

City of Sonoma

ORDINANCE # 03 - 2019

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SONOMA ADDING CHAPTER 5.36 TO THE SONOMA MUNICIPAL CODE PERMITTING AND REGULATING COMMERCIAL CANNABIS BUSINESSES; AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3), AND CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 26055(H)

THE CITY COUNCIL OF THE CITY OF SONOMA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5.36 is added to the Sonoma Municipal Code to read as follows:

5.36 Commercial Cannabis Businesses

Section 5.36.010. Purpose and Intent.

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to same. It is also the purpose and intent of this Chapter to provide access to adult-use cannabis for persons aged 21 and over as authorized by the Control, Tax & Regulate the Adult Use Cannabis Act ("AUMA" or "Proposition 64" approved by California voters in 2016), while imposing sensible regulations on the use of land to protect the city's residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the processing, manufacturing testing, sale, delivery, distribution and transportation of cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City of Sonoma and to enforce rules and regulations consistent with state law. It is also the purpose and intent of this Chapter to prohibit the commercial cultivation of cannabis of any kind and for any purpose in the City. It is the further purpose of intent of this Chapter to require all commercial cannabis operators to obtain and renew annually a permit to operate within the City of Sonoma. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the city, and are in addition to any permits, licenses and approval required under state, city, or other law.

Section 5.36.020. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, any subsequent state legislation and/or regulations regarding same, the City of Sonoma is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections from time to time established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Sonoma to all commercial cannabis activity.

Section 5.36.030. Cannabis Cultivation and Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Bus. & Prof. Code Section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Sonoma.

Section 5.36.040. Compliance with State and Local Laws.

It is the responsibility of the owners and operators of the commercial cannabis business to ensure that the business is, always, operating in a manner compliant with all applicable state and local laws, including this Chapter, and any regulations promulgated thereunder and any subsequently enacted state or local law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business permit. Nothing in this Chapter shall be construed as authorizing any activities that violate federal, state law or local law with respect to the operation of a commercial cannabis business.

Section 5.36.050. Definitions.

All definitions pertaining to cannabis regulation that appear in Business and Professions Code Section 26001 are hereby incorporated by reference. Definitions appearing in this Chapter are either those that are not covered by state law, pre-date Proposition 64 and the MAUCRSA, or are outside the scope of Section 26001.

- (a) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (b) "Distributor" shall have the same meaning as that appearing in Section 26070 of the Business and Professions Code.
- (c) "Commercial cannabis activity" includes the possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this chapter.
- (d) "Commercial cannabis business" means any business or operation which engages in medicinal or adult-use commercial cannabis activity.
- (e) "Commercial cannabis business permit ("CCBP")" means a regulatory permit issued by the City of Sonoma pursuant to this Chapter, to a commercial cannabis business and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the commercial cannabis activity at issue.
- (f) "Conditional Certificate" (sometimes referred to as "CC") means a conditional privilege awarded by the City Council to a specific commercial cannabis business which grants that business the privilege of applying for a CCBP.
- (g) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- (h) "Dispensary" means a business that holds a valid state license and conducts the retail sale of cannabis or cannabis products. "Dispensary" means the same thing as "Retailer."
- (i) "Distribution" means the distribution of cannabis and cannabis products between

state licensees, including testing laboratories, requiring adherence to state mandated transportation security and cargo manifest requirements.

(j) "Licensee" or "State licensee" means a person holding a state license.

(k) "Limited-access area" means an area in which cannabis is stored or held and is only accessible to some licensee and authorized personnel.

(l) "Manufactured cannabis" means (1) a cannabis product that has been (i) produced using infusion or other processes as permitted under a Type N State License or (ii) packaged or re-packaged as permitted under a Type P State License or (2) a cannabis product package that has been labeled or relabeled as permitted under a Type P State License.

(m) "Manufacturing site" means a location that (1) produces cannabis products by methods permitted under a Type N State License, (2) packages and/or repackages cannabis products under a Type P State License, (3) labels and/or re-labels cannabis product packages under a Type P State License, and (4) is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Sonoma and a valid State License Type N or Type P, as the case may be .

(n) "Non-Store Front Retail Business" means a non-storefront cannabis business that sells and delivers cannabis or cannabis products to customers from a premises that is not open to the public. While the business shall have a physical location within the City of Sonoma all sales are consummated exclusively by delivery.

