



REPORT TO CITY COUNCIL

Approved by:


Arnoldo Rodriguez, City Manager

Council Meeting of: April 21, 2021

Agenda Number: A-1

SUBJECT:

Workshop on Pending Cannabis Regulatory Ordinance and Related Procedures

RECOMMENDATION:

Continue discussion of workshop presentation and provide direction to staff

SUMMARY:

An initial workshop on the pending cannabis regulatory ordinance and related procedures was presented to Council on January 6, 2021. This initial workshop was followed by a second workshop on January 20, 2021. The workshops discussed the basic components of the ordinance, procedural guidelines, selection criteria, and approval of cannabis business permits. Staff presented reasoning for the recommended approach and requested input and direction by Council majority on policy considerations before completing the preparation of the ordinance, as well as land use ordinance designating zone districts where cannabis businesses may be permitted.

Based on Council direction, staff has prepared the attached draft ordinance. The purpose of this meeting is to solicit feedback on the draft. No formal action, sans direction, is being sought this evening.

DISCUSSION:

Material presented during the previous workshops introduced a proposed workflow for the development of a regulatory ordinance to allow, permit, regulate, and tax cannabis businesses. A breakdown of the seven-step workflow is as follows:

- *Step 1: Ordinance* – Addresses two municipal code updates that would occur: Regulatory Ordinance for Cannabis Business Permits and Zoning Ordinance (reflecting zone districts allowing cannabis).

- *Step 2: Procedures & Guidelines* – Proposes formalization of procedures and guidelines and criteria for review as cannabis businesses seek conducting business within the City. The Procedures & Guidelines will be adopted by Council Resolution.
- *Step 3: Lottery* – Establishes proposed lottery system, under which applicants that meet minimum point total would be drawn and placed in order to create an eligibility list.
- *Step 4: Land Use Review/Public Meetings* – Establishes inclusion of land use review as applications are reviewed, as well as seeking community input.
- *Step 5: City Manager Role* – Proposes defining the role of the City Manager.
- *Step 6: City Council Role* – Proposes defining the role of Council.
- *Step 7: Operations* – Proposes additional operations procedures for consideration such as timeframe to exercise permit, background checks, annual review of permits, location or changes in ownership.

Both the workshops included presentation slides, and the workflows presented during the workshops were made available to the public after being published in the City’s website and social media platforms. Materials were made available to further encourage public feedback.

CANNABIS AD-HOC COMMITTEE

Subsequent to the workshops, the Cannabis Ad-Hoc Committee, comprised of Mayor Garcia and Councilmember Rodriguez, reviewed the draft ordinance and provided the following discussion points (*in no particular order*):

1. *Community benefits from revenue*: Establishing a housing fund to be made available to school district and local government employees to be used towards the purchase of their primary residence.
2. *Conditions of Project Approval*:
 - a. *Labor Peace Agreement*: Permit Labor Peace Agreements for establishments with at least 10 employees
 - b. *Health Certificate*: Require a minimum of 30 hours of training for managers as provided by the Cal-OSHA.
 - c. *Local Hire Preference*: Require that a minimum of 80 percent of non-management employees be from the local area.
3. *Social Equity Retail Outlets*: Allow for 2 social equity retail establishments, for a total of 8 retail stores.

DIRECTION SOUGHT

In addition to the items outlined by the Cannabis Ad-Hoc Committee, staff is seeking direction on the following:

4. The draft ordinance includes a lottery process per prior Council action. Staff seeks direction on whether a lottery should also be used for non-retail permits. If not, staff will add a different process for non-retail which will culminate in City Council selection.
5. If social equity cannabis shops are added per Ad Hoc Committee recommendation, should they also be subject to a lottery?

FINANCIAL IMPACT:

Costs associated with cannabis related work includes the following:

- Contract with HdL totaling \$30,000
- Cost to place the ballot measure on the November 3, 2020 election was approximately \$100,000.
- Various staff time and City Attorney fees

Note that HdL contract cost may be recovered by fees from potential applicants should the City permit cannabis activities in the City. But we will be submitting a proposed contract amendment as the recovery won't be for a while.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

While not specifically addressed, the requested action is consistent with the Vision Madera 2025 Plan; Effective Government: Strategy 115. – Ensure sufficient economic resources to provide adequate City services and prepare for future growth.

ALTERNATIVES:

The Council may direct staff to return with more information or to direct staff to return with agenda item to cease efforts relating to cannabis.

ATTACHMENTS:

1. Draft Cannabis Regulatory Ordinance

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

(Disclaimer: formatting/numbering to be reconciled)

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF MADERA, CALIFORNIA ADDING
CHAPTER 5 TO TITLE VI OF THE MADERA MUNICIPAL CODE
RELATING TO CANNABIS BUSINESSES**

THE PEOPLE OF THE CITY OF MADERA DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5 is added to Title VI of the Madera Municipal Code to read as follows:

CHAPTER 5

CANNABIS BUSINESSES

- 6-5.01 Title
- 6-5.02 Purpose and Intent
- 6-5.03 Legal Authority
- 6-5.04 Cannabis Cultivation and Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter
- 6-5.05 Compliance with State and Local Laws and Regulations
- 6-5.06 Definitions
- 6-5.07 Cannabis Business Permit Required to Engage in Cannabis Business
- 6-5.08 Evidence of Cannabis Owners and/or Employees Background Check Required
- 6-5.09 Personnel Prohibited from Holding a License or from Employment with a Cannabis Business Permittee
- 6-5.10 Maximum Number and Type of Authorized Cannabis Businesses Permitted
- 6-5.11 Community Benefits
- 6-5.12 City's Reservation of Rights
- 6-5.13 Procedure Guidelines and Review Criteria to Evaluate Cannabis Business Applications
- 6-5.14 Permittee Selection Process
- 6-5.15 Exercise of a Cannabis Business Permit
- 6-5.16 Scope of Approval
- 6-5.17 Reapplying for a Cannabis Business Permit
- 6-5.18 Renewal of Cannabis Business Permits
- 6-5.19 Revocation of Permits
- 6-5.20 Effect of State License Suspension
- 6-5.21 Effect of State Revocation
- 6-5.22 Appeals
- 6-5.23 Written Request for Appeal

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

- 6-5.24 Grounds for Appeal for an Initial Permit Decision to Advance to the Lottery
- 6-5.25 Appeal Hearing Process
- 6-5.26 Administrative Hearing and Proceedings
- 6-5.27 Change in location; updated application form
- 6-5.28 Transfer of Cannabis Business Permit
- 6-5.29 City Business License
- 6.5.30 Building Permits and Inspection
- 6.5.31 Authorization from the Community Development Director
- 6.5.32 Right to Occupy and to Use Property
- 6.5.33 Location and Design of Cannabis Businesses
- 6.5.34 Limitations on City's Liability
- 6.5.35 Records and Recordkeeping
- 6.5.36 Security Measures
- 6.5.37 Fees and Charges
- 6.5.38 General Operating Requirements
- 6.5.39 Amendments to General Operating Requirements
- 6.5.40 Operating Requirements for Store Front/Retail Facilities
- 6.5.41 Operating Requirements for Non-Store Front Retailer
- 6.5.42 Retailer, Non-Store Front Retailer and Microbusiness Delivery Vehicle Requirements
- 6.5.43 Operating Requirements for Distributors
- 6.5.44 Operating Requirements for Testing Labs
- 6.5.45 Operating Requirements for Cannabis Manufacturing: Edibles and Other Cannabis Products; Sale of Edible and Other Cannabis Products
- 6.5.46 Operating Requirements for Cultivators
- 6.5.47 Operating Requirements for Delivery Services
- 6.5.48 Permissible Delivery Locations and Customers
- 6.5.49 Promulgation of Regulations, Standards and Other Legal Duties
- 6.5.50 Community Relations
- 6.5.51 Fees Deemed Debt to the City
- 6.5.52 Permit Holder Responsible for Violations
- 6.5.53 Inspection and Enforcement
- 6.5.54 Violations declared a public nuisance

6-5.01 Title.

