vape pens or other such devices. Others may handle only discreet steps, such as making the raw BHO, which is then sold either directly to retailers or to a Type N manufacturer who will package it into vapor cartridges or other end consumer products. Manufacturers also produce a wide variety of tinctures, as well as topicals such as cannabis infused lotions, salves, sprays, balms, and oils.

As of August 12th, the Manufactured Cannabis Safety Branch (MCSB) of the California Department of Public Health has issued 668 cannabis manufacturing licenses statewide. Of these, 347 are for non-volatile extraction, 209 are for volatile extraction, 91 are for non-extraction manufacturing and 21 are for packaging and labeling. These 668 licenses are held by 434 unique businesses.

The MCSB has issued 35 manufacturing licenses in Sonoma County, of which 21 are for Type 6 non-volatile extraction, 12 are for Type N non-extraction manufacturing, and only 2 are for Type 7 volatile extraction.

The MCSB estimates that there may ultimately be as many as 1,000 cannabis manufacturing businesses in California, employing around 4,140 people. This is an average of 4 new jobs per manufacturer, though this figure likely varies significantly depending on the size and nature of each business.

HdL has reviewed pro-formas for numerous cannabis manufacturers seeking permits in counties and cities throughout California. From this review we have seen a range of gross receipts from around \$1 million to over \$5 million, with an average in the range of \$2 million to \$3 million. HdL's analysis assumes that the City of Sonoma could support only 1 or 2 manufacturers. We believe these would likely be smaller "boutique" manufacturers. The number of manufacturers would most likely be limited by the availability of allowable commercial properties with appropriate light-industrial spaces.

We shall use an average of \$2.0 million for purposes of this analysis. When we apply the range of tax rates discussed previously, these businesses could generate between \$40,000 and \$200,000 in annual revenue for the City, as shown in the table below. We believe the most likely scenario would be either 1 small manufacturer, or none at all. For purposes of revenue estimates, we shall use 1 manufacturer, taxed at a 2% rate, generating \$40,000 in annual revenue for the City.

Cannabis Manufacturers						
Type 6/7/N/P Manufacturer	# of Licenses	Avg Gross Receipts	Total Gross Receipts	Revenue @ 2.0% Tax Rate	Revenue @ 3.5% Tax Rate	Revenue @ 5.0% Tax Rate
Manufacturers	1	\$2,000,000	\$2,000,000	\$40,000	\$70,000	\$100,000
Manufacturers	2	\$2,000,000	\$4,000,000	\$80,000	\$140,000	\$200,000

Cannabis Distributors and Testing Laboratories

The business model for distributors is based on a percentage markup on the price paid to their suppliers. This markup is commonly 20% to 30%. While there is not an abundance of data to determine the average gross receipts for distributors, HdL has reviewed a number of pro-formas for distributors seeking licenses in other jurisdictions. These indicate anticipated gross receipts in the range of \$2 million to \$3 million per year, with an average of \$2.5 million.

Distributors tend to be located in cities that serve either a large, surrounding area of cultivation, or that serve a large surrounding customer base. On the North Coast, distributors tend to be located along the Highway 101 corridor. The Bureau of Cannabis Control has so far licensed 28 distributors in Santa Rosa, 8 in Ukiah, 16 in Arcata. While there are a few distributors in out of the way places such as Covelo, Potter Valley and Boonville, these tend to be exceptions.

The Bureau of Cannabis Control has so far only issued licenses for 28 testing laboratories in all of California. These laboratories tend to be located in cities that serve a large amount of commercial cannabis activity in the surrounding area such as Eureka, in Humboldt County, and Salinas, in Monterey County. There are currently 2 licensed testing laboratories in Santa Rosa and one in Novato.

The City of Sonoma has very few commercial parcels available for either distributors or testing laboratories, and fewer still that have appropriate light-industrial type spaces. In addition, commercial space within the City appears to demand a premium compared with spaces in the surrounding unincorporated area. We do not see a strong argument for why either distributors or testing labs would choose to locate in the City, and so we have not included either of these in HdL's revenue estimates.

Cannabis Cultivation

The cannabis cultivation market in California has already exceeded its saturation point 3-times over, which suggests that there is not enough room for those growers already licensed, much less new entrants into the market. As of July 11th, the CalCannabis Division of the California Department of Food and Agriculture has issued 4,276 cultivation licenses statewide. 97 of these licenses are for cultivators in Sonoma County.

The proposed Initiative does not specifically disallow outdoor or mixed-light cultivation, but by limiting all commercial cannabis activity to parcels zoned Commercial, it seems very likely that any cannabis cultivation in the City of Sonoma in accordance with this Initiative would almost certainly be limited to indoors and would encompass no more than 10,000 square feet of canopy, falling within the definition of a Type 2B "Small Indoor" license. Given the very small number of candidate parcels, we believe the City would be unlikely to attract more than perhaps 2 indoor cultivation operations, averaging 10,000 square feet each. We believe the most likely scenario is that the City will have no cannabis cultivators, as they will seek out less expensive parcels in the unincorporated area outside of the City.

The table below shows the range of revenues that could be generated from a tax on cannabis cultivation of \$7 per square foot, \$8 per square foot or \$10 per square foot. The annual revenues from such a tax could range from \$140,000 to \$200,000. Again, we believe that this scenario is unlikely.

Cannabis Cultivation						
License Type	# of Licenses	Average Square Footage	Total Square Footage	Revenue @ \$7/sf	Revenue @ \$8/sf	Revenue @ \$10/sf
Indoor	2	10,000	20,000	\$140,000	\$160,000	\$200,000

Legal and Regulatory Background for California

The legal and regulatory status of cannabis in the State of California (“State”) has been continually evolving ever since the passage of Proposition 215, the Compassionate Use Act of 1996 (“the CUA”), which de-criminalized the use, possession and cultivation of cannabis for qualifying patients and their primary caregivers when such use has been recommended by a physician. The CUA did not create any regulatory program to guide implementation, nor did it provide any guidelines for local jurisdictions to establish their own regulations.

The lack of legal and regulatory certainty for medical marijuana (or cannabis) continued for nearly 20 years, until the passage of the Medical Cannabis Regulation and Safety Act (“MCRSA”) in October of 2015. MCRSA created a State licensing program for commercial medical cannabis activities, while allowing counties and cities to maintain local regulatory authority. MCRSA required that the State would not issue a license without first receiving authorization by the applicable local jurisdiction.

Under MCRSA, commercial medical cannabis activities are regulated by a variety of State agencies. The California Department of Food and Agriculture (CDFA) established a new CalCannabis division, which will create, issue, and suspend or revoke licenses for the cultivation of medical cannabis. The Bureau of Medical Cannabis Regulation (later renamed the Bureau of Cannabis Control, or BCC) in the Department of Consumer Affairs, will administer, enforce, create, issue, renew, discipline, suspend, and/or revoke licenses for distributors, testing laboratories, and retailers. The California Department of Public Health’s newly created Manufactured Cannabis Safety Branch (MCSB), will license cannabis product manufacturers, and will develop standards for the production and labeling of all medical cannabis products.

On November 8, 2016, the voters of the State of California approved Proposition 64, the Adult Use of Marijuana Act (“the AUMA”), which allows adults 21 years of age or older to legally grow, possess, and use marijuana for non-medical purposes, with certain restrictions. The AUMA requires the State to regulate non-medical marijuana businesses and tax the growing and selling of medical and non-medical marijuana. Cities and counties may also regulate non-medical marijuana businesses by requiring them to obtain local permits or restricting where they may be located. Cities and counties may also completely ban marijuana related businesses if they so choose.

On June 27, 2017, the State of California passed SB 94, which repealed MCRSA and incorporated certain provisions of MCRSA into the licensing provisions of AUMA. These consolidated provisions are now known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). MAUCRSA revised references to “marijuana” or “medical marijuana” in existing law to instead refer to “cannabis” or “medicinal cannabis,” respectively. MAUCRSA generally imposes the same requirements on both commercial medicinal and commercial adult-use cannabis activity, with certain exceptions.

All State license types other than Type 8 Testing Laboratories shall be designated either “A” for Adult Use or “M” for Medical”. A single licensee will be allowed to hold both A and M licenses, but it’s unclear whether they will be able to operate both on the same premises.

MAUCRSA incorporated the Type 5, 5A and 5B cultivation licenses from AUMA, which will allow for cannabis farms of unlimited size. No Type 5 licenses will be issued before 2023, however, and local jurisdictions will still retain the authority to disallow or limit the size of cannabis cultivation. It is anticipated that CDFA will limit the number of Type 5 licenses, but this is not yet clear.

AUMA and MAUCRSA eliminated the Type 12 Cannabis Transporter license type from MCRSA. Instead, cannabis cultivators, manufacturers and retailers (but not testing laboratories) are now allowed

to transport their own product, provided they have a separate distributor license. Independent cannabis distributors will likely pick up a larger portion of that business, too. In its place, MAUCRSA incorporated the Type 12 license for cannabis “Microbusinesses” from AUMA, which allows a combined non-medical cannabis business with up to 10,000 square feet of cultivation, and which can manufacture, distribute and sell their product on-site to retail customers, provided they meet all of the individual license requirements for all of the activities they choose to undertake.

MAUCRSA also made a fundamental change to the local control provisions. Under MCRSA, an applicant could not obtain a State license until they had a local permit. Under MAUCRSA, an applicant for a State license does not have to first obtain a local permit, but they cannot be in violation of any local ordinance or regulations. The State licensing agency shall contact the local jurisdiction to see whether the applicant has a permit or is in violation of local regulations, but if the local jurisdiction does not respond within 60 days, then the applicant will be presumed to be in compliance and the State license will be issued.