(o) "Non-volatile solvent" means any solvent used in the extraction process that is not a volatile solvent as defined by state law. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide (CO₂) used for extraction and ethanol used for extraction or post-extraction processing.

(p) "Owner" means any of the following:

(1) A person with an aggregate ownership interest of 5 percent or more in the business applying for or holding a CCBP.

(2) The manager of a nonprofit or other entity applying for or holding a CCBP.

(3) A member of the board of directors of a for-profit or nonprofit entity applying for or holding a CCBP.

(4) An individual who will be or is participating in the direction, control, or management of the business applying for and/or holding a CCBP.

(q) "Package" means any container or receptacle used for holding cannabis or cannabis products.

(r) "Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.22.

(s) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

(t) "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.

(u) "Proposal" means the materials and information submitted by the Proposer(s) for consideration by the Proposal Review Committee.

(v) "Proposal Review Committee" ("PRC") means staff members of the City of Sonoma from the Police, Finance and Planning Departments; as well as any

consultants retained by the City for the purpose of reviewing Conditional Certificate applications.

(w) "Proposer" means a person or persons submitting a Conditional Certificate Proposal and a CCBP application to the City of Sonoma.

(x) "Retailer" shall have the same meaning as the definition appearing in Section 26070(a)(1) of the Business and Professions Code.

(y) "State license" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity. A state license alone will not authorize the holder to operate a cannabis business in the city, as state law also requires a permit or other authorization issued by a local jurisdiction.

(z) "Topical cannabis" means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

(aa) "Youth center" means any public or private facility that is only used to host recreation or social activities for minors.

Section 5.36.060. Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business.

- (a) No person may engage in any commercial cannabis business or in any commercial cannabis activity within the City of Sonoma including manufacture, processing, laboratory testing, transporting, dispensing, labeling, storing delivery, distribution, or sale of cannabis or a cannabis product unless the person (1) has a valid CCBP commercial cannabis business permit from the City of Sonoma; (2) has a valid state license; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the commercial cannabis business and the commercial cannabis activities in which the business is engaged.
- (b) No CCBP shall be issued pursuant to this Chapter for indoor, mixed-use or outdoor commercial cannabis cultivation, or to a microbusiness which are prohibited. It is a violation of this Chapter for any person to engage in any commercial cannabis cultivation of any kind.

Section 5.36.070. Evidence of Criminal Background Check Required.

- (a) Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), authorizing municipalities to access state and local summary criminal history information for employment, licensing, or certification purposes and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, any person who is an, owner, manager, supervisor, employee, contract employee of a commercial cannabis business must submit fingerprints to the Chief of Police for a background check by the Sonoma Police Department.
- (b) A fee for the cost of the background investigation, which shall be the actual cost to the City of Sonoma to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business is submitted or at any other time a background investigation is required under this chapter.

- (c) This provision applies to all employees of the commercial cannabis business, regardless of the date of hire.
- (d) The criminal background checks completed by the city will at a minimum identify the following:
 - 1) Whether the individual applying for employment has ever been convicted of a violent felony as defined by California Penal Code 667.5, or equivalent offenses in other states;
 - 2) Whether the individual applying for employment has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; and
 - 3) Whether the individual applying for employment has ever been convicted of the illegal transportation or distribution of controlled substances, as defined in the Federal Controlled Substances Act. This will not include cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.
- (e) Evidence of a conviction of any of the offenses enumerated in Section 5.36.070(d) shall be grounds for denial of employment with a commercial cannabis business. Employers who wish to hire or retain an individual notwithstanding this rule shall apply to the Chief of Police, who at his/her sole discretion may issue a written waiver allowing employment or retention of persons convicted of the said offenses.

Section 5.36.080. Personnel Prohibited from Holding a License or from Employment with a Cannabis Business Permittee: Past Civil Violations.

In addition to the grounds for disqualification related to the results of the criminal background check described in Section 5.36.070, evidence of past civil violations shall be grounds for disqualification as follows:

- (a) Any applicant, including but not limited to any firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate or any other group or combination acting as a unit or any person owning, being a member or shareholder of, or any person having an interest in any of said entities or capacities shall be prohibited from holding a CCBP if any of the following is true:
 - (1) The applicant has had a commercial cannabis license or permit suspended or revoked by any City, county, City and county or any other state cannabis licensing authority;
 - (2) The applicant was notified that it/he/she was conducting commercial cannabis activity in violation of Title 19 and/or Chapter 5.36 or other City of Sonoma ordinances, codes and requirements, and failed to cure the violation in a timely manner;

The person has entered into either a verbal or written agreement to lease, sublease, or any other agreement to use real property for commercial cannabis activity and engaged in that activity without having

been issued a valid permit in a violation of Section 5.36.060.