This Chapter shall be known as the Cannabis Business Permit Ordinance of the City of Madera (City).

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.02 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. It is the purpose and intent of this Chapter to regulate the commercial cultivation, processing, manufacturing, testing, sale, delivery, and distribution of cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City and to enforce rules and regulations consistent with state law.

6-5.03 Legal Authority.

This Chapter is adopted pursuant to the authority granted to the City by Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter “MAUCRSA”).

6-5.04 Cannabis Cultivation and Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized by this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution, or transportation (other than as provided under Business and Professions Code Section 26090(e)), of cannabis or cannabis products is expressly prohibited in the City.

6-5.05 Compliance with State and Local Laws and Regulations.

It is the responsibility of the owners and operators of any commercial cannabis business within the City limits to ensure that they operate in a manner compliant with this Chapter, all applicable state and local laws, and any regulations promulgated thereunder, including but not limited to the MAUCRSA.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.06 Definitions.

All definitions pertaining to cannabis regulation that appear in Business and Professions Code Section 26001, as codified by Senate Bill 94, the MAUCRSA of 2017, are hereby incorporated by reference. Definitions appearing in this ordinance are either those that are not covered by state law, pre-date Proposition 64 and the MAUCRSA, or are outside the scope of Business and Professions Code Section 26001.

- (a) “Applicant” means a person or entity that submits an application for a Cannabis Business Permit under this Chapter.
- (b) “Bureau” means the Bureau of Cannabis Control with the California Department of Consumer Affairs, or its successor the Department of Cannabis Control which becomes effective July 1, 2021.
- (c) “Cannabis” shall have the same meaning as that appearing in Business and Professions Code Section 26001(f).
- (d) “Canopy” shall have the same meaning as that appearing in Title 3, Section 8000(f) of the California Code of Regulations.
- (e) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Health and Safety Code Section 11362.7.
- (f) “Distributor” shall have the same meaning as that appearing in Section 26070 of the Business and Professions Code.
- (g) “Commercial cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.
- (h) “Cannabis Business Permit” means a regulatory permit issued by the City 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 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.
- (i) “Cannabis Business Permittee” or “Permittee” means a person or entity that has received a Cannabis Business Permit from the City as authorized under this Chapter.
- (j) “Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- (k) “Limited-access area” means an area in which cannabis is stored or held and is only accessible to a licensee and authorized personnel.
- (l) “Lottery” and “Lottery Process” means the process utilized by the City for selecting approved applications. The lottery process will be further defined by City Resolution including the scoring cut-off point for considering applications, the number of applications that will be selected under the lottery, and the methodology for implementing the lottery.
- (m) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.
- (n) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.
- (o) “Manufacturing site” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid Cannabis Business Permit for manufacturing from the City of Madera and, a valid state license as required for manufacturing of cannabis products.
- (p) “Microbusiness” shall have the same meaning as that contained in Section 26070(a)(3) of the Business and Professions Code.
- (q) “Non-storefront retailer” is a subset of “Retailer” and is a licensed retail business that is closed to the public and provides product to customers solely by means of a delivery service which the retailer owns and controls.
- (r) “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 non-volatile solvent includes carbon dioxide (CO₂) used for extraction and ethanol used for extraction or post-extraction processing.
- (s) “Owner” means any of the following:
 - (1) A person with an aggregate ownership interest of 10 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien or encumbrance.

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

- (2) The Manager of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.
- (4) An individual who will be participating in the direction, control, or management of the person applying for a license. Such an individual includes any of the following:
 - (i) A general partner of a commercial cannabis business that is organized as a partnership.
 - (ii) A non-member manager or manager of a commercial cannabis business that is organized as a limited liability company.
 - (iii) An officer or director of a commercial cannabis business that is organized as a corporation.
 - (iv) An individual entitled to a share of at least 10 percent of the profits of the commercial cannabis business.
- (5) Any individual who assumes responsibility for the license.
- (6) When an entity is an owner in a commercial cannabis business, all entities and individuals with a financial interest in the entity shall be disclosed to the City and may be considered owners of the commercial cannabis business. For example, this includes all entities in a multi-layer business structure, as well as the chief executive officer, members of the board of directors, partners, trustees and all persons who have control of a trust and managing members or non-member managers of the entity. Each entity disclosed as having a financial interest must disclose the identities of persons holding financial interests until only individuals remain.
- (t) “Package” means any container or receptacle used for holding cannabis or cannabis products.
- (u) “Patient” or “qualified patient” shall have the same meaning as that contained in California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which includes within its definition a person who is entitled to the protections of California Health & Safety Code Section 11362.22.
- (v) “Person” shall mean any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- (w) “Person with an identification card” shall have the same meaning as that contained in California Health and Safety Code Section 11362.7.
- (x) “Processing” means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and nonmanufactured cannabis products.
- (y) “Retailer” or “Storefront Retailer” shall have the same meaning as that contained in

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

Section 26070(a)(1) of the Business and Professions Code.

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

- (aa) “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 Health and Safety Code Section 109925.

- (bb) “Transport” means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting cannabis activity authorized by the MAUCRSA which may be amended or repealed by any subsequent related State of California legislation. Transport can only be performed by licensed distributors and does not include deliveries of cannabis or cannabis products.

- (cc) “Volatile solvent” means a solvent as defined by Health and Safety Code Section 11362.3(b)(3) as of the effective date of this article and as subsequently amended.

- (dd) “Youth center” means any:
 - a. Public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:
 - i. Private youth membership organizations or clubs,
 - ii. Social service teenage club facilities,
 - iii. Video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or
 - iv. Similar amusement park facilities.
 - v. Must be used for youth activities at least 60% of the time in a calendar year.

 - b. It shall also include a park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, county, or state parks.

 - c. This definition shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym,

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

athletic training facility, pizza parlor, dentist office, doctor's office primarily serving children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.

6-5.07 Cannabis Business Permit Required to Engage in Cannabis Business.

No person may engage in any cannabis business within the City including cultivation, manufacture, processing, laboratory testing, distributing, dispensing, or sale of cannabis or a cannabis product unless the person meets all of the following requirements:

- (a) A valid Cannabis Business Permit from the City;
- (b) A valid State of California Seller's Permit; and
- (c) Is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the cannabis activities, including the duty to obtain any required state licenses.

6-5.08 Evidence of Cannabis Owners and/or Employees Background Check Required.