On September 16, 2017, Governor Brown signed AB 133, which makes a number of major and minor “clean up” changes to the State’s regulations, most notably regarding vertical integration. MAUCRSA authorizes a person to apply for and be issued more than one license only if the licensed premises are separate and distinct. With the passage of AB 133, a person or business may co-locate multiple license types on the same premises, allowing a cultivator to process, manufacture or distribute their own product from a single business location. This includes the allowance to cultivate, manufacture, distribute or sell cannabis for both medical and adult use from a single location. However, these allowances are still subject to local land use authority, so anyone seeking to operate two or more license types from a single location would be prohibited from doing so unless local regulations allow both within the same zone.

Most recently, on November 16, 2017, the three State licensing agencies simultaneously issued emergency regulations to implement these many new laws. These emergency regulations were closely based upon draft regulations that had been released for review the previous Spring. Those draft regulations were withdrawn after the passage of SB 94, as they had been based upon the now-defunct MCRSA. The draft regulations made a number of interpretive changes to the regulatory framework defined by the various pieces of legislation. Most of these were small, but some are more significant.

The table on the following page lists the 30 different license types currently available from the State. Of these, 29 are available under either A (Adult Use) or M (Medical). Only the Type 8 Testing license does not distinguish between these categories. All told, there are 59 different licenses and variations available.

State License Types Under MAUCRSA					
Type	Activity	Description	Details	Licensing Agency	Notes
1	Cultivation	Outdoor; Specialty, Small	Up to 5,000 sf, or 50 plants on non-contiguous plots	CDFA	A, B
1A	Cultivation	Indoor; Specialty, Small	501 sf - 5,000 sf	CDFA	A, B
1B	Cultivation	Mixed-Light; Specialty, Small	2,501 sf - 5,000 sf	CDFA	A, B, C
1C	Cultivation	Outdoor/indoor/mixed; Specialty Cottage, Small	Up to 25 plants outdoor; up to 2,500 sf mixed light; up to 500 sf indoor	CDFA	A, B, C
2	Cultivation	Outdoor; Small	5,001 sf - 10,000 sf	CDFA	A, B
2A	Cultivation	Indoor; Small	5,001 sf - 10,000 sf	CDFA	A, B
2B	Cultivation	Mixed Light, Small	5,001 sf - 10,000 sf	CDFA	A, B, C
3	Cultivation	Outdoor; Medium	10,001 sf - one acre	CDFA	A, B, D
3A	Cultivation	Indoor; Medium	10,001 sf - 22,000 sf	CDFA	A, B, D
3B	Cultivation	Mixed-Light; Medium	10,001 sf - 22,000 sf	CDFA	A, B, C, D
4	Cultivation	Nursery	Seeds, clones, immature plants only	CDFA	A, B
5	Cultivation	Outdoor; Large	Greater than 22,000 sf	CDFA	A, B, E
5A	Cultivation	Indoor; Large	Greater than 22,000 sf	CDFA	A, B, E
5B	Cultivation	Mixed-Light; Large	Greater than 22,000 sf	CDFA	A, B, C, E
	Cultivation	Processor	Trimming, drying or packaging of non-manufactured cannabis only	CDFA	A, B, F
6	Manufacturer 1	Extraction; Non-volatile	Non-volatile extraction only, infusion, packaging and labeling	MCSB	A, B
7	Manufacturer 2	Extraction; Volatile	Volatile or non-volatile extraction, infusion, packaging and labeling	MCSB	A, B
N	Manufacturer	Infusion for Edibles, Topicals	No extraction allowed	MCSB	A, B, F
P	Manufacturer	Packaging and Labeling	No extraction allowed	MCSB	A, B, F
S	Manufacturer	Mfg. in a shared use facility	Cannot exceed \$1 million/year	MCSB	A, B, F
8	Testing		Shall not hold any other license type	BCC	A
9	Retailer	Delivery only	No storefront allowed	BCC	A, B
10	Retailer	Retail sale and delivery		BCC	A, B, F
11	Distributor		Various categories based on size	BCC	A, B
12	Microbusiness	Cultivation, Manufacturer 1, Distributor and Retailer	< 10,000 sf of cultivation; must meet requirements for all license types	BCC	A, B
	Self-Distribution		Distribution of own cannabis or cannabis products only	BCC	A, B, F
	Event Organizer		Up to 10 cannabis events annually	BCC	A, B, F
CDFA	California Department of Food and Agriculture, CalCannabis Division				
MCSB	California Department of Public Health, Manufactured Cannabis Safety Branch				
BCC	Bureau of Cannabis Control				
A	All license types valid for 12 months and must be renewed annually				
B	All license types except Type 8 Testing must be designated either "A" (Adult Use) or "M" (Medical)				
C	Mixed-light cultivation licenses classified as either Tier 1 (6 watts/sf or less) or Tier 2 (6 watts/sf up to 25 watts/sf)				
D	A person shall be limited to 1 Medium license of any type until January 1, 2023				
E	No Type 5 licenses shall be issued before January 1, 2023				
F	Established by licensing agencies through rulemaking process				

The emergency regulations established a number of new license types, which fill in some gaps in the industry chain. CalCannabis established a separate Processor license for facilities which conduct only the drying, curing, trimming, grading, packaging or labeling of non-manufactured cannabis products. CalCannabis also established two tiers for all Mixed-Light cultivation sizes. Tier 1 applies to cultivators which use 6 watts per square foot of supplemental light or less, while Tier 2 applies to cultivators which use between 6 watts and 25 watts per square foot.

The Bureau of Cannabis Control established a new Type 9 license for Non-Storefront Retailers which conduct cannabis sales exclusively by delivery, as well as a Self Distribution license for cultivators or manufacturers which wish to distribute only their own product. The Bureau also created a system for permitting cannabis events, where cannabis will be sold or consumed, and a license type for Event Organizers. Permits for cannabis events may only be issued to persons or businesses holding an Event Organizer license.

The Manufactured Cannabis Safety Branch created three additional manufacturing license types. The Type N license is for manufacturers that produce edible or topical products using infusion or other processes, but that do not conduct extractions. The Type P license is for manufacturers that only package or repackage cannabis products or label or relabel the cannabis product container. The Type S license is for manufacturers who conduct commercial cannabis activities at a shared use facility, as defined in Section 40190.

State Tax Considerations

To determine what local tax rates might be most appropriate, they must be considered in the context of other taxes imposed by the State. Any local taxes will be in addition to those taxes applied through the Adult Use of Marijuana Act (AUMA), which imposes both a 15% excise tax on purchases of cannabis or cannabis products and a separate cultivation tax on harvested cannabis that enters the commercial market, as well as sales tax. Taxes are most commonly expressed as a percent of price or value, so some method of conversion is necessary to allow development of an appropriate cultivation tax based on square footage.

Cumulative Cannabis Taxes- HdL Companies			
Category	Amount	Increase	Cumulative Price
Producer Price	\$1,000	\$1,000	\$1,000
State Cultivation Tax	\$9.25/oz	\$148	\$1,148
Local Tax	2.50%	\$25	\$1,173
Batch Testing	\$50/lb, + 0.50%	\$55	\$1,228
Wholesale Price w/ Taxes		\$1,228	
Total Tax at Wholesale		\$228	
Tax as %		22.80%	
Manufacturer Markup	20.00%	\$246	\$1,474
Local Tax	4.00%	\$59	\$1,533
Total Manufacturer Price		\$1,533	
Total Taxes at Manufacturer		\$287	
Total Tax as %		18.72%	
Distributor Markup	30.00%	\$460	\$1,992
Local Tax	3.00%	\$60	\$2,052
Total Distributor Price		\$2,052	
Total Taxes at Distributor		\$347	
Total Tax as %		16.90%	
Retailer Markup	100.00%	\$2,052	\$4,104
Local Tax	6.00%	\$246	\$4,350
State Excise Tax	15.00%	\$616	\$4,966
Total Retailer Price		\$4,966	
Total Taxes at Retail		\$1,209	
Total Tax as %		24.34%	
CA Sales Tax (non-medical)	6.25%	\$310	\$5,276
Local Sales Tax	1.00%	\$50	\$5,326
Total Taxes at Retail		\$1,569	
Total Tax as %		29.45%	
Total Local Tax		8.25%	\$439.62

The State cultivation tax is set at a rate of \$9.25 per ounce of dried flower or \$2.75 per ounce of dried leaf. Because these rates are set per ounce, rather than as a percentage of price paid, the tax is the same whether the cultivator is producing commercial-grade cannabis at \$500 per pound or top-grade cannabis at \$2,500 per pound. The cultivator is generally responsible for payment of the tax, though that responsibility may be passed along to either a manufacturer or distributor via invoice. At the time the product is first sold or transferred. The distributor is responsible for collecting the tax from the cultivator upon entry into the commercial market, and remitting it to the Board of Equalization.

The cultivation tax of \$9.25 per ounce of dried flower is equivalent to \$148 per pound. Just a year ago, HdL would have assumed an average wholesale market price for dried flower of around \$1,480 per pound, which would make that \$148 equal to 10% of value. Since then, however, prices have plummeted. Competitive market forces enabled by legalization have brought the average price for indoor cannabis down to around \$1,000 per pound, or even less (cannabis prices vary greatly based on quality of the

product)^x.

Conversations with cannabis industry trade groups suggest that the cumulative tax rate on the end product should remain at or around 30%. Higher rates create too much price disparity between legal and illegal cannabis, making it harder for the regulated industry to compete with the black market. Higher local tax rates can also make a county or city less attractive to the industry, especially for manufacturers and distributors, which have greater flexibility in choosing where to locate. We believe that setting rates that adhere to this 30% rule will help keep the local cannabis industry competitive with other cultivators across California, thus encouraging the transition to a legal industry.

The above table shows how the cumulative tax rate on adult-use cannabis builds as the product moves towards market. The value of the product increases as it moves through the supply chain towards market, with manufacturers, distributors and retailers each adding their own markup. Testing laboratories do not add a direct markup to the product, but the cost of testing and the loss of a small test sample can add around \$55 per pound. Any or all of these activities may be taxed.