Section 5.36.090. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.

- (a) Except as otherwise provided by ordinance, the following types and number of cannabis businesses are permitted in the city (and no others):
 - (1) Dispensary or Retailer- maximum of one (1).
 - (2) Non-Store Front Retail Business - maximum of one (1).
 - (3) Testing Laboratory – maximum of one (1).
 - (4) Manufacturing – maximum of one (1). (State License Type N or P only).
 - (5) Distributor (only permitted as an ancillary activity to one of the above-listed businesses).
- (b) Section 5.36.090 is only intended to create a maximum number of commercial cannabis businesses that may be issued CCBPs to operate in the City under each category. Nothing in this chapter creates a mandate that the City Council must issue any or all of the CCBPs identified above if (i) it is determined that the Proposers do not meet the standards which are established in the Proposal requirements or further amendments to the Proposal process or (ii) the City Council upon further deliberation determines that the issuance of any or all CCBPs will adversely impact the public safety, health or welfare of the city and/or its residents.
- (c) Each year following the City Council's initial award of CCBPs, if any, or at any time in the City Council's discretion, the City Council may reassess the number and type of CCBPs which are authorized for issuance. The City Council, at its discretion, may determine that the (i) number of CCBPs should stay the same, or be increased and/or (ii) the category of permitted commercial cannabis businesses should be changed.
- (d) Any commercial cannabis business which is granted a CCBP hereunder shall also be permitted to engage in distribution-transport activities, provided that it first obtains the state distributor license necessary to engage in such activities.
- (e) Any commercial cannabis business which is granted a Retailer's CCBP hereunder shall also be permitted to engage in delivery services.

5.36.100 Consideration of Finalists for Award of Conditional Certificate

- (a) The City Council shall hold a duly noticed public hearing to consider the awarding of Conditional Certificates (CC) to one or more Finalists. The award of CC's shall be left to the sole discretion of the City Council. The City Council's award of each CC shall be memorialized in written decisions supporting each award and identifying any additional conditions and/or agreements required by the City Council. The Council may award CC's for each category of commercial cannabis business identified in Section 5.36.090 in an amount no greater than the number assigned in said Section. The City Council reserves the right to reject any or all Proposals and reserves the right to request and obtain additional information from any Proposer, should the City Council find such actions necessary in order for the Council to make an informed decision or otherwise act in the best interests of the health, safety and/or welfare of the city.

- (b) At any time prior to a CCBP being issued to any Proposer, the City Council may modify, postpone, or cancel (i) any requirement applicable to any Proposal, or (ii) the entire program established under this chapter, without any liability, obligation, or commitment to any Proposer, party, firm, or organization. All Proposers assume the risk that all or any part of the program established under this chapter, or any particular category of permit potentially authorized under this chapter, may be cancelled or eliminated, as the case may be, at any time prior to the Proposer in question being issued a CCBP.

5.36.110 Commercial Cannabis Businesses awarded Conditional Certificates May Apply for Land Use Permits and Building Permits

- (a) Upon being granted a Conditional Certificate, Proposer(s) (hereinafter sometimes referred to as "Applicants") shall be eligible to apply for and take the necessary steps to obtain the land use permits and building permits necessary to construct, install and/or operate their specific commercial cannabis business at the location identified in their Proposal and land use entitlement application. This includes payment of any fees established by resolution by the City Council, as well as any required environmental review pursuant to the California Environmental Quality Act, (CEQA).
- (b) From the date the City Council awards a Conditional Certificate to an Applicant, the Applicant shall have up to one year to:
 - (1) Apply for and obtain the necessary land use permits. In this connection, at a minimum, the Applicant shall be required to apply for and obtain a conditional use permit (CUP). The granting of any such CUP to the Applicant shall not confer any vested rights and shall not run with the land. The term of any such CUP and any other entitlement granted to the Applicant related to the Proposal shall be expressly limited to one year from the date of the CUP's final approval; and
 - (2) Apply for and receive building permit(s) and complete all necessary renovations and/or new construction and secure approval of a final building permit and/or certificate of occupancy; and
 - (3) Satisfy all of the conditions of approval required and/or included in the Conditional Certificate awarded to the Applicant and provide proof that all requirements of the CCBP have been met. This includes the Applicant's execution and/or performance of all required legal contracts necessary to secure the proposed public benefit included in the Proposal; and
 - (4) Apply for and be issued a CCBP.
- (c) Extensions of this time period beyond one year shall be granted on a case-by-case basis by the City Manager. Under no circumstances may this time period be extended for more than 180 days.