- (a) Any person who is an owner, employee or who otherwise works within a cannabis business must be legally authorized to do so under applicable state law.
- (b) Cannabis business owners, operators, investors, managers, and employees shall be required to submit to a criminal background check for themselves and all persons in their employment.
- (c) The City shall conduct criminal background checks which must 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; or
 - 3. Whether the individual applying for employment has ever been convicted of

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, not including cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

- (d) Evidence of a conviction of any the offenses enumerated in Section 6-5.08(c) shall be grounds for denial of employment.
- (e) Violation of this section shall be grounds for immediate suspension of the business' operating Cannabis Business Permit, pending a hearing before the City Manager or his/her designee within 30 days for a final determination of the status of the permit.

6-5.09 Personnel Prohibited from Holding a License or from Employment with a Cannabis Business Permittee.

- (a) Any person, including but not limited to any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, in which any of the following actions or notices have been issued for non-compliance, shall not be eligible to obtain a Cannabis Business Permit from the City or from employment with a Cannabis Business Permittee in the City of Madera:
 - a. The applicant has been denied a cannabis license or has had a cannabis license suspended or revoked by any city, county, city and county or any other state cannabis licensing authority;
 - b. The applicant was notified by the state, county, or city that it was conducting cannabis activity in violation of City ordinances, codes, and requirements, and failed to cure the violation in a timely manner;
 - c. Evidence that the applicant is delinquent in payment of federal, state, or local taxes and/or fees, and took no steps to cure the delinquency when notified by the appropriate agencies;
 - d. As of June 1, 2021 applicant was conducting cannabis activity in the City of Madera in violation of local and state law.
 - e. No person shall be issued a Cannabis Business Permit to operate who enters into either a verbal or written agreement to lease, sublease, or any other agreement for any terms of use of the premises granted by a property owner, commercial broker or any third party, that is in violation of Section 6-5.07 unless

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

that property is leased at fair market value. Any such lease, sublease or agreement shall not contain terms or conditions requiring the Cannabis Businesses Permit licensee to pay the property owner, commercial broker, or any third party a percentage of gross receipts, royalties, equity, or other unreasonable compensation as determined by the City. In addition, all leases, subleases, or other agreements must be based on a monthly rate.

6-5.10 Maximum Number and Type of Authorized Cannabis Businesses Permitted.

This section is only intended to create a maximum number and types of cannabis businesses that may be issued permits to operate in the City.

- (a) The number of each type of cannabis business that shall be permitted to operate in the City shall be established by resolution by the City Council.
- (b) Each year following the City Council's initial award of permits, if any, or at any time in the City Council's discretion, the City Council may reassess the number of Cannabis Business Permits which are authorized for issuance.
- (c) The City Council at its sole discretion may determine that the number and/or types of Cannabis Business Permits should remain the same or be modified.

6-5.11 Community Benefits.

- (a) The application procedure process shall include a component on community benefits.
- (b) Any community benefits that a cannabis business agrees to provide shall be incorporated into the terms and conditions under which the cannabis business will operate with the City's approval, if and when a Cannabis Business Permit is issued. Such terms and conditions shall be in addition to the requirements of this Chapter.
- (c) Community benefits may include but will not be limited to: in-kind donations; sponsorship of community events; financial support or otherwise, for special community events such as fairs, afterschool programs, youth centers, Boys and Girls Clubs, local schools whether public or private; school athletic programs; school clubs; community centers, homeless shelters, senior centers and/or senior living facilities, parks and recreation programs.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.12 City's Reservation of Rights.

The City reserves the right to reject any or all applications for a Cannabis Business Permit. Prior to such permit issuance, the City may modify, postpone, or cancel any request for applications, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to a failure to comply with other requirements in this Chapter, an application may be rejected for any of the following reasons:

- (a) The application was received after the designated time and date of the deadline.
- (b) The application did not contain the required elements, exhibits, or was not organized in the required format.
- (c) The application was considered not fully responsive to the request for a permit application, i.e. was substantially incomplete.

6-5.13 Procedure Guidelines and Review Criteria to Evaluate Cannabis Business Applications.

- (a) By resolution the City Council shall adopt Procedure Guidelines and Review Criteria for the City's evaluation of cannabis business permit applications.
- (b) The Procedure Guidelines shall provide the process for soliciting applications including time frames, limitations, forms, and rules for completing applications.
- (c) The Review Criteria shall include detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to particular sets of criteria.
- (d) The scoring on Review Criteria shall be used to determine which candidates will be eligible to participate in the lottery.
- (e) The City Manager or his/her designee(s) shall be authorized to prepare any necessary forms and adopt any necessary rules to implement the Procedures Guidelines and Review Criteria. This will also include preparing the process for conducting the lottery in which all eligible applicants will participate.
- (f) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council to cover all costs incurred by the City in the application process.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.14 Permittee Selection Process

- (a) Applications will be reviewed per the Procedure Guidelines and Review Criteria and will be either denied or approved.
- (b) Once the proposed locations of approved applications have been identified, the Community Development Director shall verify it is properly zoned for the type of license(s) in which the applicant has applied. If permitted, a zoning verification letter shall be issued.
- (c) Only approved applications meeting guidelines set by Council Resolution as to cut off score will be eligible to participate in the lottery process.
- (d) Upon the completion of the lottery selection process, a public meeting shall be set in which concerns of residents, businesses, and community organizations alike may be brought before the City.
- (e) The Community Development Director, or his or her designee shall conduct the public meeting to solicit community feedback.
- (f) Public Notice shall be mailed at least ten (10) days prior to the public meeting to the following:
 - i. All property owners of record within a minimum 300-foot radius of the subject property as shown on the latest available assessment role or a larger radius if deemed necessary by the Community Development Director in order to provide adequate public notification; and
 - ii. Any person or group who has filed a written request for notice regarding the specific application.
- (g) Failure to Notify Individual Properties. The validity of the proceedings shall not be affected by the failure of any property owner, resident or neighborhood or community organization to receive a mailed notice.
- (h) Applications shall be vetted by the City Manager and a team of his/her choice consistent with Section 6-5.13(c). At the conclusion of the vetting process, the City Manager shall prepare a report with findings and recommendations for consideration by the City Council. The recommendations shall include a summary of the concerns voiced by the community at the public meeting.
- (i) The City Council shall either deny or approve the final candidates and shall select the top candidates in each category of the cannabis businesses pursuant to Section 6-

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

5.13(a). The City Council's decision as to the selection of the prevailing candidates shall be final, pending an appeal, in the event an appeal is filed as provided for under Section 6-5.22.

- (j) The City will issue notice to the prevailing candidates that the City will issue an official Cannabis Business Permit(s) upon the prevailing applicant(s) obtaining all required land use approvals. Once all required land use approvals are secured, the City will issue an Official Cannabis Business Permit.

6-5.15 Exercise of a Cannabis Business Permit.

- (a) Each Cannabis Business Permit issued pursuant to this Chapter shall expire twelve (12) months after the date of issuance. Cannabis Business Permits may be renewed as provided in Section 6-5.18.
- (b) A Cannabis Business Permit shall be exercised within twelve (12) months of issuance. Exercised shall be when any of the following occur:
 - a. A Certificate of Occupancy has been issued,
 - b. The permitted use(s) has commenced on the site, and
 - c. A City Building Permit or Grading Permit is secured, and construction lawfully commenced.