This model assumes a hypothetical case where cultivation, manufacturing, testing, distribution and retail sale all happen within the same jurisdiction and are thus all subject to that jurisdiction's tax rates. In actuality, this is unlikely to be the case. Manufacturers may work with product purchased from anywhere in California, and may sell their product to retailers elsewhere, as well. The cumulative tax burden for any product at retail sale will almost always include a variety of tax rates from numerous jurisdictions.

General Economic Impacts

Discussion of regulating and taxing the cannabis industry can too often overshadow the larger jobs and economic development issues that typically accompany efforts to attract new industry. Word that a new business or industry is looking to bring hundreds of new jobs to a community is more commonly met with open arms and offers of tax incentives. The cannabis industry is perhaps completely unique in that the inherent jobs and economic development benefits are welcomed more grudgingly and met with the disincentive of special taxes.

As with any other industry, the cannabis industry does not exist in a vacuum. Those businesses that actually grow, process, manufacture, distribute and sell cannabis products support a wide variety of other businesses that may never touch the actual product itself. Cultivators support garden supply stores, green house manufacturers, irrigation suppliers, soil manufacturers, and a wide variety of contractors including building and construction, lighting and electrical, HVAC, permitting, and engineering. Manufacturers support many of these same businesses, plus specialized tooling and equipment manufacturers, and product suppliers for hardware, packaging, and labeling. All of these businesses support, and are supported by, a host of ancillary businesses such as bookkeepers, accountants, tax preparers, parcel services, marketing and advertising agencies, personnel services, attorneys, facilities maintenance, security services, and others.

The economic benefits are not limited to those in the cannabis industry, itself. Cultivators and manufacturers bring new money into the community by selling their products into a statewide market. Their profits and the salaries they pay move into the general local economy, supporting stores, restaurants, car dealerships, contractors, home sales and other businesses. In Humboldt County, a study done in 2011 found that at least \$415 million dollars in personal income was entering the local economy annually from the cannabis industry, roughly equal to one quarter of the County's entire \$1.6 billion economy.

While Humboldt is likely an outlier, research done by HdL for other clients suggests that other counties and cities see similar, if smaller, economic inputs from this industry, with some in the range of \$100 million dollars or more annually. As this industry adapts to a legal paradigm, the challenge for some counties will be mitigating and minimizing the economic loss as the black market slowly fades away.

Because of the emerging nature of this industry, it is currently populated primarily (but not solely) by small, independently-owned businesses. Numerous studies have demonstrated that locally-owned, independent businesses recirculate a far higher percentage of every dollar back into the local community than large, corporately-owned businesses do. The same economic development arguments that are used to support other independent, locally-owned businesses apply to this industry, too. It is estimated that every \$1 spent at a medical or adult-use cannabis retailer generates an additional \$3 in economic benefits to the host city or county^{xi}. The City should expect to see comparable economic benefits from cannabis businesses as with any other new businesses, separate from any tax revenue that may be generated.

Industry experts believe that California's current statewide production is five to eight times higher than the State's population consumes^{xii}, a figure derived from the SRIA done for CDFA's cannabis cultivation program. That assessment found that California's cannabis industry produces some 13.5 million pounds of cannabis per year, which would be enough to provide over half a pound of cannabis per year for every Californian 21 and over. However, the assessment also found that California's 4.5 million cannabis users only consume about 2.5 million pounds of cannabis per year. A separate study performed for the California Cannabis Industry Association put statewide consumption even lower, at 1.6 million

pounds^{xiii}. The majority of the cannabis produced in California is presumably supplying other states that do not have legalized cannabis.

The Bureau of Cannabis Control projects that more than half of the adult use purchases currently in the black market will transition to the legal market to avoid the inconvenience, stigma and risks of buying unknown product through an unlicensed seller^{xiv}. Essentially, the easier, cheaper and more reliable it is for consumers to access quality cannabis legally, the less reason they will have to purchase it through the black market. That same study projects that 60% of those currently in the legal, medical cannabis market will shift to the adult use market, for the reasons noted above. The availability of legal adult use cannabis is also anticipated to produce a small 9.4% increase in consumer demand.

Given these figures, cities and counties should expect to see some increase in retail sales as these shifts occur in the market. More significantly, the existence of legally permitted cannabis retailers will allow a far greater portion of existing cannabis sales to be captured by legal (and tax-paying) retailers.

The shift from medical to adult use sales is not expected to change the overall volume of sales, only the category into which they fall. Once the legal, adult use market is properly functioning, it is anticipated to capture about 61.5% of the overall cannabis market in California. The legal medical cannabis market is projected to decline to just 9% of the overall market. The other 29.5% is expected to remain in the black market^{xv}.

These numbers only apply to the 1.6 million to 2.5 million pounds of cannabis that is consumed in California, representing the potential size of the legal cannabis market. If 29.5% of the cannabis consumed in California continues to come from the black market, then the size of the market for legal cannabis must be adjusted downward accordingly. This would reduce the size of the legal market in California to between 1.13 million and 1.76 million pounds.

California has been issuing temporary licenses for commercial cannabis businesses since the beginning of the year. As of May 30th, CDFA's CalCannabis division has issued 3,664 cultivation licenses, capable of producing over 7.3 million pounds of cannabis per year. That amount is over three times more cannabis than the State's legal buyers are anticipated to consume. Were the State to issue no more licenses, we would expect a failure rate of at least 60% in the first two years.

Land Use Maps

The attached land use maps were prepared by the City's Planning Department to assist with our analysis of the Initiative. The maps are staff's *initial interpretation* of the buffer zones defined in the Initiative overlaid on the Commercial-Zoned properties within the City. As discussed in the report, the lack of clarity in the Initiative creates some uncertainty as to how the buffer zones for sensitive uses would be applied. These maps should not be considered an authoritative determination of parcels where commercial cannabis businesses would be allowed under the ordinance.

List of Parcels That Would Allow Commercial Cannabis Businesses

This list of parcels was created based on the buffers as applied in Map 1. The list provides a reference for the number of parcels, the size of each parcel and existing building, and the current use. This data informed the analysis of appropriate locations for each of the commercial cannabis business types and relative lease rates for similar commercial properties.

Map 1: Commercial Zoning with Buffer Areas as Defined by the Ordinance

This map depicts the Planning Departments *initial interpretation* of the buffer zones defined in the initiative, as applied to the Commercial zone. This map was used in conjunction with a search of commercial real estate to develop a general picture of commercial lease rates. This map does not include any youth serving facilities other than the library which is called out in the Initiative with a separate buffer.

Map 2: Commercial Zoning with Buffer Areas as Defined by the Ordinance Plus Youth Serving Facilities

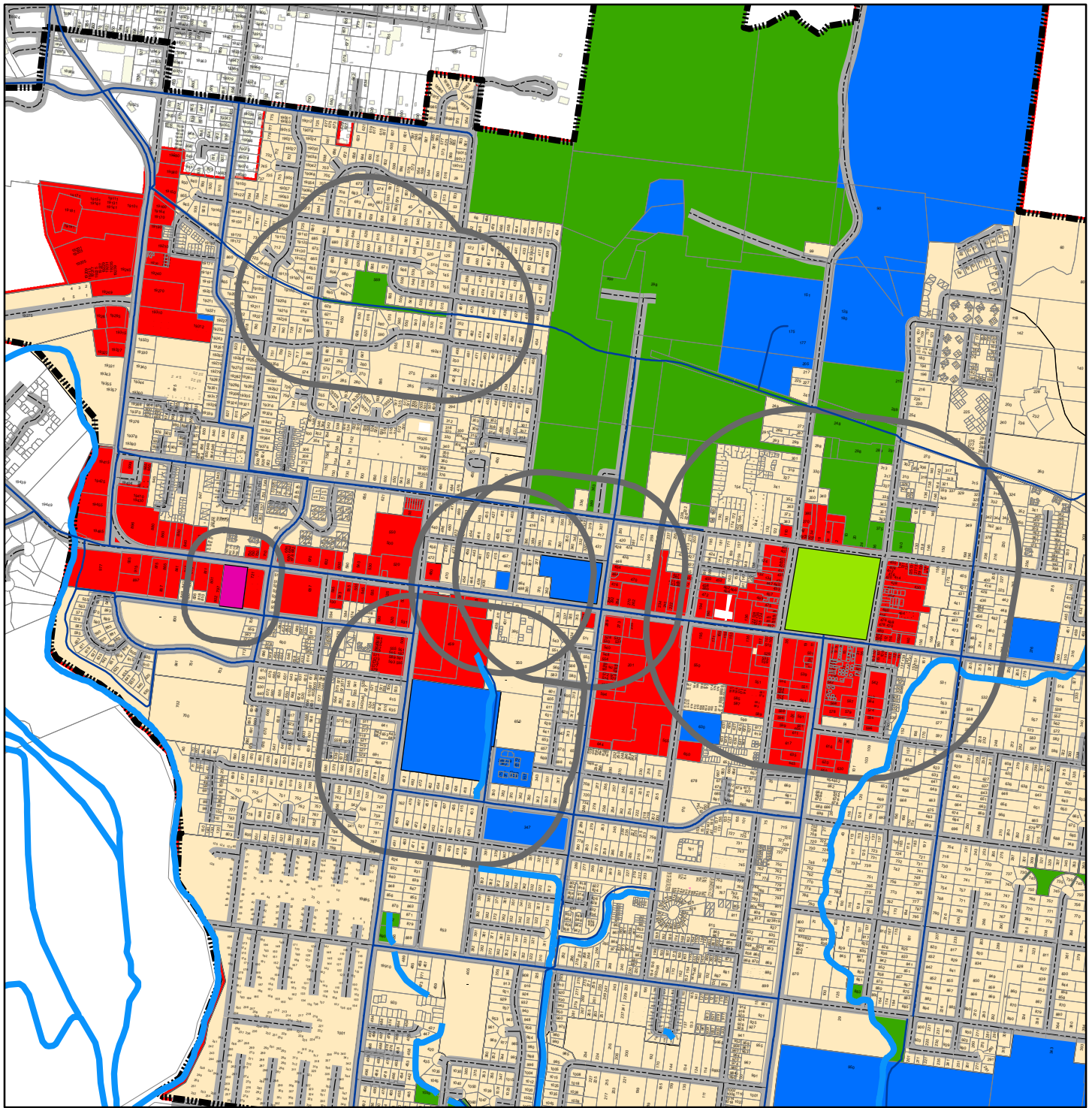
This map depicts the buffer zones defined in the initiative along with State-defined buffers for youth serving facilities. This map was used to indicate how the initiative differs from State law, and to show those sensitive uses that would otherwise be buffered from commercial cannabis businesses.