5.36.120 Commercial Cannabis Business Permit (CCBP) Required

- (a) Prior to commencing operations of a commercial cannabis business or conducting any commercial cannabis activity, the Applicant must obtain a Commercial Cannabis Business Permit (CCBP) therefor from the City Manager.

- (b) To receive this ministerial permit, the Applicant must provide proof of all the following:
- (1) A valid Conditional Certificate awarded by the City Council and a State License for whichever type of commercial cannabis business(es) the Conditional Certificate stipulates.
 - (2) All necessary planning approvals, including but not limited to a CUP.
 - (3) All necessary building permits, and approvals by agencies with jurisdiction including but not limited to the Sonoma Valley Fire and Rescue Authority, County of Sonoma Health Department, City Water Department, and Sonoma County Waste Management Agency, and any other agency approvals that may be required, as applicable.
 - (4) A City business license issued to the Applicant for the relevant commercial cannabis business.
 - (5) Satisfaction of and/or compliance with all of the applicable provisions of this chapter, including but not limited to Sections 5.36.110, 5.36.130, 5.36.140, 5.36.150, 5.36.160 and 5.36.240.
- (c) Upon receipt of a complete application for a CCBP, the City Manager shall undertake an inspection and investigation to ascertain whether the Applicant has satisfied all of the conditions precedent to issuance of the CCBP specified in this chapter. Except in unusual circumstances, the City Manager shall complete the inspection and investigation within 60 days of receiving the Applicant's complete application.
- (d) The City Manager's inspection and investigation shall include a review of the relevant documents and the proposed business location to ensure that the commercial cannabis business and its Applicant have satisfied all of the criteria set forth in this Section and this chapter.
- (e) If the City Manager cannot approve the CCBP, the City Manager will provide written notice of the reasons therefor ("CM's Investigation Report") to the Applicant within 15 working days of the completion of the City Manager's inspection and investigation. The City Manager's decision is appealable pursuant to Sections 5.36.200 to 5.36.220.
- (f) Issuance of a CCBP does not create a land use entitlement. No property interest, vested right, or entitlement to receive future permits to operate a commercial cannabis business shall ever inure to the benefit of the holder of a CCBP as such permits are limited in duration, revocable and upon renewal must comply with all applicable laws then in effect. The CCBP shall expire on the earlier of (i) the end of the term of the cognate CUP or (ii) twelve (12) months from the date of the CCBP's issuance, unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a CCBP, (i) unless all of the state and local laws and regulations, including but not limited to the requirements of this chapter and of the CCBP, have been complied with, and (ii) until a state license is available and obtained by the permitted operator as set forth in Section 5.36.060.

Section 5.36.130. City Business License.

Prior to commencing operations and prior to issuance of a CCBP, a commercial cannabis business shall obtain a City of Sonoma business license.

Section 5.36.140. Building Permits and Inspection.

Prior to commencing operations and prior to issuance of a CCBP, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), the Sonoma Valley Fire & Rescue Authority (SVFRA) approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

Section 5.36.150. Certification from the Planning Director.

Prior to commencing operations and prior to issuance of a CCBP, a commercial cannabis business must obtain a certification from the Planning Director or his/her designee(s) certifying that the business has secured all necessary land use permits and is located on a site that meets all of the requirements of Section 5.36.240.

Section 5.36.160. Right to Occupy and to Use Property.

As a condition precedent to the city 's issuance of a CCBP pursuant to this chapter, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of its/his/her legal right to occupy and to use the proposed location. In the event the proposed location will be leased from the property owner, the Proposer shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this chapter and consents to the operation of the commercial cannabis business on the owner's property.

Section 5.36.170. Revocation of Permits.

CCBPs may be revoked for any violation of any (i) law and/or any rule, regulation and/or standard adopted pursuant to state law and/or local law, including but not limited to this chapter, (ii) condition or term made part of the awarding of the CC or the issuance of the CCBP, (iii) condition or term made part of the CUP or other permit or entitlement granted to the Proposer, and/or (iv) term or condition of any agreement entered into between the Proposer and the city.