6-5.16 Scope of Approval.

- (a) If a location has not been in regular and continuous operation in the preceding four (4) months shall be considered abandoned and shall need to reapply for a Cannabis Business Permit unless mitigating circumstance occur which was beyond the control of the permittee and an extension has be authorized by the City Manager.
- (b) The approval of a new use shall terminate all rights and approvals of a Cannabis Business Permit occupying the same site or location.

6-5.17 Reapplying for a Cannabis Business Permit.

If an application is denied a permit due to a disqualifying factor such as failing a background check or not complying with any state, or local jurisdictions regulatory requirements in which legal or administrative action has been taken a new application may not be filed for one (1) year from the

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

date of the denial. This section shall not apply to an approved applicant not awarded a permit resulting from the lottery process.

6-5.18 Renewal of Cannabis Business Permits.

- (a) An application for renewal of a Cannabis Business Permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (b) The renewal application shall contain all the information required for new applications.
- (c) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (d) An application for renewal of a Cannabis Business Permit shall be rejected if any of the following exists:
 - a. The application is filed less than sixty (60) days before its expiration or a shorter time period which shall be at the discretion of the City Manager.
 - b. The Cannabis Business Permit is suspended or revoked at the time of the application.
 - c. The Cannabis Business has not been in regular and continuous operation in the four (4) months prior to the renewal application or the approved extension of the deadline from the City Manager.
 - d. The Cannabis Business has failed to conform to the requirements of the Cannabis Business Permit or this Chapter or any regulations adopted pursuant to this Chapter.
 - e. The permittee fails or is unable to renew its State of California license.
 - f. If the state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of the state rules and regulations and the state has determined that the violation is grounds for termination or revocation of the Cannabis Business Permit.
- (e) The City Manager or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his/her designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

state or local laws and regulations or to preserve the public health, safety, or welfare. Appeals from the decision of the City Manager or his/her designee(s) shall be handled pursuant to Sections 6-5.16 through 6-5.19.

- (f) If a renewal application is denied, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the denial.

6-5.19 Revocation of Permits.

Cannabis Business Permits may be revoked for any violation of any state or local laws, and/or rules, and/or standards, policies, procedures, or regulations in this Chapter relating to cannabis.

6-5.20 Effect of State License Suspension

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City until the State of California or its respective department or division reinstates or reissues the State license.

6-5.21 Effect of State Revocation.

Revocation of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City until the State of California or its respective department or division takes appropriate action. Should the state revoke a license, the cannabis business owner may re-apply for a local permit 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.

6-5.22 Appeals.

Appeals relating to denial of an initial application; denial of advancement to the lottery; to revoke or suspend a permit; to deny renewal of an application for a permit; or to add conditions to a permit shall be conducted as prescribed in this Chapter.

6-5.23 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 an initial or renewed permit application or to add conditions to a permit, an Applicant or Permittee may appeal such action by filing a

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

written appeal with the City Clerk setting forth the reasons why the decision was not proper.

- (b) At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

6-5.24 Grounds for Appeal for an Initial Permit Decision to Advance to the Lottery.

- (a) The City Manager or an appointed hearing officer will hear appeals that address the following issues:
 - a. Any deviation from the City’s published Application Procedures that adversely affected the applicant by altering the outcome of the City’s decision on the Applicant’s application. Examples of appealable deviations are:
 - b. Failure on the part of the City to provide appropriate notification regarding changes to the application process via website postings and/or email to the Applicant prior to the time the application was submitted;
 - c. Failure on the part of the City to provide an Applicant an equal opportunity to modify an application where that opportunity was provided to other applicants;
 - d. The scoring of one or more portions of the Applicant’s application was not justified based on the information presented in the application or due to a material error or omission on the part in scoring the application.
- (b) Any appeal based upon this Section 6-5.24 must be supported by evidence that the Applicant presented the relevant information with completeness and in the appropriate section of the application. Information presented in the application that is incomplete in nature or that is relevant to a question posed by the City on the application form but appears in the incorrect section, even if complete, may be grounds for the dismissal of the appeal.
- (c) No applicant that is eligible to participate in the lottery but is not selected during the lottery shall be eligible to appeal the outcome of the process.

6-5.25 Appeal Hearing Process.

- a) Within ten (10) calendar days after service of the notice of the decision of the City Manager or his/her designee(s) to deny advancement to the lottery, to revoke or suspend a permit, to deny a renewed application for a permit; or to add conditions to a permit,

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

the applicant or permittee may appeal such action by filing a written appeal with the City Clerk setting forth the reason why the decision was not proper. For an initial permit application appeal, reasons shall be stated with specificity and shall address the issues outlined in Section 6-5.23 (a). Date of service shall mean the date when a notice or written decision was personally delivered to the Applicant or permittee or the date when the notice was caused to be delivered by certified, first class mail. In cases in which the city can verify delivery of a notice to an applicant or in which an applicant is documented as refusing delivery, lack of receipt of the notice cannot form the basis for an appeal.

- b) The Notice of Appeal shall be in writing and signed by the person making the appeal (“Appellant”), or their legal representative, and shall contain the following:
 - a. Name, address, and telephone number of the appellant.
 - b. Specify decisions, actions, or a particular part thereof, made that are the subject of the appeal.
 - c. Include a true and correct copy of the notice issued by the City Manager for which the appellant is appealing.
 - d. State with specificity the reasons and grounds for making the appeal, including, but not limited to, a statement of facts upon which the appeal is based in sufficient detail to enable the City Council, or any appointed hearing officer, to understand the nature of the controversy, the basis of the appeal, and the relief requested.
 - e. All documents or other evidence pertinent to the appeal that the appellant requests the hearing officer or body to consider at the hearing.
 - f. An appeal fee, as established by Resolution of the City Council.

Failure of the City Clerk to receive a timely appeal constitutes a waiver of the right to appeal the notice issued by the City Manager. In this event, the City Manager’s notice of revocation, nonrenewal, or suspension shall be final.

- c) In the event a written Notice of Appeal is timely filed, the nonrenewal, suspension, revocation shall not become effective until a final decision has been rendered and issued by the City Council or appointed hearing officer. Notices of appeal not served in a timely manner or served by non-operational business shall not serve to allow such business to operate pending appeal.
- d) If no appeal is timely filed in the event of a decision of nonrenewal, the Cannabis Businesses Permit shall expire at the conclusion of the term of the permit. If no appeal is timely filed in the event of a decision supporting suspension or revocation, the suspension

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

or revocation shall become effective upon the expiration of the period for filing a written Notice of Appeal.

6-5.26 Administrative Hearing and Proceedings.