Map 3: Commercial Zoning with State Buffer Areas

This map shows the State-defined buffer zones around all sensitive uses, without those defined in the Initiative. This map, along with Map 1, provides the best reference for differences between State buffers and the Initiative.

**List of Parcels That Would Allow Commercial Cannabis Businesses
Using Map #1**

Commercial Parcels Outside of Buffer Zones				
APN	Parcel size (sf)	Building size (sf)	Current Use	Vacant /under utilized?
127-221-013	14,200	11,360	Gas Station	N
018-291-036	25,693	20,554	Office	N
018-293-002	10,500	8,400	Medical Offices	N
018-293-018	16,498	13,198	Shopping Center	N
018-293-019	92,812	74,250	Shopping Center	N
018-293-017	93,217	74,574	Shopping Center	N
018-251-008	10,500	8,400	SFR	N
018-530-027	7,150	5,720	Auto Repair	Y
018-530-054	20,250	16,200	Mortuary	N
018-530-039	13,401	10,721	Retail--Wine Shop	N
018-530-009	7,500	6,000	Live/Work	Y
018-530-008	7,500	6,000	Single Family Residence	N
018-530-007	7,495	5,996	Retail--Furniture	N
018-530-006	7,500	6,000	Auto Repair	Y
018-530-005	9,000	7,200	Auto Dealership	N
018-431-004	1,880	1,504	Shopping Center	N
018-431-005	4,750	3,800	Shopping Center	N
018-431-003	36,229	28,983	Shopping Center	N
127-221-012	14,200	11,360	Gas Station	N
127-221-016	8,250	6,600	Restaurant	N
018-431-013	1,570	1,256	PUD	N
018-431-006	118,582	94,866	Shopping Center	N
127-153-013	22,400	17,920	Offices	N
127-153-023	17,000	13,600	Offices	N
127-153-011	788	630	Offices	N
018-431-012	1,503	1,202	PUD	N
018-431-008	1,503	1,202	PUD	N
018-431-008	1,529	1,223	PUD	N
018-431-014	10,924	8,739	PUD	N
018-431-009	1,503	1,202	PUD	N
018-431-011	1,503	1,202	PUD	N
018-431-010	1,503	1,202	PUD	N

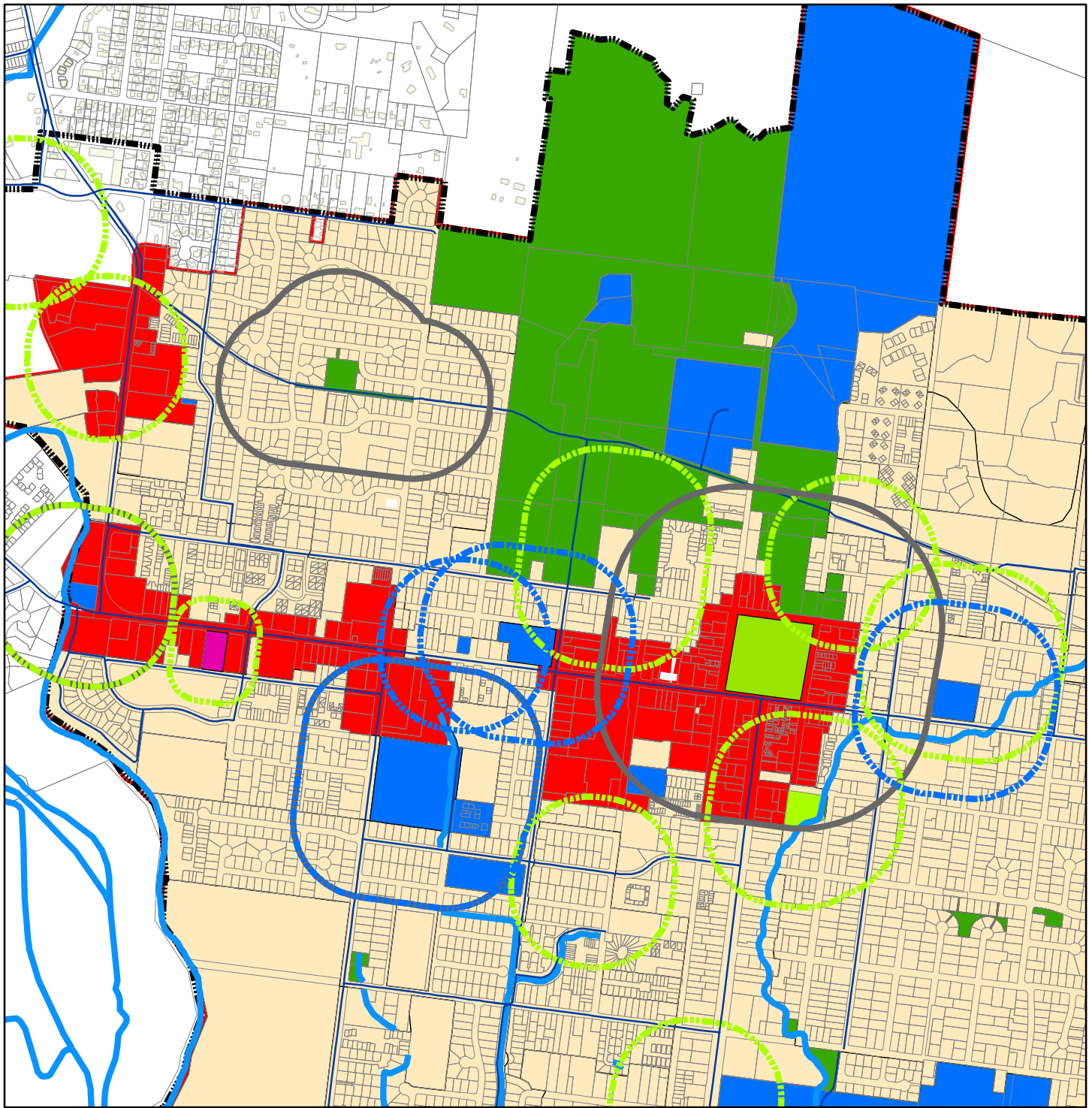


- City Park (600-ft. Buffer) ■
- School (600-ft. Buffer) ■
- Library (250-ft. Buffer) ■
- Plaza (1,000-ft. Buffer) ■
- Commercial Zone ■
- City Limits
- Sphere of Influence

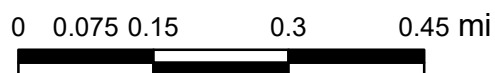
0 0.075 0.15 0.3 0.45 mi



Commercial Zoning with Buffer Areas as Defined by the Ordinance



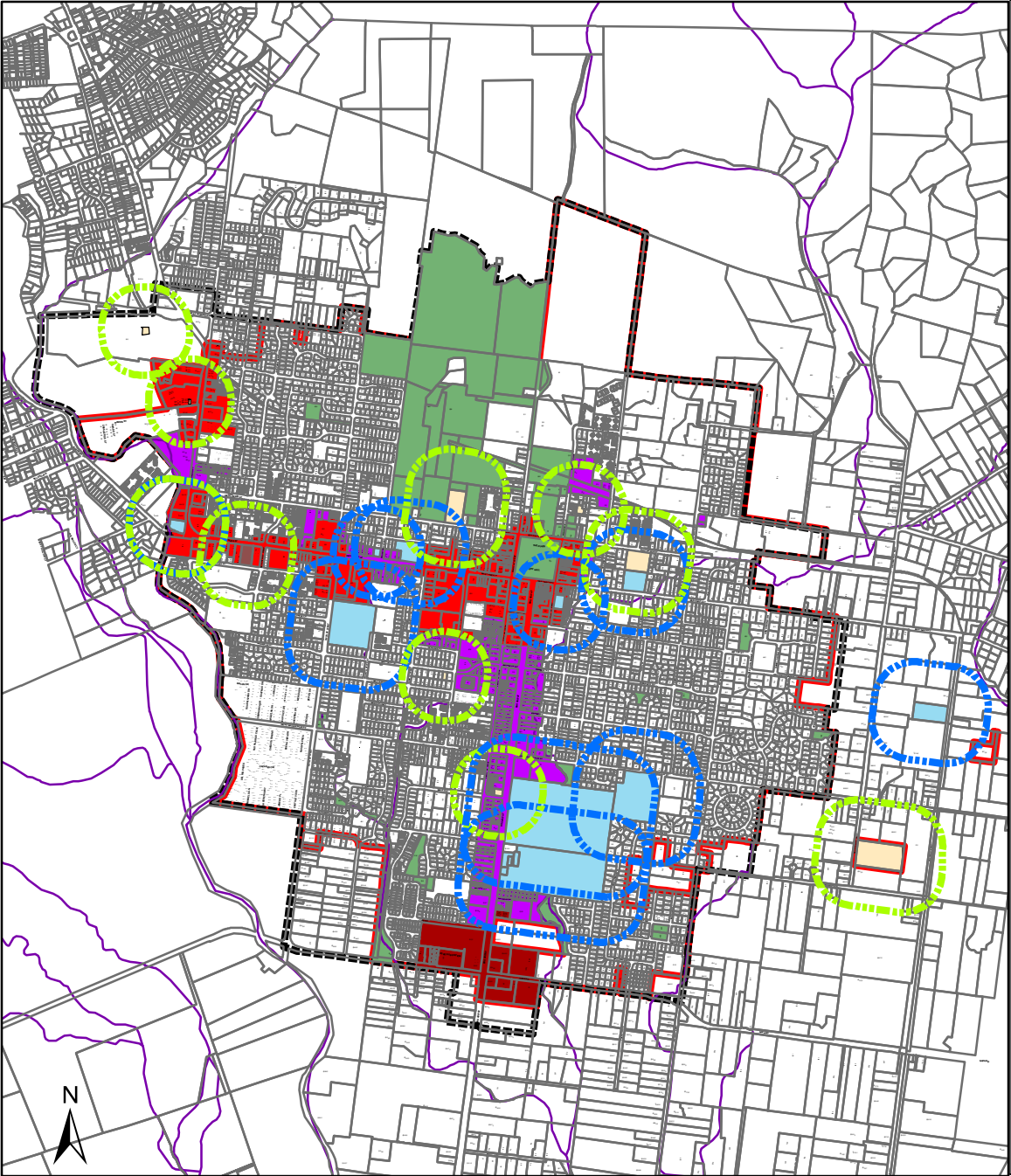
- City Park (600-ft. Buffer)
- Library (250-ft. Buffer)
- Plaza (1,000 ft. Buffer)
- Commercial Zone
- City Limits
- Sphere of Influence
- School (600-ft. Buffer)
- Other Youth Serving Facilities (600-ft Buffer)