Section 5.36.180. Effect of State License Suspension, Revocation, or Termination.

- (a) Suspension of a license issued to a commercial cannabis business by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of that commercial cannabis business to operate within the city, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also immediately revoke or terminate business' CCBP and CC and the ability of that commercial cannabis business to operate within the City of Sonoma. At the City Manager's discretion, the cannabis business Owner may re-apply for a CC and later a CCBP at such time as it can demonstrate that the grounds for revocation of the license by the state no longer exist, or that the underlying deficiency has otherwise been cured.

Any such re-application will be subject to all the provisions and payment of fees applicable to Proposals for CC's and CCBP's.

- (b) Suspension of a commercial cannabis business permit issued to a commercial cannabis business by the City of Sonoma shall immediately suspend the ability of that commercial cannabis business to operate within the city, until such time as the City reinstates or reissues the State license. Should the City, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business for violations of this ordinance or any related regulations established by resolution, such revocation or termination shall immediately revoke or terminate business' ability of that commercial cannabis business to operate within the City of Sonoma. At the City Manager's discretion, the cannabis business Owner may re-apply for a CC and later a CCBP at such time as it can demonstrate that the grounds for revocation of the license by the state no longer exist, or that the underlying deficiency has otherwise been cured. Any such re-application will be subject to all the provisions and payment of fees applicable to Proposals for CC's and CCBP's. The City Manager's decision regarding whether the Owner may re-apply is appealable to the City Council.

Section 5.36.190. Appeals.

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this chapter from a decision of the City Manager or his/her designee(s), the appeal shall be conducted as prescribed in this chapter, specifically, pursuant to Sections 5.36.200 to 5.36.220.

Section 5.36.200. Written Request for Appeal.

- (a) Within ten (10) calendar days after the date of a decision of the City Manager or his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, the aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- (b) At the time of filing the appeal, the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

Section 5.36.210. Appeal Hearing Process.

- (a) Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set by the city.
- (b) The appeal shall be held within a reasonable time after date of filing, but in no event later than forty-five (45) working days from the date of filing. The city shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- (c) At the hearing, the appellant may present any information s/he/it deems relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- (d) The decision of the Council shall be final and shall be memorialized in a written decision.

Section 5.36.220. Change in location; updated registration form.

- (a) Any time an Owner wishes to change the dispensing, manufacturing, and/or transportation location specified in the CCBP, the Owner must apply for and obtain a Use Permit that is pertinent to the new location. The process and the fees applicable to this procedure for re-registration shall be the same as the process and fees set forth in Sections 5.36.110.
- (b) Within fifteen (15) calendar days of any other change in the information provided in the Proposal or any change in status of compliance with the provisions of this chapter, including any change in the commercial cannabis business ownership or management members, the Owner shall file an updated information form with the City Manager or his/her designee(s) for review along with a registration amendment fee. In addition, to the extent any other provisions of this chapter pertain to such changes, the Owner shall be required to comply with those provisions.

Section 5.36.230. Transfer of Commercial Cannabis Business Permit.

- (a) The Owner of a CCBP shall not transfer ownership or control of the CCBP to another person or entity unless and until the transferee obtains an amendment to the CCBP from the City Manager or his/her designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager or his/her designee in accordance with all provisions of this chapter (as though the transferee were applying for an original CC and CCBP). The proposed transferee's application shall be accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the Proposal fee).
- (b) The City Manager or his/her designee shall conduct a hearing to determine whether the transferee passed the background check required for permittees and meets all other requirements of this chapter.
- (c) The CCBP issued through the grant of a transfer by the City Manager or his/her designee shall be valid for a period of one year beginning on the day the City Manager or his/her designee approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this chapter in the event the transferee desires to have its CCBP renewed.
- (d) Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the City Manager or his/her designee through the transfer process set forth in this section. Failure to comply with this provision is grounds for permit revocation.
- (e) A permittee may change the form of business entity without applying to the City Manager or his/her designee for a transfer of permit, provided that either:
 - (1) The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
 - (2) The original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under

the MAUCRSA and in compliance with Section 5.36.120, the individual(s) listed on the city Proposal application of the original permittee entity is the same as Board of Directors of the new business entity.