- a) Review by City Council or Appointed Hearing Officer or Body; Administrative Hearing and Proceedings.
 - a. Appellants who file a timely written Notice of Appeal will be entitled to an administrative hearing before the City Council or by a hearing officer or body appointed by the City Council. Any appeal related to the initial application process shall be subject to the procedures pursuant to 6-5.25.
 - b. Upon receipt by the City Clerk of a timely-filed Notice of Appeal pertaining to suspensions, revocations, or non-renewals the City Clerk shall forward such appeal to the hearing officer who shall schedule a hearing within thirty days (30) days. In the event such hearing cannot be heard within that time period or a mutually agreed upon time with the appellant then the City Clerk shall schedule the appeal to be heard by the City Council within forty-five (45) days or as reasonably possible at the next scheduled City Council meeting proceeding the deadline from receiving the appeal.
 - c. The appellant(s) listed on the written Notice of Appeal shall be notified in writing of the date, time, and location of the hearing at least ten (10) days before the date of the hearing (“notice of appeal hearing”).
 - d. A request by an appellant or by the City to continue a hearing must be submitted to the City Clerk in writing no later than three (3) business days before the date scheduled for the hearing. The City Council, or appointed hearing officer, may continue a hearing for good cause or on its own motion; however, in no event may the hearing be continued for more than thirty (30) calendar days, unless there is a stipulation by all parties to do so.
- b) At the date, time and location set forth in the Notice of Appeal hearing, the City Council or an appointed hearing officer shall hear and consider the testimony of the appellant(s), City staff, and/or their witnesses, as well as any documentary evidence properly submitted for consideration.
- c) The following rules shall apply at the appeal hearing:
 - a. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. However, rules of privilege shall be applicable to the extent they are

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

permitted by law, and irrelevant, collateral, undue, and repetitious testimony may be excluded.

- b. The City bears the burden of proof to establish the grounds for nonrenewal, suspension or revocation by a preponderance of evidence. Appellant(s) bear the burden of proof regarding denial of an Applicant's application.
 - c. The issuance of the City Manager's notice constitutes prima facie evidence of grounds for the denial, nonrenewal, suspension or revocation, and City personnel who significantly took part in the investigation, which contributed to the City Manager issuing a notice of decision may participate in the administrative hearing.
 - d. The City Council or the appointed hearing officer or body may accept and consider late evidence not submitted initially with the Notice of Appeal upon a showing by the appellant of good cause. The City Council, or appointed hearing officer or body, shall determine whether a particular fact or facts amount to good cause on a case-by-case basis.
 - e. The appellant may bring a language interpreter to the hearing at their sole expense.
 - f. The City may, at its discretion, record the hearing by stenographer or court reporter, audio recording, or video recording. If the appellant requests from the City that a court reporter, stenographer, or videographer be used, appellant shall bear the costs of same and shall deposit such fees prior to commencement of the administrative hearing.
- d) If the appellant, or their legal representative, fails to appear at the appeal hearing, the City Council, or the appointed hearing officer or body, may cancel the appeal hearing and send a notice thereof to the appellant by certified, first class mail to the address(es) stated on the Notice of Appeal. A cancellation of a hearing due to non-appearance of the appellant shall constitute the appellant's waiver of the right to appeal and a failure to exhaust all administrative remedies. In such instances, the City Manager's notice of decision is final and binding.
- e) Decision of the City Council, or Appointed Hearing Officer or Body; Final Decision.

Following the conclusion of the administrative hearing, the City Council or appointed hearing officer or body shall issue a written decision within twenty (20) days which (i) determines if the action appealed from is affirmed or overturned and (ii) specifies the basis (grounds and reasons) for the decision.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- f) The written decision of the City Council, or appointed hearing officer or body shall provide that it is final and conclusive and is subject to the time limits set forth in California Code of Civil Procedure Section 1094.6 for judicial review.
- g) A copy of the written decision shall be served by certified, first class mail on the appellant. If the appellant is not the owner of the real property in which the cannabis business is located, or proposed to be located, a copy of the final decision may also be served on the property owner by first class mail to the address shown on the last equalized assessment roll. Failure of a person to receive a properly addressed final decision shall not invalidate any action or proceeding by the City pursuant to this Chapter.

6-5.27 Change in location; updated application form.

- a) Any time the cultivation, dispensing, testing, manufacturing, and distribution location specified in the regulatory permit is changed, the Permittee shall submit an updated application form to the City Manager or his/her designee(s). The process and the fees for the processing of the application form shall be the same as the process and fees set forth in Sections 6-5.18 and 6-5.28.
- b) Within fifteen (15) calendar days of any other change in the information provided in the updated application form or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis business ownership or management members, the applicant shall file an updated application form with the City Manager or his/her designee(s) for review along with an application amendment fee, as set forth in Sections 6-5.18(c) and 6-5.28.

6-5.28 Transfer of Cannabis Business Permit.

- a) The owner of a Cannabis Business Permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to the permit 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 Cannabis Business Permit). 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 application fee).
- b) The City Manager or his/her designee shall conduct a hearing to determine whether the transferee satisfies the eligibility requirements for a new permit. The transferee's application will be treated as a new application and will be evaluated according to the

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

procedures described in Sections 6-5.13 and 6-5.14. This will require a complete evaluation of the application and an interview of the applicant prior to the hearing, including a determination of whether the transfer involves a substantial change in ownership (any alteration in the permittee's business structure/ownership that results in a change of 51% or more of the original ownership). Following the hearing, the City Council must approve the transfer in order for it to be authorized, as provided in subsection 6-5.28(d). If the transfer involves a lesser percentage of the change in ownership than the threshold cited above, then the hearing will be administrative in nature and City Council approval will not be required for the transfer to be authorized.

- c) Cannabis Business Permits 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 and pay the appropriate fee in the manner required by this Chapter.
- 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 Council following completion of the transfer process contained in subsection (a). 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:
 - a. The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical)
 - b. Although a transfer is not required in this circumstance, the permit holder is required to notify the City Manager in writing of the change within ten (10) days. Failure to comply with this provision is grounds for permit revocation.
- f) A Cannabis Business Permit shall not be transferred when the City has notified the Permittee in writing that the permit has been or may be suspended or revoked.
- g) Any attempt to transfer a Cannabis Business Permit either directly or indirectly in violation of this section is hereby declared a violation of the Permit and this ordinance. Such a purported transfer shall be deemed a ground for revocation of the permit.

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

6-5.29 City Business License.

Prior to commencing operations, a cannabis business shall obtain a City of Madera business license.

6-5.30 Building Permits and Inspection.

Prior to commencing operations, a Cannabis Business Permit 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 Fire Department approvals, Police Department approval, Code Enforcement, Planning, County Health Department approvals and other zoning and land use permit(s) and approvals.

6-5.31 Authorization from the Community Development Director.

Prior to commencing operations, a Cannabis Business must obtain authorization from the Community Development Director or his/her designee(s) certifying that the business is located on a site that meets all of the requirements of Sections 6-5.30, 6-5.32 and 6-5.33 of this Chapter.

6-5.32 Right to Occupy and to Use Property.

Prior to the City 's issuance of a Cannabis Business Permit pursuant to this Chapter, any person intending to open and to operate a cannabis business shall first provide sufficient evidence of the legal right to occupy and to use the proposed location. If the proposed location will be leased from the property owner, the applicant 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 cannabis business on the owner's property.

6-5.33 Location and Design of Cannabis Businesses.