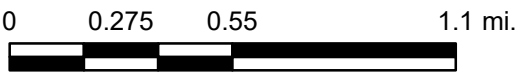
Cannabis Initiative Buffer Zones With Other Youth Serving Facilities Buffer

Source: City of Sonoma, 2018

City of Sonoma Commercial Zoning with State Buffer Areas



- Library
- School
- Other Youth Serving Facilities
- Commercial
- Gateway Commercial
- Mixed Use
- Park
- School Buffer Zone (600 ft)
- Other Facility Buffer Zone (600 ft)
- City Limits
- Sphere of Influence



About HdL and Jarvis, Fay, & Gibson, LLP

HdL

The legalization of cannabis in California and many other states presents local government agencies with both opportunities and challenges. Those agencies which are pro-active, seek experienced advisors to lead their communities through these legislative changes will reap strong benefits and avoid unintended consequences due to staffs' limited experience in dealing with cannabis issues, industry bias, or ill-advised local citizen initiatives.

HdL has established a specialized division with expert staff that have been working closely with the Department of Consumer Affairs, Department of Food and Agriculture, Department of Public Health and the California Department of Tax and Fee Administration in the implementation of the Medical Cannabis Regulatory and Safety Act (MCRSA). In addition, our staff has partnered with the League of California Cities, California State Association of Counties (CSAC), and the Police Chiefs Association to develop policy and regulatory strategies to manage the Cannabis Industry in California. We offer the resources and expertise to assist cities and counties with the design and implementation of all aspects of their regulatory and taxation policies and programs.

HdL guides those agencies whose policymakers and constituents wish to tax and regulate cannabis businesses by helping them make strategic decisions about commercial or personal use cultivation, distribution, transportation, dispensary sales, testing, environmental protection, storage or home delivery while avoiding legal pitfalls and practices that could lead to land use issues and other transparency problems.

Jarvis Fay & Gibson, LLP

Jarvis Fay & Gibson, LLP is devoted to providing cost-effective legal counseling and litigation services to cities and public agencies. Our practice includes expertise in a broad spectrum of municipal and local government law, and our firm has served the legal needs of hundreds of local government entities.

Specifically, Jarvis Fay & Gibson, LLP provides city attorney, general counsel, and special counsel services to public agency clients across the state. Our main areas of practice include land use and environmental law, local taxation and revenue, public contracts and construction, and writs of mandate and appeals. Jarvis Fay & Gibson attorneys frequently speak on topics related to these practice areas, and have drafted amicus briefs on behalf of the California League of Cities. Several of our attorneys have also been recognized as California Super Lawyers.

APPENDIX REFERENCES

- ⁱ *"Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)"* (February 23, 2017) University of California Agricultural Issues Center
- ⁱⁱ CBS News (2018) *"17 stoner states: Where's marijuana use highest?"* <https://www.cbsnews.com/pictures/17-stoner-states-wheres-marijuana-use-highest/9/>
- ⁱⁱⁱ Christopher Ingraham (April 20, 2017) *"How many Americans regularly use pot? The number is, errr, higher than you think"* Sacramento Bee <http://www.sacbee.com/news/nation-world/national/article145681414.html>
- ^{iv} Eli McVey, et al. (2017) *"Marijuana Business Factbook 2017"* Marijuana Business Daily
- ^v California Department of Public Health (2018) *"Medical Marijuana Identification Card Program"* <https://www.cdph.ca.gov/Programs/CHSI/Pages/Medial-Marijuana-Identification-Card.aspx>
- ^{vi} *"Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)"* (February 23, 2017) University of California Agricultural Issues Center
- ^{vii} *"Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)"* (February 23, 2017) University of California Agricultural Issues Center
- ^{viii} *"Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)"* (February 23, 2017) University of California Agricultural Issues Center
- ^{ix} Eli McVey, et al. (2017) *"Marijuana Business Factbook 2017"* Marijuana Business Daily
- ^x Chris Roberts (November 2016) *"The Great Cannabis Price Crash"* High Times
- ^{xi} Eli McVey, et al. (2017) *"Marijuana Business Factbook 2017"* Marijuana Business Daily
- ^{xii} Patrick McGreevy (July 26, 2017) *"California has too much pot, and growers won't be able to export the surplus"* Los Angeles Times <http://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-california-producing-pot-surplus-1501101923-htmstory.htm> /
- ^{xiii} Denver Relief Consulting, et al (2017) *"2017 California Cannabis Opportunity Report"* <https://www.cacannabisreport.com/>
- ^{xiv} *"Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)"* (February 23, 2017) University of California Agricultural Issues Center
- ^{xv} *"Economic Costs and Benefits of Proposed Regulations for the Implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)"* (February 23, 2017) University of California Agricultural Issues Center

Initiative Measure Amending the Municipal Code to Permit Personal Cannabis Cultivation on All Residential Properties and Establishment and Operation of Cannabis Businesses Within the City, Including Commercial Cultivation, Manufacturing, Retail, Delivery, Distribution, Testing and Special Events

This measure would amend the Sonoma Municipal Code to permit cultivation of cannabis for personal use and the establishment and operation of commercial cannabis businesses, including commercial manufacturing, distribution, cultivation, transportation, testing, retail sales, and delivery of cannabis in commercial zoning districts in the City. No limitations are set on the number of such businesses that could be established in the City.

Although the measure refers to applications and land use permits, it does not create a permit or procedure for the City to accept, review and act on applications, but instead provides that with limited exceptions, the only city approval that is required to start and operate a cannabis business is a "zoning clearance." A "zoning clearance" is not a permit; it is a signoff issued by the planning department based only on whether the proposed business is located within the correct zoning district and complies with the district's requirements. A zoning clearance is issued without notice or hearing. Thus, this measure potentially will allow cannabis businesses in the City without environmental review or an assessment of the business' impacts on the surrounding neighborhoods.

Under the measure, operators who were engaged in medicinal cannabis businesses before September 1, 2016, would be entitled to continue or re-commence those operations provided that they submit a statement asserting that they were operating such businesses in compliance with State law and pay the City an unspecified fee. It appears that the City would be required to issue such an operator a certificate of compliance regardless whether, prior to September 1, 2016, the operator was conducting business in violation of City laws. An operator would be entitled to use the certificate of compliance to obtain the requisite State licenses to continue operating.


Only those cannabis retailers whose businesses are located in the City would be authorized to deliver cannabis to their customers; except deliveries from out-of-city businesses would be allowed upon the payment of an unspecified fee.

The measure would permit indoor personal medical cannabis cultivation in all residential zoning districts. It is unclear whether the measure would permit personal cultivation of cannabis for recreational use. Outdoor personal cultivation appears not to be permitted.

Personal cultivation cannot exceed six cannabis plants "per adult", but the measure does not specify what "adult" is intended to mean in order for a number to be calculated. Thus, the number of cannabis plants allowed to be cultivated per residence cannot be ascertained. In addition, the measure permits the cultivation of up to 30 cannabis plants by caregivers for their patients on any residential property.

Cannabis businesses must be at least 600' from schools and City parks, 1000' from the Plaza, and 250' from the City library. No buffer is required between a cannabis business and daycare centers or youth facilities.

Dated: April 20, 2018



Jeffrey A. Walter, City Attorney

Notice of Intent to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Sonoma for the purpose of introducing AN ORDINANCE ENACTING COMPREHENSIVE REGULATIONS FOR CANNABIS THROUGH THE AMENDMENT OF SONOMA CITY CODE SECTIONS 19.10.020, 19.10.030, and 19.10.050. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

The City of Sonoma and the City Council has so far been unable to agree on, implement or confirm any upcoming ordinance that will allow its citizens to locally access legal cannabis as an informed adult choice and for a multitude of medicinal purposes. The citizens of Sonoma already supported the passage of Prop. 64 legalizing cannabis in California by over 61% of the votes cast in 2016 with legalization implemented on January 1, 2018, a virtual mandate. Certainly the number of citizens supporting local access has since risen, clearly evidenced by the *very strong* and obvious support by attendees at a recent Town Hall meeting sponsored by the City of Sonoma itself.

Jurisdictions, such as the City of Sonoma, do have a right to do nothing about the lack of local cannabis access, for whatever reason, but doing nothing or creating burdensome access restrictions does not serve it's citizens properly, fairly or completely.

It is time for the Citizens of Sonoma to have a direct and democratic say-so in this matter with a proposed voter-approved ordinance that seeks a workable and functional balance *for all* and serves as a live-and-let-live approach regardless of whether one does or does not wish to participate in the individual right to cannabis access.