Although obtaining permission to transfer is not required in these two circumstances, the permit holder is required to notify the City Manager in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

- (f) No CCBP may be transferred when the City Manager or his/her designee has notified the permittee that the permit has been or may be suspended or revoked.
- (g) Any attempt to transfer a CCBP either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.
- (h) Decisions of the City Manager pertaining to proposed transfers of the CCBP shall be appealable to the City Council as provided for in Sections 5.36.190 through 5.36.210.

Section 5.36.240. Location and Design of Commercial Cannabis Businesses.

- (a) The commercial cannabis businesses permitted to operate in the city as set forth in Section 5.36.090(a) must be located in appropriately designated zoning as shown in the Use Tables in Title 19; provided, however, they shall not be permitted in the "buffer" areas shown on the Figures 1 through 4 in Section 19.10.060 of this code.
- (b) Each proposed commercial cannabis business project shall:
 - (1) Conform with the city 's general plan, any applicable specific plans, master plans, and design requirements.
 - (2) Comply with all applicable zoning and related development standards.
 - (3) Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.
 - (4) Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
 - (5) Be served by highways or streets adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purposes.

Section 5.36.250. Limitations on City's Liability.

To the fullest extent permitted by law, the City of Sonoma shall not assume any liability whatsoever with respect to having issued a CCBP pursuant to this chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of

any CCBP, the Proposer/Applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

- (a) Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at Applicant's sole cost and expense), and hold the City of Sonoma, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the commercial cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, the operation of the commercial cannabis business or activity, or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents. The indemnity obligation arising under this paragraph does not include any claims arising out of gross negligence or willful misconduct by the City, its officers, officials, employees, representatives or agents.
- (b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Manager.
- (c) Reimburse the City of Sonoma for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City of Sonoma may be required to pay as a result of any legal challenge related to the City's approval of the Applicant's CCBP, or related to the City's approval of a commercial cannabis activity. The City of Sonoma may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the Applicant of any of the obligations imposed hereunder.

Section 5.36.260. Records and Recordkeeping.

- (a) Each Owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this chapter), or at any time upon reasonable request of the city, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each Owner and operator shall submit to the City a financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or his/her designee(s).
- (b) Each Owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon reasonable request.

- (c) All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA.
- (d) Each commercial cannabis business shall allow the City of Sonoma officials to have access to the business's books, records and accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination for purposes of determining compliance with this chapter, applicable law and the CCBP. Books, records, accounts, and any and all relevant data or documents will be produced or made available at a location specified by the city no later than twenty-four (24) hours after receipt of the city's request, unless otherwise stipulated by the city. The city may require the materials to be submitted in an electronic format that is compatible with the city's software and hardware.

Section 5.36.270. Security Measures.

A permitted commercial cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. All commercial cannabis businesses shall comply with additional requirements detailed in the regulations.

Section 5.36.280. Restriction on Alcohol & Tobacco Sales.

- (a) No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.
- (b) No person shall cause or permit the sale or tobacco products on or about the premises of the commercial cannabis business.
- (c) No person shall consume cannabis, cannabis products, tobacco or alcohol on the premises of any commercial cannabis business. For purposes of this section, "premises" means the designated structure or structures and land specified in the Proposal or application that is owned, leased, or otherwise held under the control of the Proposer, applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

Section 5.36.290. Fees and Charges.

- (a) No person may commence or continue any commercial cannabis activity in the city without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- (b) All commercial cannabis businesses authorized to operate under this chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with the city with respect to any reasonable request to audit the commercial cannabis business' books and records pursuant to section 5.36.260 for the purpose of verifying compliance with

this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

- (a) Prior to operating in the city and as a condition of issuance of a CC or CCBP, the Owner or operator of each cannabis facility shall enter into an operational or community benefit agreement with the city setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety and welfare.

Section 5.36.300. Operating Requirements for Out of City Delivery Services.

Prior to commencing operations, a cannabis out of city delivery service shall comply with the following requirements:

- (a) Obtain from the city a permit authorizing the delivery of cannabis and cannabis products within the city limits. A copy of this permit shall be retained by all drivers.
- (b) The retail business operating the delivery service shall provide the City Manager with evidence of a valid state license for a commercial cannabis business on whose authorization the delivery service is performing the delivery function.
- (c) The retail business operating the delivery service shall furnish to the City Manager the year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis and cannabis products.
- (d) The retail business operating the delivery service shall apply for and obtain a city business license, and in that connection, shall pay all applicable license taxes unless otherwise exempt from doing so.