Cannabis businesses permitted to engage in Cultivation, Distribution, Manufacturing, Retail, and Testing Lab operations for cannabis and cannabis products are subject to the following zoning and locational requirements:

- (a) Cultivation, Distribution, Manufacturing, Retail and Testing Labs may only be zoned in the following zone districts: IP (Industrial Park), I (Industrial), and must meet all of the requirements for development in these zones. Cannabis Business Permittees must also meet all of the following distance requirements:

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

- (1) It shall be no closer than six hundred (600) feet from any zoned parcel in the City designated by state law as a sensitive use, and pursuant to Section 6-5.33 (a). The distance measured shall be the horizontal distance measured in a straight line from the property line of those parcels in Section 6-5.26 (b) to the closest property line of the lot on which the cannabis business is located.
 - (2) It shall be no closer than six hundred (600) feet from any parcel containing any of the following:
 - A. A school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12);
 - B. A commercial daycare center licensed by the State, County or City or that is in existence at the time the license is issued unless the State licensing authority or the City specifies a greater radius.
 - C. A youth center that is in existence prior to the submittal of the initial cannabis application or at the time the license is issued, unless the State licensing authority or the City specifies a greater radius.
- (b) Retail may only be zoned in the following zone districts: C1 (Light Commercial), or C2 (Heavy Commercial), and must meet all of the requirements for development in these zones. The commercial cannabis businesses must also meet all of the following distance requirements:
- (1) It shall be no closer than six hundred (600) feet from any zoned parcel in the City designated by state law as a sensitive use, and pursuant to Section 6-5.33(b)(a). The distance measured shall be the horizontal distance measured in a straight line from the property line of those parcels in Section 6-5.33(b)(a) to the closest property line of the lot on which the cannabis business is located.
 - (2) It shall be no closer than six hundred (600) feet from any parcel containing any of the following:
 - A. A school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12);

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- B. A commercial daycare center licensed by the State, County or City or that is in existence at the time the license is issued, unless the State licensing authority or the City specifies a greater radius.
- C. A youth center that is in existence prior to the submittal of the initial cannabis application or at the time the license is issued, unless the State licensing authority or the City specifies a greater radius.

(c) Each proposed cannabis business shall:

- (1) Conform with the City 's general plan, any applicable specific plan, master plan, 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 adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
- (6) Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.

6-5.34 Limitations on City's Liability.

To the fullest extent permitted by law, the City of Madera shall not assume any liability whatsoever with respect to having issued a Cannabis Business Permit pursuant to this Chapter or otherwise approving the operation of any cannabis business. As a condition to the approval of any Cannabis Business Permit, the applicant shall be required to meet all of the following conditions before they can receive the 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 Madera, 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 Cannabis Business Permit, the City 's decision to

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

approve the operation of the cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the cannabis business or any of its officers, employees 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 for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the Applicant's Cannabis Business Permit or related to the City's approval of a cannabis activity. The City, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

6-5.35 Records and Recordkeeping.

- (a) Each owner and operator of a 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 Cannabis Business Permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each cannabis business shall file a sworn statement detailing the number of sales by the 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 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 cannabis business, and separately of all the officers, managers, employees, agents, and volunteers currently employed or otherwise engaged by the cannabis business. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
- (c) All 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 growing and production or manufacturing, laboratory testing processes until purchase as set forth in the MAUCRSA.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.36 Security Measures.

- (a) A Cannabis Business Permittee 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 cannabis business. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
- a. Perimeter fencing and exterior lighting systems (including motion sensors) for after-hours security as approved by the Chief of Police and/or the Community Development Director were applicable.
 - b. Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business in cases in which the individual will not voluntarily leave the premises the cannabis employee shall contact the Police Department.
 - c. Establishing limited access areas accessible only to authorized cannabis business personnel.
 - d. Except for live growing clone plants which are being sold at a cannabis business where applicable, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live clone plants that are being sold, shall be kept in a manner as to prevent diversion, theft, and loss.
 - e. Installing 24-hour security surveillance cameras of at least high-definition (HD) quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and that it is compatible with the City 's software and hardware. In addition, if required remote and real-time, live access to the video footage from the cameras shall be provided to the Chief of Police or his/her designee(s) at the expense of the permittee. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the Chief of Police or his/her designee(s) upon request.

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the cannabis business and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Police Department by the cannabis business, to facilitate remote monitoring of security cameras by the Department or its designee. Each business shall have network security protocols that are certified by Underwriters Laboratories.

- f. Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- g. Panic buttons shall be installed in all cannabis businesses with direct notification to the Police Department dispatch and shall be configured to immediately alert dispatch for the Police Department.
- h. Having a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services. If requested by the Police Department permittee shall also be required to participate in the MPD False Alarm reduction unit program.
- i. Any security measures, such as bars, installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building.
- j. Security personnel shall be on-site 24 hours a day or alternative security as authorized by the City Manager or his/her designee(s) and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
- k. Each cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- l. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the cannabis business; or (b) a licensed security professional.
- m. Each cannabis business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- n. Each cannabis business shall demonstrate to the Chief of Police, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products as soon as it is operational.
 - o. Each cannabis business shall have a professionally installed video surveillance system, access control and intrusion alarm systems designed to protect the inventory, facility, and employees. Each business shall have network security protocols that are certified by Underwriters Laboratories.
 - p. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
 - q. Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.
 - r. Installation of "mosquitos" (high-pitch frequency devices) as a deterrent to vandalism/loitering.
- (b) Each cannabis business shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the City Manager or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the cannabis business, annually maintain a copy of the current security plan on the premises of the business, to present to the City Manager or his/her designee upon request that meets the following requirements:
- a. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
 - b. Identifies all Managers of the cannabis business and their contact phone numbers.
 - c. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 - d. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 - e. Identify a sufficient number of licensed, interior, and exterior security personnel who will monitor individuals inside and outside the cannabis business, the parking lot, any adjacent property under the business' control, and ensure that the parking lot is cleared of employees and their vehicles one-half hour after closing.

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

- (c) As part of the application and permitting process each cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, any hazardous materials that may be used by the business, and any currency.
- (d) The cannabis business shall cooperate with the City whenever the City Manager or his/her designee(s) makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- (e) A cannabis business shall notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee(s).
 - b. Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business.
 - c. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the cannabis business.
 - d. Any other breach of security.
- (f) Compliance with the foregoing requirements shall be verified by the City Manager or his/her designee prior to commencing business operations. The City Manager or his/her designee may supplement these security requirements once operations begin, subject to review by the City Manager or his/her designee if requested by the business owner.

6-5.37 Fees and Charges.

- (a) No person may commence or continue any cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a cannabis activity. Fees and charges associated with the operation of a cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- (b) All 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 cannabis business shall cooperate with City with respect to any reasonable request to audit the cannabis business' books and records for

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes or fees required to be paid during any period.

- (c) Prior to operating in the City and as a condition of issuance of a regulatory permit, the 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.

6-5.38 General Operating Requirements.

- (a) Cannabis businesses may operate only during the hours specified in the Cannabis Business Permit issued by the City. No person under the age of 21 shall operate or be issued a permit for a cannabis business of any kind, unless permitted per Section 6.5-38 (h)(2) of this Chapter.
- (b) Restriction on Sales and Consumption. Cannabis shall not be consumed by any person on the premises of any cannabis business. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages or tobacco on or about the premises of the cannabis business.
- (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a Cannabis Business Permit, or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (d) Reporting and Tracking of Product and of Gross Sales. Each cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the City Manager or his/her designee(s) prior to being used by the permittee.
- (e) All cannabis and cannabis products sold, distributed, or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

(f) Emergency Contact. Each cannabis business shall provide the City Manager or his/her designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.