PLEASE PREPARE THE BALLOT TITLE & SUMMARY.
Proponents:

Jon Early APRIL 5, 2018
Jon Early, 1100 Castle Rd., Sonoma, CA

Darlene Torri April 5, 2018
Darlene Torri, 908 Manor Dr., Sonoma, CA

4/20

11

SECTION 1. TITLE

AN ORDINANCE ENACTING COMPREHENSIVE REGULATIONS FOR CANNABIS THROUGH THE AMENDMENT OF SONOMA CITY CODE SECTIONS 19.10.020, 19.10.030, and 19.10.050; AMENDING TABLE 2-1 (Residential Uses and Permit Requirements), and TABLE 2-2 (Commercial Uses and Permit Requirements); AMENDING SECTION 19.92.020 (DEFINITIONS), AND INTRODUCING NEW CHAPTER 5.36 "CANNABIS."

Section 2. FINDINGS AND DECLARATIONS:

A. 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"), Senate Bill 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, transporting, and testing within its jurisdiction.

B. The City has previously adopted ordinances governing medical cannabis dispensaries and other personal and commercial cannabis activity within the City.

C. The City wishes to establish a uniform regulatory structure for all medical and adult use cannabis uses in the City in accordance with state law and to support the City of Sonoma's local cannabis businesses by facilitating a formal authorization process.

D. The proposed zoning amendments contained herein are consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan in that the amendments will direct commercial cannabis businesses to appropriate commercial districts designated to support such uses. The proposed zoning amendments are internally consistent with other applicable provisions of Title 21 of the Code in that the entirety of the Code will apply to cannabis as a new land use classification, such as identifying where the use is allowed, under what permit authority development and parking standards and processes. The proposed zoning changes will result in land uses in residentially and commercially zoned areas that are compatible with existing and future uses and will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

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

SECTION 3. PURPOSE AND INTENT

The purpose of this Act is to establish a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, transportation, testing, and sale of medical and nonmedical cannabis, including cannabis products, for use by adults 21 years and older. It is the intent of the People in enacting this Act to accomplish the following:

- (a) Take cannabis production and sales out of the hands of the illegal market and bring them into a regulatory structure that prevents access by minors and protects public safety, public health and the environment.
- (b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of cannabis.
- (c) Permit adults 21 years and older to use, possess, purchase, and grow cannabis within defined limits for use by adults 21 years and older.
- (d) Allow commercial cannabis activity to take place in the commercial zones in the City limits.
- (e) Prohibit commercial cannabis activity on properties that fall within setbacks to sensitive uses, including schools, parks, the Plaza and the City library.

SECTION 4. CHAPTER 5.36 OF THE SONOMA MUNICIPAL CODE IS HEREBY ADDED TO READ:

**Chapter 5.36
Cannabis**

Sections:

- 5.36.010 Purpose**
- 5.36.020 Limitation on Use**
- 5.36.030 Personal Cannabis Cultivation**
- 5.36.040 Cannabis Businesses**
- 5.36.050 General Operating Requirements**
- 5.36.060 Cannabis Commercial Cultivation**
- 5.36.070 Cannabis Manufacturing**
- 5.36.080 Cannabis Retail and Delivery**
- 5.36.090 Cannabis Distribution**
- 5.36.100 Cannabis Testing**
- 5.36.110 Special Permits**

- 5.36.010 Purpose.**

This Chapter provides the location and operating standards for Personal Cannabis Cultivation and for Cannabis Businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to cannabis and provide opportunities for economic development.

5.36.020 Limitations on Use.

- A. Compliance with City Code. Personal Cannabis Cultivation and Cannabis Businesses shall only be allowed in compliance with this Chapter and all applicable regulations set forth in the City Code, including but not limited to, all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.
- B. Compliance with State laws and regulations. All Cannabis Businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over Cannabis and/or Cannabis Businesses. All Cannabis Businesses shall comply with the rules and regulations for Cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.
- C. Compliance with local and regional laws and regulations. All Cannabis Businesses shall comply with all applicable Sonoma County and other local and regional agency regulations, including, but not limited to, regulations issued by the Regional Water Quality Control Board, the Sonoma County Agricultural Commission, and the Sonoma County Department of Public Health.
- D. Cannabis Businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

5.36.030 Personal Cannabis Cultivation.

Indoor personal Cannabis Cultivation for medical or adult use shall be permitted only in compliance with the provisions of Division II of Title 19 (Zones and Allowable Uses) and shall be subject to the following standards and limitations.

- A. Medical and Adult Use Cannabis Maximum Limitation. The personal cultivation of cannabis is limited to no more than six mature plants per adult. A primary caregiver, as defined in state law, may cultivate medical cannabis exclusively for the personal medical use of no more than five specified qualified patients, with up to six plants per patient.
- B. Residency requirement. Cultivation of cannabis for personal use may occur only on parcels with an existing legal residence occupied by a full-time resident.
- C. The following operating requirements are applicable to personal cannabis cultivation:
 - 1. Visibility. No visible markers or evidence indicating that cannabis is being cultivated on the site shall be visible from the public right of way.

2. Security. All enclosures and structures used for cannabis cultivation shall have security measures sufficient to prevent access by children or other unauthorized persons.
3. Prohibition of Volatile Solvents. The manufacture of cannabis products for personal non-commercial consumption shall be limited to processes that are solvent-free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug and Cosmetic Act. The use of volatile solvents to manufacture cannabis products for personal consumption is prohibited.
4. All structures used for Personal Cannabis Cultivation (including accessory structures, greenhouses, and garages) must be legally constructed with all applicable Building and Fire permits (including grading, building, electrical, mechanical and plumbing) and shall adhere to the development standards within the base zone.
5. Odor Control. All structures used for cultivation shall be equipped with odor control filtration and ventilation systems such that the odors of cannabis cannot be readily detected from outside of the structure.
6. Lighting. Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards:
 - i. Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.
7. Noise. Use of air conditioning and ventilation equipment shall comply with the Chapter 9.56 (Noise). The use of generators is prohibited, except as short-term temporary emergency back-up systems.
8. All personal cannabis cultivation shall comply with the Best Management Practices for Cannabis Cultivation issued by the Sonoma County Agricultural Commission for management of waste, water, erosion control and management of fertilizers and pesticides.

5.36.040 Cannabis Businesses.

Cannabis Businesses shall be permitted only in compliance with the provisions of Division II, Chapter 19.10 (Zones and Allowable Uses) and shall be subject to the following standards and limitations.

- A. Land use. For purposes of this Chapter, Cannabis Businesses shall include the following land use classifications, all of which are further defined in Chapter 19.92 (Definitions):

Cannabis Cultivation
Cannabis Manufacturing -- Type 6 (nonvolatile)
Cannabis Retail and Delivery
Cannabis Distribution
Cannabis Testing Facilities

- B. Where allowed. Cannabis Businesses shall be located in compliance with the requirements of Division II, Chapter 19.10 (Zones and Allowable Uses) and as designated on Table 2-2 (Commercial Uses) of the Zoning Code.
- C. Land use permit requirements. The uses that are subject to the standards in this Chapter shall not be established or maintained except as authorized by the land use permit required by Division II.
- D. Development standards. The standards for specific uses in this Chapter supplement and are required in addition to those in Title 14 (Building and Construction), and the City Code. In the event of any conflict between the requirements of this Chapter and those of title 19 or other applicable provisions of this Code, the requirements of this Chapter shall control.

5.36.050 General Operating Requirements.

The following general operating requirements are applicable to all Cannabis Businesses. In addition, requirements specific to each Cannabis Business subtype are set forth in subsections 5.36.060 (Cannabis Cultivation), 5.36.070 (Cannabis Manufacturing), 5.36.080 (Cannabis Retail and Delivery), 5.36.090 (Cannabis Distribution), 5.36.100 (Testing Facilities) and 5.36.110 (Special Events).

- A. Dual licensing. The City recognizes that state law requires dual licensing at the state and local level for all Cannabis Businesses. All Cannabis Operators shall therefore be required to diligently pursue and obtain a state cannabis license upon receipt of local authorization, and shall comply at all times with all applicable state licensing requirements and conditions, including, but not limited to, operational standards such as, by way of illustration but not limitation, background checks, prior felony convictions, restrictions on multiple licenses and license types, and locational criteria.
 - 1. Self-Certification Program. A qualifying patient, primary caregiver, or medical cannabis collective engaged in commercial medical cannabis activity in the City of Sonoma may continue to operate pending issuance of local authorization under this Chapter by certifying that they operated in compliance with the requirements of the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws in the City of Sonoma before September 1, 2016 in the following manner:
 - a. Complete a self-certification application with the City of Sonoma Community Development Division and pay an application fee.
 - b. As part of the application process, the applicant agrees to: annual compliance monitoring; pay the fees for such annual compliance monitoring; grant permission for City staff to enter the property; and to providing all documentation required for compliance monitoring.
 - c. For certification applicants engaging in commercial medical cannabis activity in the City of Sonoma prior to September 1, 2016, and upon confirmation in the compliance

monitoring, a Certificate of Recognition of Compliance and Good Standing will be issued. Such certificate will be good for one year and may be used as proof of local authorization to apply for temporary and annual licensure with the relevant State licensing agency.

d. If the compliance monitoring results in a finding that the applicant is not in compliance with the requirements of this article, the applicant will be notified of the non-compliance issues and what actions are need to be taken for compliance. An applicant has 30 days to request an additional compliance monitoring inspection to determine if the certification is in compliance. If the applicant fails to request the additional compliance monitoring, the City may initiate enforcement proceeding pursuant to this chapter. An applicant may request additional time to request the additional compliance monitoring and the Planning Director may allow a one-time request up to 30 days. Additional requests for a period of time greater than 30 days may be considered by the Planning Commission.