5.36.310 Cannabis Deliveries

Deliveries within the City of Sonoma shall only be permitted by persons that have a Cannabis Delivery Permit issued by the Chief of Police, in consultation with the City Manager or his/her designee. Any other cannabis delivery is prohibited. This Permit can be issued either to a business located outside the City of Sonoma or can be included as part a Commercial Cannabis Business Permit issued to a Cannabis Retail Store or Dispensary, or to a Non-Store Front Retail Business (collectively, these businesses shall be sometimes referred to herein as "Cannabis Delivery Businesses").

(a) Application

All of the information and stipulations listed below shall be supplied by the operator of a Cannabis Delivery business to the Chief of Police. No commercial cannabis business may deliver cannabis or cannabis products to any person situated within the City's limits until and unless the Chief of Police, in consultation with the City Manager or his/her designee, issues a Cannabis Delivery Permit to that business. If the Permit is denied, the Applicant may appeal the decision of the Chief of Police to the City Council, pursuant to Section 5.36.200 Appeals.

(b) Fees

An Administrative Review Fee Deposit as adopted in the Master Fee Schedule shall submitted to the City along with the Cannabis Delivery Permit to be used to cover the

cost of all needed staff time, consultant costs and other resources utilized in vetting the Cannabis Delivery Permit.

(c) Cannabis Delivery Permits shall be subject to the following standards:

1. Each Cannabis Delivery Business owner, as well as each employee shall submit specific personal information including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and electronic fingerprint images and related information as required by the Chief of Police, in consultation with the City Manager and his/her designee for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests. A mandatory criminal background check will be conducted. All confidential information shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a).
2. Cannabis Delivery Businesses shall provide to the Chief of Police a list of all vehicles to be used for delivery of cannabis and cannabis products, including each vehicle's make, model, year, license plate number and vehicle identification number. The Cannabis Delivery Business shall update the list prior to any vehicle being added to or removed from service and provide that updated list to the Chief of Police on the same day the vehicle change is made.
3. Cannabis Delivery Businesses shall adhere to best practices in terms of handling currency as established by the Chief of Police, in consultation with the City Manager or his/her designee.
4. Cannabis Delivery Businesses shall ensure that all delivery vehicles shall be in possession of a copy of all licenses and permits required by the State of California and the City.
5. All vehicles used by Cannabis Delivery Businesses to deliver cannabis and/or cannabis products shall not be marked or otherwise identified with advertisements, the name of the Cannabis Delivery Business, or any other distinctive markings associated with cannabis.
6. Cannabis Delivery Businesses shall only deliver cannabis directly to the residence or business address of the designated recipient; deliveries to any other location are prohibited.
7. Cannabis Delivery Businesses shall deliver cannabis or cannabis products only between the hours of 8:00 a.m. and 8:00 p.m.
8. Cannabis Delivery Businesses shall only deliver cannabis or cannabis products to persons 21 years of age or older, or a person 18 years of age or older who possesses a physician's recommendation for cannabis medical use only.

Section 5.36.320. Permissible Delivery Locations and Customers.

Cannabis delivery businesses located inside or outside of the city which are permitted to engage in delivery of cannabis and cannabis products inside the City of Sonoma are subject to the following, additional requirements:

- (a) A licensed cannabis delivery business shall not deliver cannabis or cannabis products to an address located on publicly owned land or any address on land or in a building leased by a public agency.
- (b) A licensed cannabis delivery business shall comply with all requirements of state and local law pertaining to the business' operations and all subsequent policies, procedures and regulations which may be promulgated by the City Manager from time to time.

Section 5.36.330. Fees Deemed Debt to the City of Sonoma.

The amount of any fee, cost or charge imposed pursuant to this chapter shall be deemed a debt to the City of Sonoma that is recoverable via an authorized administrative process as set forth in this code, or in any court of competent jurisdiction.

Section 5.36.340. Permit Holder Responsible for Violations.

The person to whom a CCBP is issued pursuant to this chapter shall be responsible for all violations of the laws and regulations of the State of California or of the regulations and/or the ordinances of the City of Sonoma, whether committed by the Owner, permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business and whether or not said violations occur within the permit holder's presence.

Section 5.36.350. Inspection and Enforcement.