(g) Signage and Notices.

- a. In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of Chapter 6 Sign Regulations the City, including, but not limited to, seeking the issuance of a City sign permit.
- b. No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.
- c. Each entrance to a cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis business is prohibited.
- d. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the cannabis business or elsewhere including, but not limited to, the public right-of-way.
- e. Signage shall not depict any image of cannabis or cannabis products. No banners, flags, snipe signs, billboards, or other prohibited signs may be used at any time.
- f. In accordance with state law and regulations or as stipulated in the City's Cannabis Business Permit, holders of a Cannabis Business Permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any cannabis business located in the city limits utilizing a billboard (fixed or mobile), bus shelter, placard, aircraft, or other similar forms of advertising. This paragraph is not intended to place limitations on the ability of a cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.

(h) Minors.

- a. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

employ any person at a cannabis business who is not at least twenty-one (21) years of age.

- b. Notwithstanding Section 6-5.38(h)(a), persons aged 18 to 20 years shall be allowed on the premises of a cannabis business if they can produce a physician's recommendation. In that event, such persons can lawfully purchase cannabis for the sole purpose of addressing the medical need that is the subject of the physician's recommendation.
 - c. The entrance to the cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the cannabis business.
 - d. Odor Control. Odor control devices and techniques shall be incorporated in all cannabis businesses to ensure that odors from cannabis are not detectable off-site. Cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis business. As such, cannabis businesses must install and maintain the following equipment, or any other equipment which the Community Development Director or his/her designee(s) determine is a more effective method or technology:
 - a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 - b. An air system that creates negative air pressure between the cannabis business's interior and exterior, so that the odors generated inside the cannabis business are not detectable on the outside of the cannabis business.
- (3) Display of Permit and City Business License. The original copy of the Cannabis Business Permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis business in a location readily visible to the public.
- (4) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for cannabis 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, every person listed as an owner, investor,

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

manager, supervisor, employee, contract employee or who otherwise works in a cannabis business must submit fingerprints and other information deemed necessary by the Chief of Police or his/her designee(s) for a background check by the City of Madera Police Department. Pursuant to California Penal Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from cannabis employment, licensing or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a cannabis business or be allowed to work in a cannabis business unless they have first cleared the background check, as determined by the Chief of Police or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Madera to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a Cannabis Business Permit is submitted. Evidence of a conviction of any of the offenses enumerated in Business and Professions Code Section 26057(b)(4), absent a Certificate of Rehabilitation, shall be grounds for immediate disqualification of the applicant.

- (5) Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises. The cannabis business shall notify the Police Department if anyone continues to loiter around the building or premises after all reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.
- (6) Permits and other Approvals. Prior to the establishment of any cannabis business or the operation of any such business, the person intending to establish a cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such cannabis business intends to establish and to operate pursuant to Section 6-5.25 and all applicable requirements in this Chapter.
- (7) Each cannabis operator shall establish minimum training standards for all employees. The City Manager or his/her designee shall have the discretion to require other training for the business operations should the City identify deficiencies or non-compliance issues with City or state requirements.

6-5.39 Amendments to General Operating Requirements.

The City Manager or his/her designee may develop other cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety, and welfare.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.40 Operating Requirements for Store Front/Retail Facilities.

- (a) No more than the number of cannabis retailers adopted by Council resolution may operate within the City at any one time and shall be issued a permit by the City.
- (b) Retailers shall verify the age and all necessary documentation of each individual to ensure the customer is not under the age of eighteen (18) years. If the potential customer is 18 to 20 years old, retailer shall confirm the customer's possession of a valid doctor's recommendation and/or Health and Safety Code Section 11362.71 identification card (Medical Marijuana Card). For adult-use purchases, retailers shall verify that all customers are 21 years of age or older for the purchase of cannabis or cannabis products.
- (c) Individuals must show their government-issued identification, and, in the case of medical cannabis facilities, their physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71 in order to gain access into the retailer. The government-issued identification and, if applicable, doctor's recommendation or cannabis card must also be shown at the point-of-sale station at the time of purchase. Doctor recommendations are not to be obtained or provided at the retail location.
- (d) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities. Security personnel may be allowed to carry firearms if authorized by the Chief of Police.
- (e) Retailers may have only that quantity of cannabis and cannabis products to meet the daily demand readily available for sale on-site in the retail sales area of the retailer. Additional product may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.
- (f) All restroom facilities shall remain locked and under the control of management.
- (g) Retailers authorized to conduct retail activities shall only serve customers who are within the licensed premises, or at a delivery address that meets the requirements of this division.
 - a. The sale and delivery of cannabis goods shall not occur through a pass-through window or a slide-out tray to the exterior of the premises.
 - b. Retailers shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.
 - c. No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- d. All cannabis goods sold by a retail business shall be contained in child-resistant packaging.
 - e. Retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.
 - f. A retail licensee who is engaged in retail sale shall hire or contract for security personnel who are at least 21 years of age to provide security services for the licensed retail premises. All security personnel hired or contracted for by the licensee shall be licensed by the Bureau of Security and Investigative Services and shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.
- (h) Access to Retailer Premises.
- a. Access to the premises of a retail licensee/permittee shall be limited to individuals who are at least 21 years of age.
 - b. Notwithstanding Section 6-5.38 (h)(a), individuals who are at least 18 years of age and in possession of a valid physician's recommendation shall be granted access to the premises of a retail licensee/permittee for the sole purpose of purchasing medicinal cannabis consistent with the physician's recommendation.
- (i) Authorized Sales. A retailer shall only sell adult-use cannabis and adult-use cannabis products to individuals who are at least 21 years of age. A retailer shall only sell medicinal cannabis or medicinal cannabis products to individuals who are at least 18 years of age, but not yet 21, if those individuals are in possession of a valid physician's recommendation. Medicinal cannabis sales to individuals 21 years of age and older are unrestricted.
- (j) Limited Access Areas. A retailer shall establish limited-access areas and permit only authorized individuals to enter the limited-access areas. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area. All individuals granted access to the limited access area shall be at least 21 years of age, and if not employed by the retailer, shall be escorted at all times by an employee of the licensee/permittee. A retailer shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the City Manager, Chief of Police, or their designees upon request.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- (k) Operating hours of the Store Front Retailer License shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.
- (l) Store Front/Retail Security Requirements. All provisions incorporated within Section 6-5.31 of this Chapter (Security Measures), are directly applicable to and binding on all cannabis businesses, including all Store Front/Retail businesses.

6-5.41 Operating Requirements for Non-Store Front Retailer.

- (a) Non-Store Front Retailer License Owners and Operators are required to verify the age and the necessary documentation of each customer. They must ensure that medical customers are at least eighteen (18) years of age and verify that the customer has a valid doctor's recommendation. Doctor recommendations are not to be obtained or provided at the retail location. In the case of adult-use customers, they must verify that the customer is at least twenty-one (21) years of age. Sales shall only be made to persons matching this criteria.
- (b) All Store Front Retailers, Non-Store Front Retailers (delivery) and Microbusinesses which conduct deliveries into or within the City of Madera shall be required to obtain a permit from the City of Madera in order to conduct retail sales regardless, if they are located in the City or another local jurisdiction.
- (c) Operating hours of the Non-Store Front Retailer License or out of town retail delivery services shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.