2. It is the intent of the people of the City of Sonoma that such Certificate of Recognition of Compliance and Good Standing be deemed sufficient local authorization for commercial cannabis activity for purposes of applications for State licensure.
 3. New operators. Cannabis Businesses which have received land use permit approval pursuant to this Chapter, but which do not qualify for the self-certification program, shall not be allowed to commence operations until the Cannabis Business can demonstrate that all necessary state licenses and agency permits have been obtained in compliance with any deadlines established by the state.
 4. Grounds for Revocation. Failure to demonstrate dual licensing in accordance with this Chapter and within any deadlines established by state law shall be grounds for revocation of City approval. Revocation of a local permit and/or a state license shall terminate the ability of the Cannabis Business to operate until a new permit and/or state license is obtained.
- B. Minors. Medical Cannabis Businesses shall only allow on the premises a person who is 18 years of age or older and who possesses a valid government-issued photo identification card, unless the minor is in the company of their parent/guardian or caregiver. Adult Use Cannabis Businesses shall only allow on the premises a person who is 21 years of age or older and who possesses a valid government-issued photo identification card (including foreign identification).
- C. Setback to Sensitive Uses:
1. Schools. Cannabis Businesses shall be subject to a 600-foot minimum setback from any "school", as defined by the Health and Safety Code Section 11362.768. For purposes of this Ordinance, daycare centers and youth facilities are explicitly excluded from the definition of school and from any required setback.

2. The Plaza, Cannabis Businesses shall be subject to a 1000-foot minimum setback from the Plaza.
 3. Parks, Cannabis Businesses shall be subject to a 600-foot minimum setback from any City park.
 4. The Library, Cannabis Businesses shall be subject to a 250-foot minimum setback from the City Library.
- D. Measurement of distance. The distance between Cannabis Retail and a sensitive use shall be made in a straight line from the boundary line of the property on which the Cannabis Retail is located to the closest boundary line of the property on which a sensitive use is located.
- E. Location of a new sensitive use after permit issued. Establishment of a sensitive use within the required setback of a Cannabis Retail facility after such facility has obtained a Permit for the site shall not render the facility in violation of this Ordinance or State law.
- F. Inventory and tracking. Cannabis Operators shall at all times operate in a manner to prevent diversion of Cannabis and shall promptly comply with any track and trace program established by the state.
- G. Multiple permits per site. Multiple Cannabis Businesses may co-locate at the same parcel. Multiple permits may be issued for a single parcel. Multiple permit types may be issued for a single parcel. Multiple Cannabis Businesses proposed on any one site or parcel shall be granted permit approval only if all of the proposed Cannabis Businesses and their co-location are authorized by both local and state law. Cannabis Operators issued permits for multiple license types at the same physical address shall maintain clear separation between license types unless otherwise authorized by local and state law.
- H. Building and fire permits. Cannabis Operators shall meet the following requirements prior to commencing operations:
1. The Cannabis Operator shall obtain a building permit to conform with the appropriate occupancy classification and compliance with Chapter 14 of the City Code.
 2. The Cannabis Operator shall obtain all annual operating fire permits with inspections prior to operation.
 3. The Cannabis Operator shall comply with all applicable H&SC and California Fire Code requirements related to the storage, use and handling of hazardous materials and the generation of hazardous waste. Cannabis Operators shall also obtain all required Certified Unified Program Agency (CUPA) permits including completing a California Environmental Reporting System (CERS) submission for hazardous materials inventory that meet or exceed State thresholds and any waste generation for accountability.

4. Access with a Fire Department lock box for keys to gates and doors shall be provided.
- I. Transfer of ownership or operator. A permittee shall not transfer ownership or operational control of a Cannabis Business or transfer a permit for a Cannabis Business to another person unless and until the transferee obtains a zoning clearance from the Department stating that the transferee is now the permittee. The zoning clearance shall commit the transferee to compliance with each of the conditions of the original permit.
- J. Security. Cannabis Businesses shall provide adequate security on the premises, including lighting and alarms, to insure the public safety and the safety of persons within the facility and to protect the premises from theft. Applications for a Cannabis Business shall include a security plan that includes the following minimum security plan requirements:
 1. Security cameras. Security surveillance video cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour basis of all internal and exterior areas where Cannabis is cultivated, weighed, manufactured, packaged, stored, transferred, and dispensed. The security surveillance cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. Cameras shall remain active at all times and shall be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for sixty (60) days.
 2. Alarm system. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. Section 6-68.130 of the City Code requires that an alarm permit be obtained by the Sonoma Police Department prior to installing an alarm system. The alarm system shall include sensors to detect entry and exit from all secure areas and all windows. Cannabis Operators shall keep the name and contact information of the alarm system installation and monitoring company as part of the Cannabis Business's onsite books and records. Cannabis Operators shall identify a local site contact person who will be responsible for the use and shall provide and keep current full contact information to the Sonoma Police Department dispatch database as part of the alarm permitting process.
 3. Secure storage and waste. Cannabis Products and associated product waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance.
 4. Transportation. Cannabis Businesses shall implement procedures for safe and secure transportation and delivery of Cannabis, Cannabis Products and currency in accordance with state law.
 5. Locks. All points of ingress and egress to a Cannabis Business shall be secured with Building Code compliant commercial-grade, non-residential door locks or window locks.

6. Emergency access. Security measures shall be designed to ensure emergency access in compliance the California Fire Code and Sonoma Fire Department standards.
- K. Odor control. Cannabis Businesses shall incorporate and maintain adequate odor control measures such that the odors of Cannabis cannot be readily detected from outside of the structure in which the Business operates. Applications for Cannabis Businesses shall include an odor mitigation plan that includes the following:
1. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system remains functional;
 2. Staff training procedures; and
 3. Engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.
- L. Lighting. Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards:
1. Exterior lighting systems shall be provided for security purposes in a manner sufficient to provide illumination and clear visibility to all outdoor areas of the premises, including all points of ingress and egress. Exterior lighting shall be stationary, fully shielded, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood. All exterior lighting shall be Building Code compliant and comply with Section 19.40.030 (Exterior Lighting.)
 2. Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.
 3. Motion sensor lighting is approved for cannabis facilities.
- M. Noise. Use of air conditioning and ventilation equipment shall comply with the Chapter 9.56 (Noise). The use of generators is prohibited, except as short-term temporary emergency back-up systems.
- N. Parking. Cannabis Businesses shall be subject to the following parking standards: cannabis retail businesses shall provide one parking space per 300 square feet of retail space; cannabis delivery and testing facilities shall be required to provide one parking space per 400 square feet of delivery or testing use; cannabis manufacturing and distribution businesses shall be required to provide one parking space per 1000 square feet of manufacturing or distribution use.

5.36.060 Cannabis Cultivation

In addition to the General Operating Requirements set forth in Section 5.36.50, this section provides additional requirements for Medical Cannabis Commercial Cultivation.

- A. Permitted Use. In accordance with Table 2-2 (Commercial Uses), a zoning clearance shall be required for Commercial Cannabis Cultivation. For purposes of determining the facility size, and thus the appropriate State license, square footage shall be defined by calculating the total canopy under cultivation by the Cannabis Business.
- B. Pesticides. The cultivation of Cannabis must be conducted in accordance with all applicable federal, state, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the California Fire Code Chapter 26 (Fumigation and Insecticidal Fogging).

5.36.070 Cannabis Manufacturing

In addition to the General Operating Requirements set forth in Section 5.36.50, this section provides additional operational requirements for Cannabis Manufacturing.

- A. Extraction processes. Cannabis Manufacturers shall utilize only extraction processes that are (a) solvent-free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act, and/or (b) use solvents exclusively within a closed loop system that meets the requirements of the federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a California licensed engineer.
- B. Loop systems. No closed loop systems shall be utilized without prior inspection and approval of the City's Building Official and Fire Code Official.
- C. Standard of equipment. Manufacturing, processing and analytical testing devices used by the Cannabis Manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third party testing agency or engineer and approved for the intended use by the City's Building Official and Fire Code Official, unless such equipment is designed only for internal quality control.
- D. Food handler certification. All owners, employees, volunteers or other individuals that participate in the production of edible Cannabis Products must be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the Cannabis Manufacturer's facility where that individual participates in the production of edible Cannabis Products.
- E. Edible product manufacturing. Medical Businesses that sell or manufacture edible medical cannabis products shall obtain a Sonoma County Health Permit. Permit holders shall comply with Health and Safety Code Section 13700 *et seq.* and Sonoma County Health permit requirements. These requirements provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate

industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.

- F. Permitted Use. In accordance with Table 2-2 (Commercial Uses), a zoning clearance shall be required for Commercial Cannabis Manufacturing.

5.36.080 Cannabis Retail and Delivery.

In addition to the General Operating Requirements set forth in Section 5.36.50, this section provides location and operating requirements for Cannabis Retail and Delivery.

- A. Permitted use. In accordance with Table 2-2 (Commercial Uses), a zoning clearance shall be required for Cannabis Retail and Delivery.
- B. Delivery Services. In addition to the requirements established in this Chapter for Cannabis Retail, the delivery of Cannabis and Cannabis Products shall be subject to the following requirements:
1. Commercial delivery to customers at locations outside a permitted Cannabis Retail facility shall only be permitted in conjunction with a permitted Cannabis Retail facility that has a physical location located in the City of Sonoma.
 2. A Cannabis Retail facility may conduct sales exclusively by delivery.
 3. Applications for Cannabis Retail shall include a statement as to whether the use will include delivery of Cannabis and Cannabis Products to patients located outside the Cannabis Retail facility.
 4. If delivery services will be provided, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this Chapter and state law.
 5. Notwithstanding section 5.36.080(B)(1), delivery from dispensaries not located within the City of Sonoma shall be permitted, subject to payment of an annual fee equal to twice that of a Major Conditional Use Permit, as such fee is established annually.
- C. Operational requirements. In addition to project specific conditions of approval, Cannabis Retail shall comply with the following operational requirements:
1. Recordkeeping. A Medical Cannabis Retail Operator shall maintain patient and sales records in accordance with state law.
 2. Protocols and requirements for patients and persons entering the site. Medical Cannabis Businesses shall only allow on the premises a person who is 18 years of age or older and who possesses a valid government-issued photo identification card, unless

the minor is in the company of their parent/guardian or caregiver. Medical Cannabis Businesses shall not provide cannabis or Cannabis products to a person who is not 18 years of age or older, unless the minor is in the company of their parent/guardian or caregiver. Adult Use Cannabis Businesses shall only allow on the premises a person who is 21 years of age or older and who possesses a valid government-issued photo identification card (including foreign identification). Adult Use Cannabis Businesses shall not provide Cannabis or Cannabis products to any person who does not possess a valid government-issued photo identification card, including foreign identification, demonstrating their date of birth.