- (a) The City Manager, or his/her designee(s) charged with enforcing the provisions of the City of Sonoma Municipal Code, or any provision thereof, may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this chapter or under applicable provisions of State law.
- (b) It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not allow, the city to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this chapter or under state or local law.
- (c) The City Manager, or his/her designee(s) charged with enforcing the provisions of this chapter may enter the commercial cannabis business at any time during the hours of operation, with or without notice for purposes of inspection of the premises and business records.

Section 5.36.360. Promulgation of Regulations, Standards and Other Legal Duties.

- (a) In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish and develop any additional rules, regulations, forms and standards governing the issuance, denial or renewal of CCBP, the ongoing operation of commercial cannabis businesses and the city's

oversight, or concerning any other subject determined to be necessary to carry out the purposes of this chapter.

- (b) Regulations shall be published on the city 's website.
- (c) Regulations promulgated by the City Manager shall become effective upon date of publication after first being approved by the City Council. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his/her designee.

Section 5.36.370. Compliance with State Regulations.

It is the stated intent of this chapter to regulate commercial cannabis activity in the City of Sonoma in compliance with all provisions of MAUCRSA and any subsequent state legislation.

Section 5.36.380. Violations declared a public nuisance.

Each and every violation of the provisions of this chapter, and of any regulations established by resolution and promulgated pursuant to this chapter, is hereby deemed unlawful and a public nuisance.

Section 5.36.390. Each violation a separate offense.

Each and every violation of this chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures available to and authorized by the City of Sonoma. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, and any permit issued in violation of this chapter shall be deemed null and void. The City of Sonoma may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a CCBP issued by the city, pending a hearing before the City Manager, or his/her designee(s).

Section 5.36.400. Criminal Penalties.

Each and every violation of the provisions of this chapter may in the discretion of the District Attorney or City Attorney be prosecuted as an infraction or a misdemeanor and, in the case of an infraction, upon conviction be subject to a fine not to exceed the amounts specified in California Government Code Section 36900(b) and, in the case of a misdemeanor, upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the County jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 5.36.410. Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The city is authorized to pursue any proceedings or remedies provided by law.

SECTION 2. CEQA. This Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State

CEQA Guidelines, and the environmental regulations of the city. City Planning Staff has determined that the adoption and implementation of the Ordinance is exempt from environmental review in accordance with Business and Professions Code section 26055(h), the exemption for the adoption of an ordinance that requires discretionary review of cannabis business permits. Additionally, approval of the ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions without any physical project being approved, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment. Specifically and additionally, as part of the review of any Proposal to establish and operate a cannabis business in the City, the City has the authority to determine the appropriate level of environmental review and should same be necessary, require the Proposer to conduct that review as a condition to the awarding of any entitlement or permit under this Ordinance. The City Council concurs in these findings and adopts them as its own. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Sonoma in accordance with CEQA Guidelines.

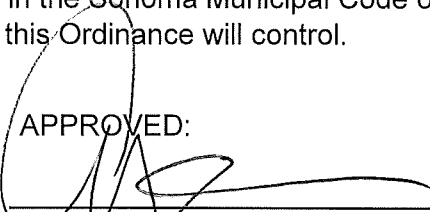
SECTION 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. Effective Date. This ordinance shall take effect thirty (30) days after passage thereof.

SECTION 5. Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933(c)(1).

SECTION 6. This Ordinance Prevails Where There is Conflict. To the extent that this Ordinance conflicts with any other provision in the Sonoma Municipal Code or city ordinance (urgency or otherwise), policy or regulation, this Ordinance will control.

APPROVED:



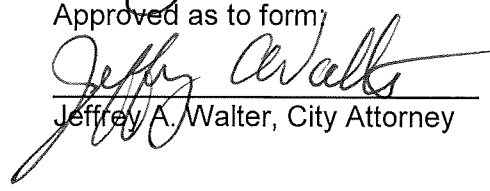
Amy Harrington, Mayor

ATTEST:



Rebekah Barr, City Clerk

Approved as to form:



Jeffrey A. Walter, City Attorney

* * * * *

I HEREBY CERTIFY the foregoing ordinance was duly adopted at a Regular Meeting of the City Council of the City of Sonoma held on the June 24, 2019 by the following vote:

AYES: **HARVEY, HUNDLEY, HARRINGTON**

NOES: **AGRIMONTI, COOK**

ABSENT:

ABSTAIN:

A handwritten signature in black ink, appearing to read 'Rebekah Barr', is written over a horizontal line.

Rebekah Barr, City Clerk