6-5.42 Retailer, Non-Store Front Retailer and Microbusiness Delivery Vehicle Requirements.

Prior to commencing delivery operations, a cannabis Retailer, cannabis Non-Store Front Retailer and Microbusiness shall provide the following information to the City:

- (a) Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
- (b) The year, make, model, color, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
- (c) Proof of insurance as required in Section 6-5.34(b) for any and all vehicles being used to deliver cannabis goods.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- (d) The licensee shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
- (e) The licensee shall provide the City with any changes to the information required by this section in writing within thirty (30) calendar days.

6-5.43 Operating Requirements for Distributors.

- (a) A distributor shall not store non-cannabis products or non-cannabis accessories that are to be sold to another party on any licensed or permitted premises. Additionally, a distributor shall not distribute non-cannabis products or non-cannabis accessories at a licensed premise. For the purposes of this section, non-cannabis products are any goods that do not meet the definition of cannabis goods as defined in Title 16, Division 42, Section 5000(c) of the California Code of Regulations.
- (b) After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's licensed premises to select a representative sample for laboratory testing. The determination of which cannabis goods are to be included in the sample for laboratory testing shall be left to the sole discretion of the laboratory employee.
- (c) A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- (d) The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provisions within the California Code of Regulations.
- (e) A distributor or an employee of the distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept available to state and the City for a minimum of 180 days, pursuant to Title 16, Division 42, Section 5305 of the California Code of Regulations.
- (f) A distributor shall not transport cannabis or cannabis products to a licensed retail facility until and unless it has verified that the cannabis or cannabis products have been tested and certified by a testing lab as being in compliance with state health and safety requirements pursuant to Title 16, Division 42, Sections 5705, 5710 and 5714 of the California Code of Regulations.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.44 Operating Requirements for Testing Labs.

- (a) Testing Labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to state and local law. Each Testing Lab shall be subject to additional regulations as determined from time to time as more regulations are developed under this Chapter and any subsequent State of California legislation regarding the same.
- (b) Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- (c) All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
- (d) Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the bureau.
- (e) Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.
- (f) Except as provided by state law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- (g) A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing lab shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.45 Operating Requirements for Cannabis Manufacturing: Edibles and Other Cannabis Products; Sale of Edible and Other Cannabis Products.

- (a) Cannabis manufacturing shall only be permitted pursuant to Section 6-5.1 of this Chapter or any subsequent created manufacturing state license as defined in MAUCRSA and may be permitted to operate only within those zone districts as defined in the City's Municipal Code.
- (b) Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers that exceeds the amount which is approved by the Madera Fire Department and authorized by the regulatory permit. Each site or parcel subject to a Cannabis Business Permit shall be limited to a total number of tanks as authorized by the Madera Fire Department on the property at any time.
- (c) Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol, and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- (d) If an extraction process uses a professional grade closed loop CO₂ gas extraction system every vessel must be certified by the manufacturer for its safe use as referenced in Section 6-5.45(f). The CO₂ must be of at least ninety-nine percent purity.
- (e) Closed loop systems for compressed gas extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.
- (f) Certification from an engineer licensed by the State of California, or by a certified industrial hygienist, must be provided to the Community Development Department for a professional grade closed loop system used by any cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
 - a. The American Society of Mechanical Engineers (ASME);
 - b. American National Standards Institute (ANSI);
 - c. Underwriters Laboratories (UL); or
 - d. The American Society for Testing and Materials (ASTM)
- (g) The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

- (h) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Fire Department and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.
- (i) Cannabis Manufacturing Facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- (j) Cannabis Manufacturing Facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- (k) Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets to handle, and store the solvents and gases safely.
- (l) Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

6-5.46 Operating Requirements for Cultivators.

- (a) Cultivators may operate 24 hours a day. Operations shall be subject to the provisions of the Noise Ordinance, Article 1 of Chapter 10 of this Code, as may be amended.
- (b) Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors. All outdoor cultivation, including outdoor greenhouse cultivation, is prohibited.
- (c) Cannabis plants shall not be visible from a public or private road, sidewalk, park, or any common public viewing area.
- (d) Cultivator shall only be allowed to cultivate the square feet of canopy space permitted by state law. Research and development area shall be limited to ten percent (10%) of the total permitted canopy square footage.
- (e) Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (f) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents, or other wildlife.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

- (g) The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the cultivation site, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.

- (h) All applicants for a cultivation permit shall submit the following in addition to the information generally otherwise required for a Cannabis Business Permit:
 - a. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).

 - b. A description of a legal water source, irrigation plan, and projected water use.

 - c. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.

 - d. Plan for addressing public nuisances that may derive from the cultivation site.

6-5.47 Operating Requirements for 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 or his/her designee with evidence of a valid state license for a 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 or his/her designee 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 goods.

Draft Cannabis Ordinance
City Council Workshop of 4/21/21

6-5.48 Permissible Delivery Locations and Customers.

Cannabis delivery businesses located outside of the City permitted to engage in delivery of cannabis and cannabis products inside the City of Madera are subject to the following requirements:

- (a) A licensed cannabis business shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency.
- (b) A licensed cannabis business shall comply with all requirements of state and local law pertaining to the Cannabis Business Permit and all subsequent policies, procedures and regulations which may be amended by the City Manager from time to time in order to enforce this Chapter.
- (c) Any kiosk, i-Pad, tablet, smartphone, fixed location or technology platform, whether manned or unmanned, other than a retail location permitted by the city, that facilitates, directs, or assists the retail sale or delivery of cannabis or cannabis products is prohibited and shall be a violation of this Chapter.

6-5.49 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 any additional rules, regulations and standards governing the issuance, denial or renewal of Cannabis Business Permits, the ongoing operation of 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. 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.
- (d) Special Events shall be subject to state law and City permitting requirements. They shall also be subject to applicable City regulations developed under Section 6-5.02 of this Chapter and any applicable state legislation.

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

6-5.50 Community Relations.

- (a) Each cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis business can be provided. Each cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the cannabis business.

- (b) During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from each cannabis business holding a permit issued pursuant to this Chapter shall attend meetings with the City Manager or his/her designee(s), and other interested parties as deemed appropriate by the City Manager or his/her designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such cannabis business shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).

- (c) Cannabis businesses to which a permit is issued pursuant to this Chapter shall develop a City approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

6-5.51 Fees Deemed Debt to the City.

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

6-5.52 Permit Holder Responsible for Violations.

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

*Draft Cannabis Ordinance
City Council Workshop of 4/21/21*

6-5.53 Inspection and Enforcement.

- (a) The City Manager, or his/her designee(s) charged with enforcing the provisions of the City of Madera Municipal Code, or any provision thereof, may enter the location of a cannabis business at any time, without notice, and inspect the location of any 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 cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a 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 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 location of a cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Madera shall be logged, recorded, and maintained in accordance with established procedures by the City of Madera's City Manager or these regulations.

6-5.54 Violations declared a public nuisance.

Each and every violation of the provisions of this Chapter constitutes a misdemeanor and is hereby deemed unlawful and a public nuisance. The City reserves the right to pursue any available legal remedy to address violations of this Chapter.

SECTION 2. Severance. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

SECTION 4. Effective Date. This ordinance shall become effective _____