3. Hours of operation. Cannabis Retail may operate between the hours of 9:00 a.m. to 9:00 p.m. up to seven (7) days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the zoning clearance.
 4. Secured access. A Cannabis Retail facility shall be designed to prevent unauthorized entrance into areas containing Cannabis or Cannabis Products. Limited access areas accessible to only authorized personnel shall be established.
 5. Secured products. Cannabis and Cannabis Products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.
 6. Sale and display of cannabis paraphernalia. A Cannabis retail business may sell or display cannabis related paraphernalia or any implement that may be used to administer Cannabis or Cannabis Products. The sale of such products must comply with any applicable state regulations.
 7. Site management. The Cannabis Retail Operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "Reasonable steps" shall include calling the police in a timely manner; and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request.
 6. Display of permit. Cannabis Retail shall maintain a copy of its permit on display during business hours and in a conspicuous place so that the same may be readily seen by all persons entering the facility.
- F. On-site consumption. In addition to the requirements established in this Chapter for Cannabis Retail, the consumption of Cannabis and Cannabis Products shall be subject to the following requirements:
1. Patients/Customers. Patients and customers shall not be permitted to consume cannabis on the site of a Cannabis Retail facility except as permitted in accordance with Chapter 7.24 (Smoking Regulations) and state law and as follows:

- i. Applications for Cannabis Retail shall include a statement as to whether the use will include on-site consumption by patients or customers of Cannabis and Cannabis Products.
 - ii. If on-site consumption will be included, the application shall describe the operational plan and specific extent of such provision, security protocols, and how the consumption will comply with the requirements set forth in this Chapter and state law.
2. Employees. Employees of a Medical Cannabis Retail facility who are qualified patients may consume Medical Cannabis or Medical Cannabis Products on-site within designated spaces not visible by members of the public, provided that such consumption is in compliance with Chapter 7.24 (Smoking Regulations) and state law.
3. Signs regarding public consumption. The entrance to a Cannabis Retail facility shall be clearly and legibly posted with a notice indicating that smoking and vaping of Cannabis is prohibited on site or in the vicinity of the site except as permitted in accordance with Chapter 7.24 (Smoking Regulations) and state law.

5.36.090 Distribution

In addition to the General Operating Requirements set forth in Section 5.36.50, this section provides additional operational requirements for Cannabis Distribution:

1. Permitted use. In accordance with Table 2-2 (Commercial Uses), a zoning clearance shall be required for Cannabis Distribution including transportation, as defined by Business & Professions Code 2601 (r), as may be amended from time to time.

5.36.100 Testing

In addition to the General Operating Requirements set forth in Section 5.36.50, this section provides additional operational requirements for Cannabis Testing Facilities:

1. Permitted use. In accordance with Table 2-2 (Commercial Uses), a zoning clearance shall be required for Cannabis Testing Facilities, as defined by Business & Professions Code 26011 (as), as may be amended from time to time.

5.36.110 Special Events

- A. Dual licensing. The City recognizes that state law requires Cannabis Businesses to obtain dual licensing at the state and local level for temporary special events that involve on-site cannabis sales to, and consumption by patients. Such events shall not be allowed to commence until the Cannabis Business can demonstrate that all necessary local permits, state temporary event licenses, and agency permits have been obtained in compliance with any regulations and deadlines established by the City and the state.
- B. Conditional use. Conditional Use Permit Applications for a special event shall be filed in a timely manner in accordance with City Code depending on the location of the event.

5.36.100 Grounds for Permit Revocation or Modification

The review authority may require modification, discontinuance or revocation of a Cannabis Business permit if the review authority finds that the use is operated or maintained in a manner that it:

- A. Adversely affects the health, peace or safety of persons living or working in the surrounding area;
- B. Contributes to a public nuisance; or
- C. Has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, diversion of Cannabis or Cannabis Products, public intoxication, smoking in public, harassment of passerby, littering, or obstruction of any street, sidewalk or public way; or
- D. Violates any provision of the City Code or condition imposed by a City issued permit, or violates any provision of any other local, state, regulation, or order, including those of state law or violates any condition imposed by permits or licenses issued in compliance with those laws.

SECTION 5. ADD THE FOLLOWING DEFINITIONS, IN ALPHABETICAL ORDER, TO SECTION 19.92 TO READ AND PROVIDE AS FOLLOWS:

“**Ancillary**” means a use that is related but subordinate to the primary or dominant use on the site.

“**Cannabis**” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972, and amended by the California Control, Regulate and Tax Adult Use of Marijuana Initiative, and as defined by other applicable state law. “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

“**Cannabis Business**” means an entity engaged in the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

“**Delivery of Cannabis**” means the commercial transfer of Cannabis or Cannabis Products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer as defined in Section 26001 of the Business and Professions Code.

“Edible Cannabis Product” means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

“Greenhouse” means a permanent enclosed structure for the propagation and growing of plants, constructed with a translucent roof and/or walls.

“Marijuana” See “Cannabis”.

“Medical Cannabis” or **“Medical Cannabis Product”** means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medical cannabis patient in California who possesses a physician’s recommendation.

“Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis.

“Cannabis Distribution” means the procurement, sale, and transport of Cannabis and Cannabis Products between Cannabis Businesses.

“Cannabis Manufacturing” means the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by mean of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.

“Cannabis Manufacturing – Type 6” means the manufacturing of medical cannabis products using nonvolatile solvents, or no solvents. A Cannabis Manufacturing Level 1 Operator shall only manufacture cannabis products for sale by a permitted Cannabis Retail facility.

“Cannabis Manufacturing - Type 7” means the manufacturing of cannabis products using volatile solvents. A Cannabis Manufacturing Level 2 Operator shall only manufacture cannabis products for sale by a permitted Cannabis Retail facility. For purposes of this section, “volatile solvents” shall include all solvents described in paragraph (3) of subdivision (d) of Section 11362.3 of the Health and Safety Code, as such section may be amended.

“Cannabis Operator” or **“Operator”** means the person or entity that is engaged in the conduct of any commercial Cannabis use.

“Cannabis Retail” means a facility where Cannabis or Cannabis Products are offered, either individually or in any combination, for retail sale, including an establishment that delivers Cannabis or Cannabis Products as part of a retail sale.

“Cannabis Testing Laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.

(2) Licensed by the Bureau of Cannabis Control as a Cannabis Testing Laboratory.

SECTION 6. SECTION 19.10.050, ZONES AND ALLOWABLE USES, OF THE SONOMA MUNICIPAL CODE IS HEREBY AMENDED AS FOLLOWS: (ADDITIONS ARE ITALICIZED)

Table 2-2

Commercial Uses and Permit Requirements

Allowed Uses and Permit Requirements for Commercial Zoning Districts (1)	Permit Required by District (2)		
	C	CG	
			P Use permitted
			UP Use permit required
			L License required
			-- Use not allowed
Land Use			Specific Use Regulations
<i>MANUFACTURING AND PROCESSING USES</i>			
<i>Cannabis Manufacturing- Type 6</i>	<i>P (7)</i>	<i>---</i>	<i>Chapter 5.36SMC</i>
<i>Cannabis Distribution</i>	<i>P (7)</i>	<i>---</i>	<i>Chapter 5.36SMC</i>
<i>Cannabis Cultivation</i>	<i>P (7)</i>	<i>---</i>	<i>Chapter 5.36SMC</i>
<i>Cannabis Testing Facility</i>	<i>P(7)</i>	<i>---</i>	<i>Chapter 5.36SMC</i>
RETAIL TRADE			
<i>Cannabis Retail and Delivery</i>	<i>P (7)</i>	<i>---</i>	<i>Chapter 5.36SMC</i>

Notes:

1. See SMC 19.10.050(C) regarding uses not listed. See Division VIII for definitions of the listed land uses.
2. New residential developments subject to the city's growth management ordinance (Chapter 19.04 SMC).
3. Supportive and transitional housing shall be subject to those restrictions that apply to other residential dwellings of the same type in the same zone.
4. Defined as new commercial construction or an addition to an existing commercial building, having an area of 1,000 square feet or greater.
5. Use permit required within the historic overlay zone.
6. Prohibited in /P plaza retail district. See SMC 19.50.035.
7. Prohibited within 1000' of /P plaza retail district, 600' of any school or park, and 250' of the City Library

Table 2-1

Residential Uses and Permit Requirements

Allowed Uses and Permit Requirements for Permit Required by P	P	Use permitted
Residential Districts (1)	District (2)	UP Use permit required
		L License required
		- Use not allowed
Land Use (1)	R- R-R R-L R-S R-M R-H R-O R-P	Specific Use Regulations
	HS	

AGRICULTURE, RESOURCE AND OPEN SPACE USES

<i>Personal Medical cannabis cultivation</i>	P	P	P	P	P	P	P	P	Chapter 5.36SMC
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SECTION 7. AMENDMENT

This Act shall be broadly construed to accomplish its stated purposes and intent. The Council may, by majority vote, amend the provisions of this Act contained in Sections 4, 5 and 6 to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this Act as stated in Section 3. Amendments to this Act that enact provisions to expand the rights conferred under Section 4 shall be deemed to be consistent with and further the purposes and intent of this Act.

SECTION 8. CONSTRUCTION AND INTERPRETATION.

The provisions of this Act shall be liberally construed to effectuate its purposes and intent; provided, however, no provision or provisions of this Act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the Controlled Substances Act, such that the provision or provisions of this Act and federal law cannot consistently stand together.

SECTION 9. SEVERABILITY.

If any provision of this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SECTION 10. CONFLICTING INITIATIVES

In the event that this measure and another measure concerning the control, regulation, and licensure of nonmedical or medical cannabis appear on the same local ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.